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(ENDORSED)
FILED
APR 15 2013

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY _____ DEPUTY

M. Dominguez

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SANTA CLARA**

12 JOHN DOE,

13 Plaintiff,

14 vs.

15 POSITIVE SINGLES.COM and
16 SUCCESSFULMATCH.COM, a
17 California Corporation, and DOES 1-10,

18 Defendants.

Case No.: 1-11-CV-211205

**[PROPOSED] ORDER
GRANTING MOTION FOR
CLASS CERTIFICATION**

Date: April 2, 2013

Time: 9:00 a.m.

Dept.: 9

Judge: Hon. Mark Pierce

Action Filed: October 12, 2011

Trial Date: None Set

19 The Amended Motion of plaintiffs in the above-entitled action, for an Order certifying a
20 plaintiff class and appointing John Doe as class representatives and Green & Noblin, P.C.,
21 Kleinman Law Firm, P.L.L.C. and Traverse Legal as class counsel, came on for hearing before
22 the Honorable Mark Pierce.

23 Upon considering the papers and arguments in support of and in opposition to plaintiffs'
24 motion for class certification and the evidence presented by both parties, the Court hereby
25 GRANTS the motion to certify a class.

26 The Court bases its certification order on the following findings:

27 A. Plaintiff demonstrated that the class consists of as many as 9,346 members and is
28 so numerous that joinder of all members is impracticable.

1 B. The members of the class defined below are ascertainable based on the objective
2 definition of the class and the records of Defendant.

3 C. There are questions of law and fact common to the Class and which predominate
4 over any questions affecting only individual members of the Class and which provide a
5 community of interest in using the class action mechanism to address the common questions,
6 including:

- 7 1. whether Defendant's omission of the names of over 1,000 different
8 websites that link to the profile information entered into each of the
9 individual websites was a material nondisclosure;
- 10 2. whether Defendant's use of privacy and exclusivity language in its
11 websites soliciting members was rendered misleading by the failure to
12 disclose all of the websites that would link to the each member's
13 information;
- 14 3. whether the use of language in the terms of service suggesting that the
15 information "may" be available to other sites was rendered misleading by
16 the fact that the information was in fact immediately accessible on over
17 1,000 other sites;
- 18 4. whether the Defendant's conduct was unfair because the harm it caused
19 far outweighed the utility of having a 1,000 undisclosed websites;
- 20 5. whether Defendant's conduct violated the CLRA;
- 21 6. whether the terms of the Terms of Service were unconscionable by virtue
22 of granting a worldwide, perpetual right to modify and edit and otherwise
23 exploit the user's information or by purporting to limit the CLRA statute
24 of limitations to one year, which is substantively unconscionable as a
25 matter of public policy.

26 D. The claims of the class representative are typical of the claims of the members of
27 the Class.

1 E. The class representative and his counsel will fairly and adequately represent the
2 interests of the Class.

3 F. Prosecuting these claims as a class action is superior to other means of resolution
4 and the common issues predominate over any individual issues that may arise.

5 After consideration of the papers and arguments made in support and in opposition to
6 class certification, and for good cause appearing, therefore:

7 **IT IS HEREBY ORDERED THAT:**

8 1. The above-styled action is hereby certified as a class action pursuant to Section
9 382 of the California Code of Civil Procedure and Section 1781 of the California Civil Code;

10 2. The class of plaintiffs is defined as:

11 All residents of the State of California who registered for use of the PositiveSingles.com
12 website or any other website indicating that it was "Powered by PositiveSingles.com"
13 during the four year period ending on October 1, 2011 (the "Class").

14 3. John Doe is appointed as the Class Representatives for the Class.

15 4. Green & Noblin, P.C., Kleinman Law Firm PLLC and Traverse Legal are
16 appointed counsel to the Class for all purposes in this action.

17 5. The parties shall meet and confer on the form and manner of providing notice to
18 the Class and shall submit their proposal to the Court.

19 **APR 12 2013**

Hon. Mark H. Pierce

20 DATED: _____

21 Hon. Mark Pierce
22 Superior Court Judge

1 APPROVED AS TO FORM:

2 Kronenberger Rosenfeld, LLP

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4 DATED: APRIL 5 2013

5 By: 

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