

1 **Keith Altman (SBN 257309)**
2 **Lento Law Group P.C.**
3 **3000 Atrium Way - Suite #200**
4 **Mt. Laurel, New Jersey 08054**
5 **(516) 456-5885**
6 **kaltman@lentolawgroup.com**

7 *Attorneys for Plaintiffs*

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9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12
13 **AMBASSADOR MARC GINSBERG**
14 **AND THE COALITION FOR A SAFER**
15 **WEB**

16 **Plaintiffs,**

17 **v.**

18
19 **APPLE, INC.**

20
21
22 **Defendant**
23

CASE NO:

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

1 **PLAINTIFFS AMBASSADOR MARC GINSBERG AND THE COALITION FOR A**
2 **SAFER WEB BY AND THROUGH THEIR ATTORNEYS KEITH ALTMAN OF**
3 **LENTO LAW GROUP, STATE AS FOLLOWS:**

4 **INTRODUCTION**

5 1. This is a lawsuit seeking damages and injunctive relief against
6 Defendant Apple, Inc. for allowing Telegram to be made available through Apple's
7 App Store despite Apple's knowledge that Telegram is being used to intimidate,
8 threaten, and coerce members of the public.
9

10 2. Apple has clearly defined policies and guidelines prohibiting
11 applications such as Telegram from being used in such a manner yet chooses not to
12 enforce those policies and guidelines.
13

14 3. As a result, consumers such as Plaintiff Ambassador Marc Ginsberg has
15 suffered economic losses as well as emotional distress as a member of one of the
16 groups targeted by Telegram's users.
17

18 **PARTIES**

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22 4. Plaintiff Ambassador Marc Ginsberg ("Ambassador Ginsberg") is a
23 citizen of the state of Maryland and is the owner of Defendant Apple's iPhone XR
24 which he obtained for personal and professional use in early 2020. As part of his
25 purchase of the iPhone, Ambassador Ginsberg knew that Apple, Inc. had an App
26 Store where various third-party application developers could make their applications
27
28

1 available to users. He further knew that Apple had terms of service and policies
2 related to the use of the iPhone and to applications available through the App Store.
3
4 Ambassador Ginsberg relied on Apple to comply with its own polices and terms of
5 service when deciding to purchase his iPhone

6
7 5. Ambassador Ginsberg has had a career that has placed him in the public
8 spotlight numerous times through his work as a White House liaison for the Secretary
9 of State, as a Deputy Senior Advisor to the President for Middle East Policy, as a
10 United States Ambassador to Morocco, and his numerous appearances in U.S. and
11 global publications and news shows.
12

13 6. Ambassador Ginsberg was raised in Israel and has addressed Jewish
14 groups in the United States and throughout the Arab world on the importance of
15 Judaism and Israel. Ambassador Ginsberg has been a member of and involved with
16 the Beth El synagogue in Bethesda, Maryland for decades as well as other
17 synagogues in Montgomery County, Maryland.
18

19
20 7. As the first Jewish ambassador to an Arab country from the U.S.,
21 Ambassador Ginsberg has been subjected to two assassination attempts due to his
22 religious beliefs held as an United States Ambassador.
23

24 8. Ambassador Ginsberg created the Coalition for a Safer Web to compel
25 social media platforms to end their tolerance of anti-Semitism as well as their
26 enabling of extremist groups to operate with impunity over social media.
27
28

1 9. Plaintiff Coalition for a Safer Web (“CSW”) is a 501(c)(3) organization
2 with its principal place of business located in Washington, D.C. CSW employs
3 Ambassador Ginsberg and reimburses him for his professional use of his Apple
4 iPhone XR.
5

6 10. Defendant Apple, Inc. (“Apple”) is a California corporation
7 headquartered in Cupertino, California and has its principal place of business in
8 California. At all times relevant to this action, Defendant Apple was directly engaged,
9 and is currently engaged, with the marketing, promotion, management, and
10 distribution of apps in their Apple App Store and the business of marketing,
11 promoting, distributing, and selling Apple products such as iPhones, iPads, Apple
12 Watches, and Mac computers within California and across the United States with the
13 reasonable expectation that their products and apps would be used across the United
14 States.
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19 **JURISDICTION AND VENUE**

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21 11. Defendant Apple is a California corporation, headquartered in
22 Cupertino, and has its principal place of business in California.
23

24 12. At all times relevant to this action, Defendant Apple was directly
25 engaged, and is currently engaged, with the marketing, promotion, management, and
26 distribution of apps in the Apple App Store and the business of marketing, promoting,
27
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1 distributing, and selling Apple products such as iPhones, iPads, Apple Watches, and
2 Mac computers within California and across the United States with the reasonable
3 expectation that their products and apps would be used across in United States.
4

5 13. Plaintiff Marc Ginsberg (“Ambassador Ginsberg”) is a citizen of the
6 state of Maryland and is the owner of one of Defendant Apple’s iPhone XR which
7 he obtained for personal and professional use. Ambassador Ginsberg has suffered
8 damages through his purchase of his iPhone and is suffering from negligent infliction
9 of emotional distress in an amount that exceeds \$75,000. Furthermore, Ambassador
10 Ginsberg is seeking to enjoin Apple from allowing Telegram to be available in the
11 App Store in violation of Apple’s policies and terms of service.
12
13

14 14. Plaintiff Coalition for a Safer Web (“CSW”) is a 501(c)(3) organization
15 with its principal place of business Washington, D.C., and is responsible for
16 reimbursing Ambassador Ginsberg for his use of his iPhone XR for business use. At
17 this time, these costs are being accrued by CSW and Ambassador Ginsberg must use
18 his own money to pay the bill while he awaits reimbursement.
19
20

21 15. Jurisdiction in federal court is proper under 28 U.S.C. § 1332 as
22 Ambassador Ginsberg and CSW are citizens of different states as Defendant Apple
23 and the amount in controversy exceeds \$75,000.
24

25 16. This Court has supplemental jurisdiction over Plaintiffs' state law claims
26 under 28 U.S.C. § 1367.
27
28

1 17. Venue is proper in the Northern District of California pursuant to 28
2 U.S.C. § 1391 as Defendant may be found or transacts business in this district and a
3 substantial part of the events giving rise to Plaintiffs' claims occurred and are
4 continuing to occur in this district.
5

6
7 **FACTS CONCERNING DEFENDANT APPLE, INC.**
8

9 18. Defendant Apple launched its App Store in 2008.¹

10 19. Between 2013-2018, Defendant Apple has sold at least 1,197.04 million
11 units of Apple iPhones worldwide.²
12

13 20. Since 2017, Apple iPhones have been priced anywhere from \$699+ to
14 \$1099+.³
15

16 21. Over the past decade, Defendant Apple has sold more than 500 million
17 iPads.⁴
18

19 22. Currently, Defendant Apple sells the iPad Mini 5 for \$399+, the 2020
20 iPad is \$329+, the 2020 iPad Air is \$599+, the 12.9-inch iPad Pro is \$999+, the 11-
21 inch iPad Pro is \$799+, the 12.9-inch iPad Pro is \$799, and the 11-inch iPad Pro is
22

23
24 ¹ App Store <https://www.apple.com/newsroom/2018/07/app-store-turns-10/>

25 ² Apple iPhone Sales: <https://www.statista.com/statistics/276306/global-apple-iphone-sales-since-fiscal-year-2007/#:~:text=In%20their%202018%20fiscal%20year,stayed%20relatively%20stable%20since%20then.>

26 ³ Apple iPhone Prices: <https://www.computerworld.com/article/2604020/the-evolution-of-apples-iphone.html#slide19>

27 ⁴ Apple iPad Sales: <https://www.theverge.com/2020/9/15/21438305/apple-ipad-sales-500-million-units-10-year-anniversary>
28

1 \$649+.⁵

2 23. In 2018 and 2019 alone, Defendant Apple sold 53.2 million Apple
3 Watches worldwide.⁶

4
5 24. Defendant Apple sells the Series 3 Apple Watch for a starting price of
6 \$199, the Apple Watch SE S5 for a starting price of \$279, and an Apple Watch Series
7
8 6 for a starting price of \$399.⁷

9 25. One of the principal reasons why consumers such as Ambassador
10 Ginsberg purchase Apple products is because of the Apple App Store and the apps
11 contained therein.

12
13 26. Apple has established terms of use and development guidelines for the
14 use of their products as well as the App Store. Consumers, such as Ambassador
15 Ginsberg are expected to comply with the terms of service and guidelines.
16 Furthermore, as part of their purchase and use of Apple products, consumers such as
17 Ambassador Ginsberg are entitled to reasonably rely that Apple will comply with its
18 own policies and guidelines

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21 27. In particular, Apple requires that applications such as Telegram must go
22 through a review process and comply with certain guidelines before becoming
23 available on the App Store. Apple publishes these review guidelines⁸. See Exhibit
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26 ⁵ Apple iPad prices: <https://www.lifewire.com/ipad-comparison-chart-1994214>

27 ⁶ Apple Watch Article: <https://www.fool.com/investing/2020/02/08/apple-sold-over-30-million-apple-watches-in-2019.aspx>

28 ⁷ Apple Watch Prices: <https://appleinsider.com/inside/apple-watch>

⁸ <https://developer.apple.com/app-store/review/guidelines/>

1 “A.”

2 28. Specifically, with respect to the Telegram application, Apple has
3 allowed Telegram to be distributed through the App Store knowing that Telegram
4 does not comply with Apple’s developer guidelines and that Telegram is routinely
5 used to violate California’s hate speech law, California Penal Code § 422.6.
6
7

8 **FACTS CONCERNING TELEGRAM**

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11 29. Telegram was founded by CEO Pavel Durov and is currently based in
12 Dubai after leaving Russia, Berlin, London, and Singapore due to local IT
13 regulations.⁹

14
15 30. Defendant Apple allows the Telegram Messenger app access to its App
16 Store. On Defendant Apple’s App Store, the Telegram Messenger app has a 4.3-star
17 rating with over 106,900 Ratings.¹⁰ Defendant Apple allows the Telegram Messenger
18 app to be downloaded for the iPhone, iPad, and Apple Watch.
19

20
21 31. As of December 2020, the Telegram Messenger app has been
22 downloaded on the Apple App Store an estimated 6 million times worldwide.¹¹
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24
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26 _____
⁹ *Id.* [FAQs]

27 ¹⁰ Telegram App Store Preview: <https://apps.apple.com/app/telegram-messenger/id686449807>

28 ¹¹ SensorTower Telegram iOS downloads: <https://sensortower.com/ios/us/telegram-fz-llc/app/telegram-messenger/686449807/overview>

1 32. On Defendant Apple’s App Store Preview, the Telegram Messenger app
2 provides the following information about the app:
3

- 4 • Telegram has over 400 million active users.
- 5 • Telegram is the fastest messaging app on the market,
6 connecting people via a unique, distributed network of data
7 centers around the globe.
- 8 • You can access your messages from all your devices at once.
- 9 • You can send media and files, without any limits on their
10 type and size.
- 11 • Your entire chat history will require no disk space on your
12 device, and will be securely stored in the Telegram cloud for
13 as long as you need it.
- 14 • We made it our mission to provide the best security
15 combined with ease of use.
- 16 • Everything on Telegram, including chats, groups, media,
17 etc. is encrypted using a combination of 256-bit symmetric
18 AES encryption, 2048-bit RSA encryption, and Diffie–
19 Hellman secure key exchange.
- 20 • You can create group chats for up to 200,000 members,
21 share large videos, documents of any type (.DOCX, .MP3,
22 .ZIP, etc.), and even set up bots for specific tasks.
- 23 • It's the perfect tool for hosting online communities and
24 coordinating teamwork.
- 25 • Built to deliver your messages in the minimum bytes
26 possible, Telegram is the most reliable messaging system
27 ever made.
- 28 • It works even on the weakest mobile connections.
- Telegram is free and will always be free.
- We take your privacy seriously and will never give third
 parties access to your data.
- For those interested in maximum privacy, Telegram offers
 Secret Chats. Secret Chat messages can be programmed to
 self-destruct automatically from both participating devices.
 This way you can send all types of disappearing content —
 messages, photos, videos, and even files. Secret Chats use
 end-to-end encryption to ensure that a message can only be
 read by its intended recipient.; and

- We keep expanding the boundaries of what you can do with a messaging app. Don't wait years for older messengers to catch up with Telegram — join the revolution today.¹²

33. Additionally, as per Version 7.3.1 of the Telegram Messenger app on Defendant Apple's App Store, Defendant Apple's program Siri can "read incoming messages aloud in your headphones."¹³

34. According to Telegram's website FAQs, Telegram for iOS was launched on August 14, 2013.¹⁴

35. In addition to Telegram's app offerings on Defendant Apple's App Store, users of Telegram can use Telegram's web version or install a desktop app for macOS.¹⁵

36. According to Telegram's website, "Telegram is a cloud-based mobile and desktop messaging app with a focus on security and speed."¹⁶ Further, as per their website, Telegram claims to:

- be "so simple you already know how to use it".
- have messages that are heavily encrypted that "can self-destruct".
- allow users to access chats from multiple devices.
- deliver messages "faster than any other application".
- have no limits on the size of user's media and chats.
- keeps messages safe from "hacker attacks".
- allow groups that can hold up to 200,000 members.¹⁷

¹² *Id.* [app store]

¹³ *Id.* [app store]

¹⁴ Telegram Website FAQs: <https://telegram.org/faq>

¹⁵ *Id.* [FAQs]

¹⁶ Telegram Website: Telegram.org

¹⁷ *Id.* [telegram home]

1 37. In addition to creating groups for up to 200,000 people, Telegram allows
2 users to create channels to broadcast to unlimited audiences.¹⁸

3
4 38. Telegram claims to be “for everyone who wants fast and reliable
5 messaging and calls” and allows users to create “[p]ublic groups [that] can be joined
6 by anyone and are powerful platforms for discussions and collecting feedback.”¹⁹

7
8 39. Telegram allows users to “share an unlimited number of photos, videos
9 and files (doc, zip, mp3, etc.) of up to 2 GB each.”²⁰

10 40. Telegram draws many users which use their devices and Telegram’s
11 services to promote and/or engage in illegal activity. In fact, Telegram’s FAQ
12 includes the following language:
13

14
15 Q: There's illegal content on Telegram. How do I take it
16 down?

17 A: All Telegram chats and group chats are private amongst
18 their participants. We do not process any requests related to
19 them.²¹

20 41. Additionally, in response to the question “[w]hat are your thoughts on
21 internet privacy?” Telegram’s FAQ states, in pertinent part:

- 22
- 23 • At Telegram we think that the two most important
24 components of Internet privacy should be instead:
 - 25 ○ Protecting your private conversations from snooping
26 third parties, such as officials, employers, etc.

27 ¹⁸ *Id.* [FAQs]

28 ¹⁹ *Id.* [FAQs]

²⁰ *Id.* [FAQs]

²¹ *Id.* [FAQs]

- Protecting your personal data from third parties, such as marketers, advertisers, etc.
- This is what everybody should care about, and these are some of our top priorities. Telegram's aim is to create a truly free messenger, without the usual caveats.²²

42. Telegram FAQs claims the following in response to a question regarding third-party takedown requests:

“Our mission is to provide a secure means of communication that works everywhere on the planet. To do this in the places where it is most needed (and to continue distributing Telegram through the App Store and Google Play), we have to process legitimate requests to take down illegal *public* content (e.g., sticker sets, bots, and channels) within the app. For example, we can take down sticker sets that violate intellectual property rights or porn bots.” (emphasis added)

“Please note that this does not apply to local restrictions on freedom of speech. For example, if criticizing the government is illegal in some country, Telegram won't be a part of such politically motivated censorship. This goes against our founders' principles. While we do block terrorist (e.g. ISIS-related) *bots and channels*, we will not block anybody who peacefully expresses alternative opinions.”²³ (emphasis added)

43. While the above information applies to public channels, such information does not apply to private groups which can contain upwards of 200,000 individuals. As for this data, Telegram provides the following information:

- Secret chats use end-to-end encryption, thanks to which we don't have any data to disclose.
- To protect the data that is not covered by end-to-end encryption, Telegram uses a distributed infrastructure. Cloud

²² *Id.* [FAQs]

²³ *Id.* [FAQs]

1 chat data is stored in multiple data centers around the globe
2 that are controlled by different legal entities spread across
3 different jurisdictions. The relevant decryption keys are split
4 into parts and are never kept in the same place as the data they
5 protect. As a result, several court orders from different
6 jurisdictions are required to force us to give up any data.

- 7 • Thanks to this structure, we can ensure that no single
8 government or block of like-minded countries can intrude on
9 people's privacy and freedom of expression. Telegram can be
10 forced to give up data only if an issue is grave and universal
11 enough to pass the scrutiny of several different legal systems
12 around the world.
- 13 • To this day, we have disclosed 0 bytes of user data to third
14 parties, including governments.
- 15 • Telegram groups are ideal for sharing stuff with friends and
16 family or collaboration in small teams. But groups can also
17 grow very large and support communities of up to 200,000
18 members. You can make any group public, toggle persistent
19 history to control whether or not new members have access to
20 earlier messages and appoint administrators with granular
21 privileges. You can also pin important messages to the top of
22 the screen so that all members can see them, including those
23 who have just joined.
- 24 • Channels are a tool for broadcasting messages to large
25 audiences. In fact, a channel can have an unlimited number of
26 subscribers.²⁴

27 44. Since its launch in 2013, Telegram has been the subject of derision for
28 facilitating voices of violence and extremism.

45. Most recently, in the wake of the killing of George Floyd, Telegram has
played an essential role in threatening as well as encouraging and coordinating racist
and anti-Semitic violence.

²⁴ *Id.* [FAQs]

1 46. CSW issued several press releases bringing the real and imminent
2 dangers of Telegram to the attention of Apple.

3
4 47. On June 3, 2020, CSW issued a press release, revealing a torrent of
5 extremist incitement, notably anti-Semitic and anti-African American content on
6 Telegram, stemming from white supremacist/ Neo-Nazi communications in the wake
7 of the George Floyd murder and the resulting global protests.²⁵

8
9 48. The CSW uncovered encrypted capacity by extremist fringe groups to
10 direct violence, including looting, where police presence is minimal.

11
12 49. On June 18, CSW issued a second Telegram related press release
13 demonstrating representational evidence that Telegram is serving as a
14 communications channel for the Russian government and affiliated Neo-Nazi and
15 white nationalist groups, sowing misinformation and racial division in the United
16 States and in Europe, with the goal of provoking African American-on-Jew
17 violence.²⁶

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20 50. Further on July 24, 2020, Ambassador Ginsberg sent on behalf of CSW
21 a letter to Tim Cook, CEO of Apple calling on Apple to (temporarily) de-platform
22 the Telegram app from Apple's App Store, reiterating the seriousness of Telegram's
23 role in inciting extremist violence.²⁷ See Exhibit "B"

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25
26 ²⁵ June 03, 2020 – CSW Demands Action Against the TELEGRAM White Nationalist/Anti-
Semitic/Anti-Black Riot Incitement App.

27 ²⁶ June 18, 2020- TELEGRAM App is the Misinformation "Super Spreader" to Foment U.S.
Racial Division & Violence.

28 ²⁷ June 24, 2020- TELEGRAM APP'S ROLE INCITING EXTREMIST VIOLENCE

1 51. Telegram is currently the most utilized messaging app among extremists
2 who are promoting violence in the United States. Telegram has been deemed
3 “extremists app of choice” by POLITICO.²⁸
4

5 52. For years, anti-black and anti-Semitic groups have openly utilized
6 Telegram with little or no content moderation by Telegram’s management. Despite
7 warnings from CSW and other organizations, extensive media coverage, legal
8 warnings, and other attention that Apple is providing an online social media platform
9 and communication service to hate groups, Apple has not taken any action against
10 Telegram comparable to the action it has taken against Parler to compel Telegram to
11 improve its content moderation policies.
12
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14 53. Speech that carries a credible threat of violence against a person or a
15 group on the basis of race or religion is a criminal offense in California. *See*
16 California Penal Code § 422.6.
17

18 54. Telegram promotes extremist conduct in violation of both state and
19 federal law.
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21 55. Telegram currently serves as the preferred Neo-Nazi/white nationalist
22 communications channel, fanning anti-Semitic and anti-black incitement during the
23 current wave of protests across America.
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27 ²⁸ Alexandra S. Levine, “Telegram Surfaces as Preferred app of Extremist Rioters,” *Politico* (June
28 4, 2020), <https://www.politico.com/newsletters/morning-tech/2020/06/04/telegram-surfaces-as-preferred-app-of-extremist-rioters-788230>

1 56. Telegram continues to enable extremist incitement in its platform,
2 promoting political violence as extremist groups and individuals migrate to Telegram
3 following Apple’s suspension of Parler.

4 57. Telegram has and continues to be used as a channel to cultivate and
5 maintain an image of brutality and to instill great fear and intimidation by
6 disseminating videos and images of numerous threats to kill, images depicting and
7 encouraging racist and anti-semitic violence, and dehumanizing certain groups of
8 people.
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11 58. In the wake of the murder of George Floyd, these abhorrent postings
12 inciting and encouraging violence have become more frequent, specifically
13 threatening people of color and Jewish people.
14

15 59. On September 28, 2020, a telegram user under the account name
16 “N**** and Heeb Crime Report” posted a photo of a woman holding a sign that reads
17 “Kill Black People.”
18



1
2 60. The same account also posted the below image of a well-known climate
3 change activist photo shopped to appear to be holding a sign that reads “Kill all
4 n***** for climate.”
5



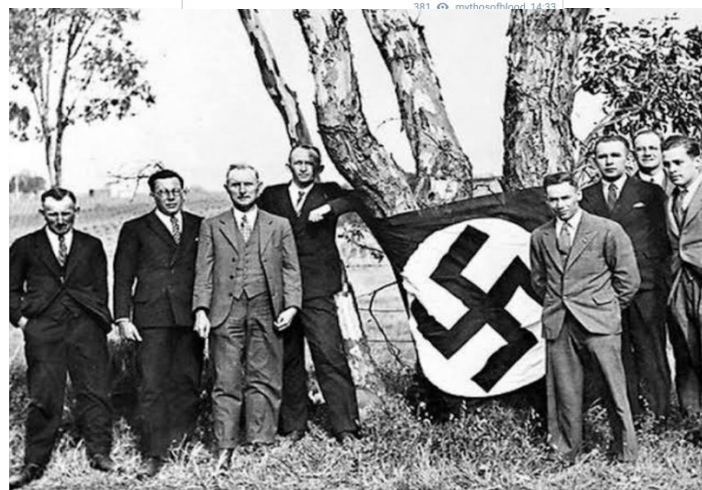
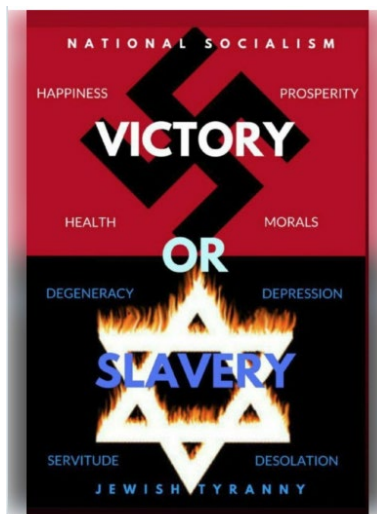
17 61. Further, the same account posted an image (inserted below) depicting a
18 white man next to a dead and dismembered African American person with a caption
19 that reads “The only thing n***** understand are pain and fear.”
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62. In addition to racist posts encouraging and violence against African American people, there are also anti-Semitic posts used to threaten and encourage violence against people of the Jewish faith.

63. Below are some examples of anti-Semitic postings encouraging and, in some cases, directly threatening violence against Jews:



We will finish what you started.

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64. Telegram further engaged in facilitation of anti-Semitic and anti-black extremism and violence during the Black Lives Matter (“BLM”) protests throughout summer of 2020.

65. Telegram has been used to cultivate and maintain an image of brutality, to instill great fear and intimidation by posting images and videos encouraging racist and anti-Semitic killings.

66. Telegram’s media platform and services provide tremendous utility and value to racist and anti-Semitic groups as a tool to connect its members and to facilitate these group’s ability to communicate, recruit members, plan and carry out attacks, and strike fear in its enemies.

67. These have groups relied on Telegram as an important tool to facilitate and carry out its terrorist activity, including the attack on the United States Capital that took place on January 6, 2021.

1 68. Telegram is currently being used to coordinate and incite extreme
2 violence before the inauguration of President Elect Joe Biden on January 17, 2021.
3
4 Some users have called on followers to abandon plans for a second protest in
5 Washington in favor of surprise attacks nationwide.²⁹

6 69. One Telegram message on a far-right channel called “Boogaloo Intel
7 Drop” told followers to “get a feel for your local area and get your friends together.”
8 The message encouraged other Telegram users to find others who are outraged about
9 the death of Ashli Babbitt, who was shot by a police officer while storming the
10 Capitol. The posting further read: “No, we’re not going to tell you ‘show up on XX
11 day and do XX,’ which would risk alerting authorities,” the message continues,
12 advising followers to “have some damn ingenuity and autonomy.”³⁰

13 70. The following is an image containing a caption that reads: “When
14 democracy is destroyed refuse to be silenced, armed march on Capitol Hill & all
15 state capitals. January 17th, 2021 @ 12:00pm”

16 //

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21 ²⁹ [https://www.washingtonpost.com/national-security/far-right-violent-plans-
22 inauguration/2021/01/14/15668f16-567d-11eb-a817-e5e7f8a406d6_story.html](https://www.washingtonpost.com/national-security/far-right-violent-plans-inauguration/2021/01/14/15668f16-567d-11eb-a817-e5e7f8a406d6_story.html)

23 ³⁰ *Id.*

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71. In this case, Telegram is being used to specifically threaten the United States Government.

72. In addition to postings to incite violence and spread hate, Telegram also serves as a platform to purchase and sell illegal substances.

73. Below is a posting offering for sale and pricings of illegal and controlled substances such as LSD, acid, and cocaine pills.

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| 1 ounce cost \$450 |
| 25) 1 sheet LSD containing 100 sheets 150ug for \$175 200ug for \$220 300ug for \$250 |
| 26) ecstasy \$8 per pill minimum order is 50 pills |
| 27) molly 110\$ per gram minimum order is 3g |
| 28) Zopiclone 10mg 1k €400 |
| Get the best deals Pill/drugs for sale |
| 1) subutex 2mg (sublingual tabs) 30 tabs \$110 90 tabs \$300 |
| 2) Roxicodone 30mg (PHYSICIANS TC)100 tabs \$200 Roxicodone 30mg (PHYSICIANS TC) 120 tabs \$230 |
| 4) RITALIN 10mg 100 pill \$115 RITALIN 10mg 200 pill \$215 |
| 5) Ketamine (Ketamine Hydrochloride) - Infar 100mg/ml Solution 10ml vial \$70 |
| 6) Ketalar 50mg/ml 10ML Injection \$65 |
| 7) Demerol 50mg/ml 30ml ampul \$42 |
| 8) Dilaudid 2mg/100tabs \$115 DILAUDID 4mg/100tabs \$128 DILAUDID 8mg/100tabs \$197 |
| 8) SOMA -generic- 350mg 30 tabs 67us\$ |

74. Telegram, as a platform, is continuing to grow. As of January 12, 2020, at 12:20, Telegram surpassed 500 million active users. In the past 72 hours alone, more than 25 million new users from around the world joined Telegram.³¹

FIRST CAUSE OF ACTION
Negligent Infliction of Emotional Distress

75. The allegations set forth in all previous paragraphs of the complaint are incorporated by reference as if fully set forth herein.

76. Defendant owes a duty of reasonable care to ensure that their services are not used as a means to inflict religious and racial intimidation.

77. Defendant currently offers the Telegram app on the Apple App Store.

78. Telegram hosts many users who openly identify as Neo-Nazis and White Supremacists.

³¹ Posting showing user stats, <https://t.me/OhioProudBoys/864>

1 79. The Telegram app has been used on numerous occasions by White
2 Supremacists and Neo-Nazis to plan, incite and implement anti-Semitic terror plots.

3
4 80. Neo-Nazi and White Supremacists used the Telegram app to coordinate
5 a campaign to spread misinformation during the summer 2020 Black Lives Matter
6 protests. The goal of this misinformation campaign was to foment African American
7 on Jewish violence.
8

9 81. Because iPhones are the one of the most popular brands of smart phone
10 in the world, it is reasonable to infer that a substantial number individuals that used
11 the Telegram app to foment racial terror, downloaded the app from the Apple App
12 Store.
13

14 82. Telegram has become so well known as a source of racial terror plots,
15 that the app is often referred to as “Terrorgram”. Due to this high level of notoriety,
16 Defendant Apple knew or should have known their App Store was being used to
17 download the Telegram app for terroristic purposes.
18

19
20 83. Defendant breached their duty by continuing to host Telegram on the
21 App Store despite Defendant’s knowledge that Telegram was being used to incite
22 violence including violence against African Americans and Jews.
23

24 84. Ambassador Ginsberg is a Jewish person whose professional work
25 requires he maintain a presence in the public eye.
26
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28

1 85. As a result of this Anti-Semitic campaign that was coordinated on the
2 Telegram app, Ambassador Ginsberg is forced to live in apprehension of religiously
3 motivated violence being perpetrated against him.
4

5 86. Ambassador Ginsberg's fear of religious violence has caused him
6 substantial emotional harm including depression and anxiety.
7

8 87. Despite having an awareness of the racial and religious incitement that
9 is planned, coordinated, and implemented through Telegram, Defendant continues to
10 host Telegram on the Apple App Store.
11

12 88. By continuing to host Telegram on the Apple App Store, Defendant
13 facilitates religious threats against him and his family that has caused Ambassador
14 Ginsberg to fear for his life.
15

16 89. If was foreseeable to Apple that by allowing Telegram to continue to be
17 available on the App Store that Apple's conduct could lead to fear of violence by
18 individuals, such as Ambassador Ginsberg.
19

20 90. By failing to remove Telegram from the Apple App Store, Defendant
21 has proximately caused Ambassador Ginsberg's emotional distress.
22

23 91. Plaintiff Ambassador Ginsberg has suffered injuries in an amount that
24 exceeds \$75,000.
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SECOND CAUSE OF ACTION

(Violation of the “Unfair” Prong of the UCL, California Business and Professions Code § 17200 *et seq.*)

92. The allegations set forth in all previous paragraphs of the complaint are incorporated by reference as if fully set forth herein.

93. The UCL defines unfair business competition to include any "unlawful, unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or misleading" advertising. Cal. Bus. & Prof. Code § 17200.

94. A business act or practice is "unfair" under the UCL if the reasons, justifications, and motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged victims.

95. Defendant’s App developer guidelines forbid the following content from the Apple App Store³²:

- 1.1.1 Defamatory, discriminatory, or mean-spirited content, including references or commentary about religion, race, sexual orientation, gender, national/ethnic origin, or other targeted groups, particularly if the app is likely to humiliate, intimidate, or harm a targeted individual or group.
- 1.1.2 Realistic portrayals of people or animals being killed, maimed, tortured, or abused, or content that encourages violence.

³² See Exhibit “A”, §§ 1.1.1, 1.1.2, 1.1.3, 1.1.5

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1.1.3 Depictions that encourage illegal or reckless use of weapons and dangerous objects, or facilitate the purchase of firearms or ammunition.

1.1.5 Inflammatory religious commentary or inaccurate or misleading quotations of religious texts.

96. Also, in Apple’s guidelines is § 1.2 on User Generated Content:

Apps with user-generated content present particular challenges, ranging from intellectual property infringement to anonymous bullying. To prevent abuse, apps with user-generated content or social networking services must include:

- A method for filtering objectionable material from being posted to the app
- A mechanism to report offensive content and timely responses to concerns
- The ability to block abusive users from the service
- Published contact information so users can easily reach you

Apps with user-generated content or services that end up being used primarily for pornographic content, Chatroulette-style experiences, objectification of real people (e.g. “hot-or-not” voting), making physical threats, or bullying do not belong on the App Store and may be removed without notice.

97. Thus, Defendant has full managerial discretion to remove apps that violate the aforementioned guidelines.

98. In the past, Apple has removed applications such as Fortnite and Parler from the App Store for violating these guidelines.

1 99. Telegram users have repeatedly and systematically utilized the platform
2 to violate Defendant's app developer guidelines since Telegram's launch in 2013.

3
4 Such violations include, but are not limited to:

- 5 • Generating and distributing content expressing degradation
6 and hatred of various racial and religious groups, particularly
7 African Americans and Jewish people.
- 8
9 • Generating and distributing content that contains explicit
10 exhortations to commit violence against various racial and
11 religious groups, particularly African Americans and Jewish
12 people.
- 13
14 • Planning and recruiting participants for acts of racial and
15 religious based terrorism.
- 16
17 • Planning and recruiting participants in terrorist operations
18 aimed at undermining the institution of United States
19 elections and overturning the results of the 2020 United States
20 Presidential election.
- 21
22 • Providing logistical support for participants of acts of
23 terrorism.
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1 100. The developers of Telegram have not undertaken any meaningful
2 actions to curb these flagrant, systematic, and continuous violations of Defendant's
3 app guidelines by Telegram users.
4

5 101. The aforementioned violations of Defendant's app guidelines are well
6 known and have been widely reported by international media outlets since 2013.
7 Defendant is therefore aware of Telegram's violations of their app guidelines.
8

9 102. Despite having awareness of Telegram's violations of the Apple app
10 guidelines, Defendant has not removed Telegram from the App Store nor undertaken
11 any action to compel Telegram to come into compliance with the app guidelines.
12

13 103. Defendant directly benefits from Telegram through information sharing
14 agreements, advertising revenue, and sales of Apple devices to run Telegram.
15

16 104. Ambassador Ginsberg purchased and uses an Apple iPhone XR for
17 personal and professional purposes related to his work for CSW. Ambassador
18 Ginsberg is to be reimbursed for all phone and data costs related to his work with
19 CSW.
20

21 105. Ambassador Ginsberg premised his purchase and use of an Apple
22 iPhone XR for personal and CSW purposes on an expectation that Defendant would
23 enforce their app guidelines.
24

25 106. Defendant has violated the "unfair" prong of the UCL by not following
26 their own policies and allowing Telegram to be downloaded despite the
27 aforementioned violations of Apple's guidelines.
28

1 107. These acts and practices were unfair because they caused Ambassador
2 Ginsberg to falsely believe that the Apple would comply with their own policies and
3 terms of service. As a result, reasonable consumers, including Ambassador
4 Ginsberg, were induced, in part, to purchase Apple's products believing that Apple
5 would not allow Telegram on the App Store once becoming aware of the extent of
6 Telegram's use violating Apple's policies and guidelines.
7

8
9 108. Defendant's failure to enforce their own guidelines against Telegram
10 has caused Ambassador Ginsberg and CSW to suffer economic loss by being
11 deprived of a key benefit of the purchase and use of the Apple iPhone XR.
12

13 109. The gravity of the harm to Ambassador Ginsberg and members of the
14 public resulting from these unfair acts and practices outweighed any conceivable
15 reasons, justifications, and/or motives of Apple for engaging in such unfair acts and
16 practices. By committing the acts and practices alleged above, Apple engaged in
17 unfair business practices within the meaning of California Business & Professions
18 Code §§ 17200, *et seq.*
19

20
21 110. Plaintiffs therefore seeks injunctive relief pursuant to California
22 Business and Professions Code § 17203 to enjoin Defendant Apple to comply with
23 Apple's own policies and guidelines requiring Telegram to cease and desist
24 violations or remove Telegram from the Apple App Store.
25

26
27 111. Furthermore, through its unfair acts and practices, Defendant has
28 improperly obtained money from Ambassador Ginsberg. As such, Plaintiff requests

1 that this Court enjoin Defendants from continuing to violate the UCL as discussed
2 herein and/or from violating the UCL in the future. Otherwise, Ambassador Ginsberg
3 and members of the general public may be irreparably harmed and/or denied an
4 effective and complete remedy if such an order is not granted.
5

6
7 **THIRD CAUSE OF ACTION**
8 **(Violation of the “Unlawful” Prong of the UCL, California Business and**
9 **Professions Code § 17200 *et seq.*)**

10 112. The allegations set forth in all previous paragraphs of the complaint are
11 incorporated by reference as if fully set forth herein.

12 113. The UCL defines unfair business competition to include any "unlawful,
13 unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or
14 misleading" advertising. Cal. Bus. & Prof. Code § 17200.
15

16 114. A business act or practice is "unlawful" under the UCL if it violates any
17 other law or regulation.
18

19 115. California Penal Code § 422.6 states:

20 No person, whether or not acting under color of law, shall by
21 force or threat of force, willfully injure, intimidate, interfere
22 with, oppress, or threaten any other person in the free exercise or
23 enjoyment of any right or privilege secured to him or her by the
24 Constitution or laws of this state or by the Constitution or laws
25 of the United States [on basis of any recognized protected class
such as race or religion].

26 116. Users of Telegram have repeatedly and consistently used the app to plan
27 and format racially motivated terrorist plots.
28

1 117. Many of the Telegram users who have used the app for terroristic
2 purposes have downloaded the app on the Apple App Store so that they may
3 violate California Penal Code § 422.6.
4

5 118. Apple is aware of that a substantial number of users of Telegram use the
6 application in violation of California Penal Code § 422.6.
7

8 119. Despite knowing that Telegram is being used to commit criminal acts,
9 Apple continues to allow Telegram to be downloaded from the App Store. Thus,
10 Apple's conduct aids and abets the commission of criminal acts and is itself a
11 violation of California Penal Code § 31 and is a violation of the "unlawful" prong of
12 the UCL.
13

14 120. Because of its unlawful acts and practices, Plaintiff requests that this
15 Court enjoin Defendants from continuing to violate the UCL as discussed herein
16 and/or from violating the UCL in the future. Otherwise, Ambassador Ginsberg and
17 members of the general public may be irreparably harmed and/or denied an effective
18 and complete remedy if such an order is not granted.
19
20

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs pray that this Court:

23
24 (a) Enter judgment against Defendants and in favor of each Plaintiff
25 for compensatory damages in amounts to be determined at trial.
26
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1 (b) Enter judgment against Defendants and in favor of each Plaintiff
2 for an injunction prohibiting the availability of Telegram through the App Store
3 unless Telegram complies with Apple’s policies and guidelines.
4

5 (c) Enter judgment against Defendants and in favor of each Plaintiff
6 for any and all costs sustained in connection with the prosecution of this action,
7 including attorneys’ fees.
8

9 (d) Grant such other and further relief as justice requires.
10

11 **JURY DEMAND**

12 PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.
13
14

15 Respectfully Submitted,

16 Dated: January 17, 2021
17 Farmington Hills, MI

Lento Law Group P.C.
By: /s/ Keith Altman
Keith Altman (SBN 257309)
3000 Atrium Way - Suite #200
Mt. Laurel, New Jersey 08054
(516) 456-5885
kaltman@lentolawgroup.com

21 *Attorneys for Plaintiffs*
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