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25
26 **IN THE UNITED STATES DISTRICT COURT**
27 **FOR THE DISTRICT OF ALASKA**

28 MICHAEL COLE, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

GENE BY GENE, LTD., a Texas limited
liability company d/b/a FAMILY TREE
DNA,

Defendant.

Case No. 1:14-cv-00004-SLG

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

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3 Plaintiff Michael Cole (“Cole”) brings this Class Action Complaint and Demand for Jury
4 Trial (“Complaint”) against Defendant Gene by Gene, Ltd. d/b/a Family Tree DNA (“Family
5 Tree”) to put a stop to its unlawful disclosure of Plaintiff’s and the Class’s highly sensitive
6 genetic information. Plaintiff, for his Complaint, alleges as follows upon personal knowledge as
7 to himself and his own acts and experiences, and, as to all other matters, upon information and
8 belief, including investigation conducted by his attorneys.
9

10 NATURE OF THE ACTION

11 1. Family Tree is a commercial genetics company that sells DNA testing kits to
12 consumers. After using the kit and sending it back to Family Tree, the company performs an
13 analysis on it and then allows the customer to visit its website to conduct ancestry research based
14 on their testing results (*i.e.*, based on their genetic code).
15

16 2. But that’s not all Family Tree does with its customers’ genetic data. Unbeknownst
17 to (and without the consent of) certain of its customers, Family Tree publishes the results of their
18 genetic tests on its publicly available websites.
19

20 3. As described herein, Family Tree’s practice of releasing information about its
21 consumers’ genetic makeup—*without their permission*—carries serious and irreversible privacy
22 risks. Family Tree’s disclosures also violate Alaska’s Genetic Privacy Act, Alaska Stat.
23 § 18.13.010 (“Genetic Privacy Act” or the “Act”), which makes it unlawful for companies that
24 collect consumers’ genetic data to disclose such information without prior consent.
25

26 4. Accordingly, this Complaint seeks an order (i) declaring that Family Tree’s
27 conduct violated the Genetic Privacy Act, (ii) requiring Family Tree to cease the unlawful
28 disclosures discussed herein, and (iii) awarding actual and statutory damages to Plaintiff and the

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3 proposed Class.

4 **PARTIES**

5 5. Plaintiff Michael Cole is a natural person and citizen of the State of Alaska.

6 6. Defendant Gene by Gene, Ltd. is a limited liability company existing under the
7 laws of the State of Texas with its principal place of business located at 1445 North Loop West,
8 Suite 820, Houston, Texas 77008. Defendant conducts business throughout this District, the State
9 of Alaska, and the United States.
10

11 **JURISDICTION AND VENUE**

12 7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d),
13 because (a) at least one member of the putative Class is a citizen of a state different from
14 Defendant, (b) the amount in controversy exceeds \$5,000,000, exclusive of interests and costs,
15 and (c) none of the exceptions under that subsection apply to this action.
16

17 8. The Court has personal jurisdiction over Family Tree because it conducts
18 significant business transactions in this District and the unlawful conduct alleged in the
19 Complaint occurred in, was directed to, and emanated from this District.
20

21 9. Venue is proper in this District under 28 U.S.C. § 1391(b) because Family Tree
22 conducts significant business transactions in this District, solicits business in this District, and
23 because a substantial part of the events giving rise to the action occurred in this District. Venue is
24 additionally proper because Plaintiff resides in this District.
25

26 **FACTUAL BACKGROUND**

27 **I. The Danger of Publicly Disclosing an Individual's Genetic Information.**

28 10. Up until "the year 2000, much of [the] information [associated with an

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3 individual's DNA] had been essentially hidden within [their] genetic code. However, [that year]
4 . . . a public consortium and a private company . . . announced that they had cracked the code and
5 were able to spell out the 3 billion letters of each genetic genome, the biochemical messages
6 that's encoded within everyone's DNA." SB 217, 2004 Alaska Legis. Comm. Minutes 1539.
7 This breakthrough ultimately provided scientists with the ability to test a person's DNA to gain
8 "insight into [a] breathtaking wealth of singularly private information: information about [their]
9 ethnicity, family relationships, family history, and the likelihood of getting . . . some 4,000
10 different genetic diseases and conditions." HB 49, 2003 Alaska Legis. Comm. Minutes 0608.

11
12 11. There are many beneficial uses for genetic information, including detecting and
13 preventing illnesses, aiding in criminal investigations, or uncovering a person's family history.¹
14 Yet research shows how this data may also be exploited for discriminatory and abusive
15 purposes.² Indeed, hundreds of documented cases already tell the story of how genetic data has
16 been relied on in denying individuals and their families employment opportunities, as well as
17 health and life insurance.³
18
19

20 12. These types of abuses can be accomplished with access to even a small amount of
21

22 ¹ See HB 49, 2003 Alaska Legis. Comm. Minutes 0608; see also Deborah L. McLochlin,
23 *Whose Genetic Information Is It Anyway? A Legal Analysis of the Effects That Mapping the*
24 *Human Genome Will Have on Privacy Rights and Genetic Discrimination*, 19 John Marshall J.
25 *Computer & Info. L.* 609, 611 (2001).

26 ² Kimberley Nobles, *Birthright or Life Sentence: Controlling the Threat of Genetic*
27 *Testing*, 65 S. Cal. L. Rev. 2081, 2082 (1992).

28 ³ See United States Department of Labor, Genetic Information and the Workplace,
<http://www.dol.gov/dol/aboutdol/history/herman/reports/genetics.htm> (last accessed May 8,
2014); see also Council for Responsible Genetics, Genetic Testing, Privacy and Discrimination,
<http://www.councilforresponsiblegenetics.org/projects/PastProject.aspx?projectId=1> (last
accessed May 8, 2014).

1
2 a person's genetic information. In a 2013 study published by The American Association for the
3 Advancement of Science, a researcher was able to identify a group of individuals—and their
4 families—equipped with only limited information about the individuals such as their long strings
5 of DNA letters, ages, and states of residence.⁴
6

7 13. Commentators have noted that “an individual’s genetic information has
8 implications for his or her family members and future generations” and that the “misuse of
9 genetic information could have intergenerational effects that are far broader than any individual
10 incident of misuse.”⁵ In light of the above, it becomes evident why the Alaska legislature enacted
11 the Genetic Privacy Act to protect the privacy of its citizens’ DNA.
12

13 **II. Alaska’s Genetic Privacy Act.**

14 14. Alaska’s legislature enacted the Genetic Privacy Act to “curtail exploitation of [its
15 citizens’] valuable genetic information” and to afford Alaskans “the right to keep their genetic
16 information private.” SB 217, 2004 Alaska Legis. Comm. Minutes 1539.
17

18 15. To achieve that goal, the Genetic Privacy Act proscribes any person from, *inter*
19 *alia*, “disclos[ing] the results of a DNA analysis unless the person has first obtained . . . *informed*
20 *and written consent . . .*” Alaska Stat. § 18.13.010(a)(1). [Emphasis added]. There are only five
21 exemptions to this proscription.
22

23 16. Section 18.13.010(b) exculpates those that disclose, without informed and written
24

25 ⁴ See Web Hunt for DNA Sequences Leaves Privacy Compromised,
26 [http://www.nytimes.com/2013/01/18/health/search-of-dna-sequences-reveals-full-
27 identities.html?_r=1&](http://www.nytimes.com/2013/01/18/health/search-of-dna-sequences-reveals-full-identities.html?_r=1&) (last accessed May 8, 2014); see also Identifying Personal Genomes by
Surname Inference, <http://www.sciencemag.org/content/339/6117/321.abstract> (last accessed
28 May 8, 2014).

⁵ See *id.*

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3 consent, a person's DNA testing results under the following limited circumstances:

- 4 (a) under Alaska Stat. § 44.41.035 [Alaska's statute regulating the use and
5 collection of DNA for purposes of establishing a criminal identification
6 registration system] or comparable provisions of another jurisdiction;
7 (b) for a law enforcement purpose, including the identification of perpetrators
8 and the investigation of crimes and the identification of missing or
9 unidentified persons or deceased individuals;
10 (c) for determining paternity;
11 (d) to screen newborns as required by state or federal law; or
12 (e) for the purpose of emergency medical treatment.

13
14
15 17. Barring application of one or more of these exemptions, it is a violation of the
16 Genetic Privacy Act for a person or business to disclose the results of a DNA analysis of any
17 customer to *any* other person or entity for *any* reason without informed and written consent. As
18 discussed throughout this Complaint, none of the Genetic Privacy Act's exceptions apply in this
19 case.
20

21 **III. Family Tree Violates the Genetic Privacy Act as a Matter of Course.**

22 18. Founded in early 2000, Family Tree boasts that it has become one of the largest
23 commercial genetic testing companies in the world. Family Tree (through its parent company,
24 Gene by Gene, Ltd.) offers a variety of genetic testing services, but is best known for marketing
25 and selling DNA tests to consumers for the purpose of helping them research or identify their
26 ancestry. Indeed, Family Tree claims to have amassed the "largest ancestry DNA database in the
27
28

1
2 world!”⁶
3

4 19. In order to take one of Family Tree’s genetic tests (typically at a cost between \$59
5 and \$359), every customer must visit its website—www.familytreedna.com—and (1) identify
6 their desired type of DNA test (*e.g.*, a partial or full sequence mitochondrial DNA test),
7 (2) provide payment details, and (3) enter their contact information.
8

9 20. After completing the order, Family Tree ships a DNA collection kit to the
10 customer, which contains the cotton swab testing kit (to collect the recipient’s DNA),
11 instructions on how to complete the test and return it for analysis, and a “Release Form”⁷ that the
12 customer has the option to agree to.
13

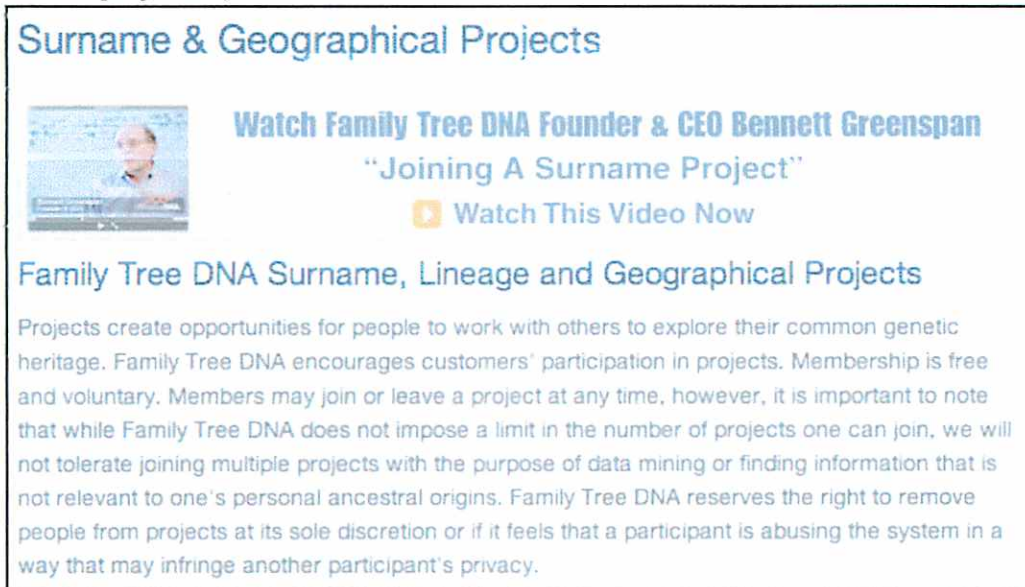
14 21. Once a customer’s DNA analysis is complete, Family Tree sends an email
15 notification suggesting that they sign into Family Tree’s website where they can, among other
16 things, view their testing results (which are displayed to the customer in a chart containing
17 alphanumeric characters that represent their genetic sequence), locate any possible “matches”
18 (*i.e.*, other customers who share similar genetic information), and otherwise research their
19 ancestral origins.
20

21 22. After logging into Family Tree’s website, Family Tree strongly encourages the
22 customer to join a “project,” which is an online forum for individuals researching their ancestral
23

24 ⁶ Family Tree, <https://www.familytreedna.com> (last accessed May 8, 2014).

25 ⁷ According to Family Tree’s website, the purpose of the “Release Form [is to obtain its
26 customers’] written consent . . . to *share [their] name and email address with someone who*
27 *matches [their] genetic fingerprint exactly.*” See Family Tree DNA Test Kit,
28 <https://www.familytreedna.com/dna-test-kit.aspx> (last accessed May 8, 2014). Unfortunately,
and as described further below, Family Tree’s Release Form fails to disclose its actual practices;
that it may instead make the results of certain of its customers’ DNA tests available to the public.

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3 connections. (See, e.g., Figure 1 below, showing an advertisement on Family Tree’s website for
4 one of its “projects.”)



15 **(Fig. 1.)**

16 23. In order to “join” a project, the customer must first search Family Tree’s index of
17 projects for a match (*i.e.*, a project comprised of individuals with matching genes). The customer
18 then clicks on a hyperlink to a matching project, where they are presented with additional
19 information, including a brief description of the project and a link to “join” it.
20

21 24. Importantly, during the above-described process, Family Tree does not seek or
22 obtain the consent of the customer to share or otherwise disclose his or her DNA results to any
23 unrelated third-parties.
24

25 25. Nevertheless, when customers join certain “projects,” Family Tree automatically
26 publishes the full results of their DNA tests to its publicly available websites.

27 26. Family Tree’s past and ongoing disclosure of its customers’ genetic information
28 was perpetrated without their permission—let alone their *informed written consent* as mandated

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3 by the Genetic Privacy Act. As a result, Family Tree places its customers at risk of current and
4 future exploitation of their genetic code.

5 **IV. Plaintiff Michael Cole's Experience.**

6 27. On June 27, 2013, Plaintiff Cole purchased a DNA test from Family Tree's
7 website (www.familytreedna.com).
8

9 28. Due to the highly sensitive nature of DNA test results and the lack of any
10 prominent notice that Family Tree would disclose his test results, Cole believed that the
11 information submitted to Family Tree and the results of his testing would not be made publicly
12 available.
13

14 29. Cole never consented, agreed, or gave permission—written or otherwise—to
15 Family Tree to make the results of his DNA tests publicly available or to disclose them to any
16 unrelated third-party.

17 30. Further, Family Tree never informed Cole by written notice or otherwise that he
18 may prevent his sensitive information from being disclosed to the public.
19

20 31. Likewise, Cole was never provided with an opportunity to prohibit or prevent the
21 disclosure of his DNA results.

22 32. Nevertheless, after Cole joined certain of Family Tree's projects, the results of his
23 DNA tests were made publicly available on the Internet, and his sensitive information (including
24 his full name, personal email address, and unique DNA kit number) was also disclosed to third-
25 party ancestry company RootsWeb (a subsidiary of Ancestry.com, a company that allows users
26 to research their lineage).
27

28 33. When Cole paid Family Tree for his DNA test, he had no reason to expect that

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3 joining a project would cause his DNA test results to be disclosed to RootsWeb and made
4 publicly available. In fact, the confidentiality of that information was guaranteed to him by the
5 Genetic Privacy Act. As a result, had he known that Family Tree would disclose his full DNA
6 test results and make them publicly available if he joined a project, he would not have purchased
7 his DNA test from Family Tree, or he would only have done so if offered a substantial discount
8 from the price paid.
9

10 CLASS ALLEGATIONS

11 34. **Class Definition:** Plaintiff brings this action pursuant to Federal Rule of Civil
12 Procedure 23(b)(2) and 23(b)(3) on behalf of himself and a proposed class, defined as follows
13 (the "Class"):
14

15 All citizens or residents of Alaska who had their DNA results disclosed,
16 publically or to any third party, by Family Tree after joining one of its projects,
17 for which Family Tree did not have a record of written consent to disclose the
18 same.

18 Excluded from the Class are (1) Defendant, Defendant's agents, subsidiaries, parents, successors,
19 predecessors, and any entity in which the Defendant or its parents have a controlling interest and
20 their current and former employees, officers, and directors, (2) the Judge or Magistrate Judge to
21 whom this case is assigned and the Judge's or Magistrate Judge's immediate family, (3) persons
22 who execute and file a timely request for exclusion, (4) the legal representatives, successors, or
23 assigns of any such excluded person; and (5) Plaintiff's counsel and Defendant's counsel.
24

25 35. **Numerosity:** The exact size of the Class is unknown and not available to Plaintiff
26 at this time, but it is clear that individual joinder is impracticable. Defendant has deceived and
27 profited from thousands of consumers who fall into the definition of the Class. Ultimately,
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3 members of the Class can be easily identified through Defendant's records.

4 **36. Commonality and Predominance:** There are many questions of law and fact
5 common to the claims of Plaintiff and the Class, and those questions predominate over any
6 questions that may affect individual members of the Class. Common questions for the Class
7 include, but are not necessarily limited to the following:

- 8
- 9 (a) Whether Family Tree obtained consent before making the results of
10 Plaintiff's and the Class's DNA analyses public or otherwise disclosing
11 such data to third-parties;
 - 12 (b) Whether Family Tree's disclosure of the results of Plaintiff's and the
13 Class's DNA analyses violated Alaska Stat. § 18.13.010; and
 - 14 (c) Whether Family Tree's disclosure of the results of Plaintiff's and the
15 Class's DNA analyses resulted in profit or monetary gain.
16

17 **37. Adequate Representation:** Plaintiff will fairly and adequately represent and
18 protect the interests of the Class, and he has retained counsel competent and experienced in
19 complex class actions. Plaintiff has no interests antagonistic to those of the Class, and Defendant
20 has no defenses unique to Plaintiff. Plaintiff and his counsel are committed to vigorously
21 prosecuting this action on behalf of the members of the Class, and have the financial resources to
22 do so. Neither Plaintiff nor his counsel have any interest adverse to the Class.
23

24 **38. Policies Generally Applicable to the Class:** This class action is appropriate for
25 certification because Defendant has acted or refused to act on grounds generally applicable to the
26 Class as a whole, thereby requiring the Court's imposition of uniform relief to ensure compatible
27 standards of conduct toward the members of the Class, and making final injunctive relief
28

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3 appropriate with respect to the Class as a whole. Defendant's policies challenged herein apply
4 and affect members of the Class uniformly and Plaintiff's challenge of these policies hinges on
5 Defendant's conduct with respect to the Class as a whole, not on facts or law applicable only to
6 Plaintiff. Defendant has acted and failed to act on grounds generally applicable to Plaintiff and
7 the other members of the Class, requiring the Court's imposition of uniform relief to ensure
8 compatible standards of conduct toward the members of the Class. The factual and legal bases of
9 Defendant's liability to Plaintiff and to the other members of the Class are the same, resulting in
10 injury to the Plaintiff and to all of the other members of the Class. Plaintiff and the other
11 members of the Class have suffered similar harm and damages as a result of Defendant's
12 unlawful and wrongful conduct.
13
14

15 **39. Superiority:** This case is also appropriate for class certification because class
16 proceedings are superior to all other available methods for the fair and efficient adjudication of
17 this controversy because joinder of all parties is impracticable. The damages suffered by the
18 individual members of the Class will likely be relatively small, especially given the burden and
19 expense of individual prosecution of the complex litigation necessitated by Defendant's actions.
20 Thus, it would be virtually impossible for the individual members of the Class to obtain effective
21 relief from Defendant's misconduct. Even if members of the Class could sustain such individual
22 litigation, it would still not be preferable to a class action, because individual litigation would
23 increase the delay and expense to all parties due to the complex legal and factual controversies
24 presented in this Complaint. By contrast, a class action presents far fewer management
25 difficulties and provides the benefits of single adjudication, economy of scale, and
26 comprehensive supervision by a single Court. Economies of time, effort and expense will be
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2 fostered and uniformity of decisions ensured.
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4 **FIRST CAUSE OF ACTION**
5 **Violation of Alaska Stat. § 18.13.010**
6 **(On behalf of Plaintiff and the Class)**

7 40. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

8 41. Family Tree is a company engaged in the business of conducting DNA tests to
9 determine the presence or absence of genetic characteristics in an individual (*e.g.*, the existence
10 or risk of a disease, disorder, trait, propensity, or syndrome, or to identify an individual or a
11 blood relative). *See* Alaska Stat. § 18.13.100.

12 42. Plaintiff and the Class purchased DNA tests from Family Tree for the purpose of
13 determining the presence or absence of their genetic characteristics, and thus, they paid Family
14 Tree to conduct “DNA analys[e]s” within the meaning of Alaska Stat. § 18.13.100(2).
15

16 43. Unfortunately for Plaintiff and the Class, Family Tree made the results of their
17 DNA analyses publicly available on its own websites. Family Tree also disclosed Plaintiff’s
18 sensitive information to third-party ancestry company RootsWeb.
19

20 44. Such disclosures are plainly prohibited by the Genetic Privacy Act because they
21 contain, among other things, the results of Plaintiff’s and the Class’s DNA analyses.

22 45. Family Tree never obtained Plaintiff’s or the Class’s informed written consent
23 required by Alaska Stat. § 18.13.010 to make the results of their DNA analyses public or to
24 disclose sensitive information to third-parties, including ancestry company RootsWeb.
25

26 46. On information and belief, Family Tree’s disclosures of Plaintiff’s and the Class’s
27 were not made for the purpose of establishing a criminal identification registration system, for
28 law enforcement purposes, for determining paternity, or to screen newborns as required by state

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3 or federal law.

4 47. By making the results of their DNA analyses publicly available and otherwise
5 disclosing the same to any third-parties as described herein, Family Tree violated Plaintiff's and
6 the Class's statutorily-protected rights to privacy in their genetic information as set forth in the
7 Genetic Privacy Act, Alaska Stat. § 18.13.010, as well as their common law rights to privacy.

8
9 48. Further, when Cole paid Family Tree for his DNA test, he did not expect that
10 joining a project, his full DNA results would be disclosed and publicly available. Had he known
11 that Family Tree would in fact disclose his full test results, he would not have purchased a DNA
12 test from Family Tree, or he would have only done so in exchange for a discount from the price
13 paid. As such, because Family Tree *did* disclose his full DNA test results and make them
14 publicly available, Cole suffered damages in an amount equal to the difference between the price
15 he paid to Family Tree, and the price he would have been willing to pay had he known that his
16 full DNA test results would be disclosed.

17
18 49. On behalf of himself and the Class, Plaintiff seeks: (1) injunctive and equitable
19 relief as is necessary to protect the interests of Plaintiff and the Class by requiring Family Tree to
20 cease the unlawful disclosure discussed herein; (2) actual damages; (3) statutory damages in the
21 amount of \$5,000 or, if the Court finds that Family Tree's violation of the Genetic Privacy Act
22 resulted in profit or monetary gain (which it did), \$100,000 pursuant to Alaska Stat. § 18.13.020;
23 and (4) costs and reasonable attorneys' fees pursuant to Alaska Stat. § 09.60.010(c).
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PRAYER FOR RELIEF

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3 **WHEREFORE**, Plaintiff Michael Cole, individually and on behalf of the Class, prays
4 for the following relief:

5 1. An order certifying the Class as defined above, appointing Plaintiff Michael Cole
6 as the representative of the Class, and appointing his counsel as Class Counsel;

7 2. Declare that Family Tree's conduct described herein violates Alaska's Genetic
8 Privacy Act, Alaska Stat. § 18.13.010;

9 3. An award of actual and statutory damages of \$5,000, or, if the Court finds that
10 Family Tree's violation of the Genetic Privacy Act resulted in profit or monetary gain (which it
11 did), \$100,000;

12 4. An injunction requiring Family Tree to cease the unlawful disclosures discussed
13 herein;

14 5. An award of reasonable attorneys' fees and costs; and

15 6. Such other and further relief that the Court deems reasonable and just.

16
17
18 **JURY DEMAND**

19 Plaintiff requests a trial by jury of all claims that can be so tried.

20
21 Respectfully Submitted,

22 **MICHAEL COLE**, individually and on behalf of
23 all others similarly situated individuals,

24 Dated: May 12, 2014

25 By:


Douglas K. Mertz

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27 mertzlaw@gmail.com
28 319 Seward Street, Suite 5
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*Motion for admission to be filed.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>MICHAEL COLE, individually and on behalf of all others similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Juneau, Alaska</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p> <p>Mertz Law 319 Seward Street, Suite 5, Juneau, Alaska 99801 Tel: (907) 586-4004</p>	<p>DEFENDANTS</p> <p>GENE BY GENE, LTD. d/b/a FAMILY TREE DNA,</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"></td> <td style="width: 33%; text-align: center;">PTF</td> <td style="width: 33%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> </tr> <tr> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<p>CONTRACT</p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p>TORTS</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel & Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p>PERSONAL INJURY</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p>PERSONAL PROPERTY</p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p>FORFEITURE/PENALTY</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p>LABOR</p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p>IMMIGRATION</p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p>BANKRUPTCY</p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p>PROPERTY RIGHTS</p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p>SOCIAL SECURITY</p> <p><input type="checkbox"/> 861 HIA (1395f)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p>FEDERAL TAX SUITS</p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p>OTHER STATUTES</p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input checked="" type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332.

Brief description of cause:
Violation of Alaska's Genetic Privacy Act, Alaska Stat. § 18.13.010.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 05/12/2014 SIGNATURE OF ATTORNEY OF RECORD /s/ Douglas Mertz

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____