

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NOTICE OF PENDENCY OF CLASS ACTION

If Between November 2016 and February 2019 You Used the Flo Period and Ovulation Tracker App, A Class Action Lawsuit May Affect Your Rights.

*A federal court authorized this Notice. It is not a solicitation from a lawyer.
You are not being sued.*

www.PeriodTrackerDataPrivacyLitigation.com

A lawsuit is pending in the United States District Court for the Northern District of California (the “Court”) against Flo Health, Inc. (“Flo”), Meta Platforms, Inc. (“Meta”), and Google LLC (“Google”). Your legal rights may be affected, and your options are explained below.

If you are a Class Member as explained below, you have a choice to make now. This is a Notice of Pendency of Class Action. Even if you received a notice, it does not necessarily make you a Class Member. Only persons who used the Flo App and entered menstruation and/or pregnancy information during the Class Period are Class Members, and only those Class Members who resided in California during the Class Period are Subclass Members. If you received an email and are not a Class Member, you do not need to take any action and your rights will not be affected.

Plaintiffs in the lawsuit claim that between November 1, 2016 and February 28, 2019 (the “Class Period”), Flo incorporated code from Meta’s and Google’s software development kits (“SDKs”) in the Flo Period and Ovulation Tracker app (the “Flo Health App” or “Flo App”) through which Flo allegedly shared information related to Flo App users’ menstruation and/or pregnancy with Meta and Google. Plaintiffs say that Flo’s disclosure of this alleged personal health information violated the California’s Confidentiality of Medical Information Act (“CMIA”), an intrusion upon their seclusion, an invasion of privacy under Art. 1 Sec. 1 of the California Constitution, and a breach of contract. Plaintiffs also say that Meta and Google’s receipt of this alleged personal health information violated Section 632 of the California Invasion of Privacy Act (“CIPA”). Flo, Meta, and Google deny all of Plaintiffs’ allegations, dispute that personal or health information was shared and dispute that they did anything wrong. The Court has not made any determination as to who is right or whether Flo, Meta, or Google did anything wrong or caused damages.

On May 19, 2025, the Court determined that the claims should proceed to trial as a class action. This is not a determination about the merits of the claims. The lawyers for the Class and California Subclass will have to prove the Class’s claims at a trial, which is set to begin on **July 21, 2025**.

There is no money available from these Defendants now, and no guarantee there will be.

CERTIFIED CLASS AND CALIFORNIA SUBCLASS

The Court certified the following Class for Plaintiffs' CMIA, breach of contract, and intrusion upon seclusion claims against Flo:

All Flo App users in the United States who entered menstruation and/or pregnancy information into the Flo Health App between November 1, 2016 and February 28, 2019, inclusive.

The Court certified the following California Subclass for Plaintiffs' California Constitutional invasion of privacy claim against Flo, and, separately, Plaintiffs' CIPA Section 632 claim against Meta and Google:

All Flo App users in California who entered menstruation and/or pregnancy information into the Flo Health App while residing in California between November 1, 2016, and February 28, 2019, inclusive.

Excluded from the Class are: (1) any Judge or Magistrate presiding over this action and any members of their families; (2) Defendants, Defendants' subsidiaries, parents, successors, predecessors, and any entity in which Defendants or their parents have a controlling interest and their current or former employees, officers, and directors; (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiffs' counsel and Defendants' counsel; (6) the legal representatives, successors, and assigns of any excluded persons and (7) anyone who requests exclusion from the Class, as explained below.

YOUR LEGAL RIGHTS AND OPTIONS	
DO NOTHING	This option means that, if you are a Class Member, you remain part of the Class (and, if applicable, the California Subclass) and you keep the possibility of getting money or benefits that may come from a trial or a settlement. You will be bound by all orders of the Court and any judgment entered or settlement reached in the lawsuit regarding the Class and California Subclass claims, whether favorable or unfavorable. But you give up all rights to separately sue Flo, Meta, and Google about these claims.
EXCLUDE YOURSELF FROM THE CLASS BY JULY 20, 2025	This option allows you to exclude yourself, <i>i.e.</i> , "opt-out," from the Class (and, if applicable, the California Subclass) and keep your right to separately sue Flo, Meta, and/or Google about these claims. If you exclude yourself, you will not be bound by any judgment for or against Flo, Meta, or Google and will not share in any money or benefits obtained for the Class. The exclusion deadline is <u>JULY 20, 2025</u> .

BASIC INFORMATION ABOUT THE LAWSUIT

1. Why should I read this Notice?

This Notice explains that the Court certified a litigation class and will permit this action to proceed to a jury trial as a class action, which will affect your rights if you are a Class Member. The representative plaintiffs, the Court, and counsel appointed by the Court to represent the Class have a responsibility to make sure that the interests of Class Members are adequately represented.

If you are a Class Member, you have legal rights and options that you must exercise before the Court holds a jury trial, which is scheduled to begin on **July 21, 2025**. Specifically, if you wish to exclude yourself from this action and the Class, which is explained more fully below, you have to do so by **July 20, 2025**. Judge James Donato of the United States District Court for the Northern District of California is overseeing this case. The lawsuit is known as *Frasco et al. v. Flo Health, Inc. et al.*, No. 3:21-cv-00757 (N.D. Cal.). The people who filed the case are called the Plaintiffs. The remaining Defendants in the lawsuit are Flo, Meta, and Google.

Please do not contact the Court or Flo, Meta, or Google regarding this case. If you have questions, please email info@PeriodTrackerDataPrivacyLitigation.com, call 866-778-9626 or visit www.PeriodTrackerDataPrivacyLitigation.com.

2. Why is this lawsuit a class action?

A class action is a lawsuit in which one or more representative plaintiffs bring a lawsuit on behalf of themselves and other similarly situated persons (*i.e.*, a class) who have similar claims against the defendants (in this case, Flo, Meta, and Google). One court decides the issues for everyone in the class—except for those people who choose to exclude themselves from the class.

In this case, Erica Frasco, Sarah Wellman, Jennifer Chen, Tesha Gamino, and Autumn Meigs are class representatives for the nationwide class. Sarah Wellman, Jennifer Chen, Tesha Gamino are also class representatives for the California Subclass.

The Court decided that the claims can move forward in a class action because the claims of the Class and California Subclass Members are similar enough that trying them all together is fair and more efficient than trying them separately.

3. What is the lawsuit about?

Plaintiffs in the lawsuit claim that between November 1, 2016 and February 28, 2019, Flo incorporated code from Meta's and Google's software development kits ("SDKs") in the Flo App through which Flo allegedly shared information related to Flo App users' menstruation and/or pregnancy along with persistent identifiers unique to those users with Meta and Google.

Plaintiffs claim Flo violated California’s Confidentiality of Medical Information Act (“CMIA”), common law intrusion upon seclusion, invasion of privacy under Art. 1 Sec. 1 of the California Constitution, and breach of contract. Plaintiffs claim Meta and Google violated Section 632 of the California Invasion of Privacy Act.

4. What is Defendants’ response?

Flo, Meta, and Google deny these claims and that they did anything wrong. Defendants also argue that class members consented to the challenged conduct. The litigation is proceeding and, at this point, there has been no determination that Flo, Meta, or Google has engaged in any wrongdoing.

5. Has the Court decided who is right?

Neither the Court nor a jury has decided whether Flo, Meta, or Google has engaged in any wrongdoing or damaged the Class. The litigation is proceeding to trial and the Court is not suggesting that the Plaintiffs will win or lose this case. A judgment after trial or settlement before trial (or subsequent to trial) may result in money for the Class and/or Subclass. However, this is your only opportunity to opt-out of the Class (unless the Court adds another opportunity in the future), so you must decide now whether to stay in the Class or opt out. (See “The Trial” below on page 4.)

6. Is there any money available now?

No money or benefits are available now because the case is not resolved. There is no guarantee that money or benefits ever will be obtained. If money or other benefits are obtained, you will be notified about how to ask for a share. If the litigation is resolved in the future, and you are not happy with the resolution, you may not be given another opportunity to opt-out of the Class and you will be bound by the resolution.

DETERMINING IF YOU ARE A MEMBER OF THE CLASS AND/OR CALIFORNIA SUBCLASS
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7. I used the Flo App. How do I know if I am a member of the Class or California Subclass?

You are a member of the Class if:

1. You were a user of the Flo App in the United States between November 1, 2016, and February 28, 2019; *and*
2. You entered menstruation and/or pregnancy information into the Flo App during that time.

You are a member of the California Subclass if:

1. You were a user of the Flo Health App in California between November 1, 2016 and February 28, 2019;
2. You entered menstruation and/or pregnancy information into the Flo App during that time; *and*
3. You resided¹ in California during that time.

8. What are the Plaintiffs asking for in the case?

Plaintiffs are asking for money and other benefits for Class Members. They are also asking that Defendants change their business practices and stop sharing users' personal health information with third party advertisers.

IF YOU DO NOTHING

9. What happens if I do nothing at all?

If you are a Class Member (and, if applicable, a California Subclass Member), unless you exclude yourself from the Class in the manner described in the section below called "EXCLUDING YOURSELF FROM THE CLASS," you will be bound by any judgment entered in the case, whether favorable or unfavorable. Unless you exclude yourself now, you will not be able to sue Flo, Meta, or Google for these claims on your own. If any money or benefits are awarded to the Class in the future in connection with this lawsuit, you may need to take action to be entitled to a portion of such money or benefits.

EXCLUDING YOURSELF FROM THE CLASS
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10. What does it mean to request to be excluded from the Class?

If you do not want to be part of the Class (and, if applicable, the California Subclass) and want to keep your right to separately pursue the Class/Subclass claims against Flo, Meta, or Google, then you must take steps to remove yourself from the Class. This is called excluding yourself, or "opting out." The Court will exclude any person who timely asks to be excluded. If you exclude yourself, you will not be eligible to receive any payment from future settlements or judgments in this lawsuit, be bound by any judgment for or against Flo, Meta, or Google, or give up your right to sue Flo, Meta, or Google about these claims.

11. How do I exclude myself from the Class?

To exclude yourself from the Class, you must either send a request by mail or through the case website stating that you wish to be excluded from the Class in *Frasco v. Flo Health Inc.*, No. 3:21-cv-00757 (N.D. Cal.). If you mail your Request for Exclusion, it must be

¹ You must have lived in California, but California did not need to be the state of your legal residency.

postmarked no later than **July 20, 2025**, to:

Period Tracker Data Privacy Litigation Exclusions
PO Box 173001
Milwaukee, WI 53217

Your Request for Exclusion must include your name, address, telephone number, current email, email used in connection with your Flo App account, and signature. To request exclusion through the case website, please visit www.PeriodTrackerDataPrivacyLitigation.com and click on the Request for Exclusion tab. Your Request for Exclusion must be submitted no later than **July 20, 2025**.

12. If I don't exclude myself, can I sue later?

No. Unless you exclude yourself now, you give up the right to separately sue Flo, Meta, or Google for the claims in this lawsuit. You must exclude yourself from the Class to be able to bring your own, separate lawsuit about these claims against Flo, Meta, or Google. Remember, the exclusion deadline is **July 20, 2025**. You may not be given another opportunity to exclude yourself from the Class in the future.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

Yes. The Court has appointed lawyers to represent the members of the Class and California Subclass. These lawyers are called Class Counsel. The following lawyers are lead counsel in representing the Class:

Christian Levis
**LOWEY DANNENBERG,
P.C.**
44 South Broadway, Ste 1100
White Plains, NY 10601

Carol C. Villegas
**LABATON KELLER
SUCHAROW LLP**
140 Broadway
New York, NY 10005

Diana J. Zinser
**SPECTOR ROSEMAN &
KODROFF, P.C.**
2001 Market Street, Suite 3420
Philadelphia, PA 19103

14. How will the lawyers be compensated?

In the event of a judgment against Flo, Meta, or Google at trial or a settlement, Class Counsel will ask the Court to approve an award of attorneys' fees and expenses to be paid from the trial award or settlement. The amount of these fees and costs, if any, will ultimately be determined by the Court. You will not otherwise be charged for Class Counsel's services.

15. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on behalf of the Class. You may, however, hire your own lawyer to represent you if you wish. If you hire your own lawyer, he or she must file a Notice of Appearance with the Court. If you hire your own lawyer, you will have to pay for that lawyer on your own.

THE TRIAL

16. When and where is the trial?

Class Counsel will have to prove the Plaintiffs' allegations at trial. The Court has scheduled a jury trial to begin at **9:00 a.m. on July 21, 2025**. The trial will be held in the United States District Court, Northern District of California, San Francisco Courthouse, Courtroom 11, 19th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102. During the trial, a jury and the Judge will hear evidence to help the jury reach a decision about whether Plaintiffs or Flo, Meta, and Google are right about the claims in the lawsuit. There is no guarantee that Plaintiffs will win or that they will be able to get money for all or some of the members of the Class and California Subclass.

17. Do I have to come to the trial?

No, you do not need to attend the trial. Class Counsel will present the case for the Plaintiffs, and counsel for Flo, Meta, and Google will present their respective defenses. You or your lawyer, should you retain separate counsel, are welcome to attend at your own expense.

18. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of the lawsuit, you will be notified about how to participate. We do not know how long this will take.

GETTING MORE INFORMATION

19. Where do I get more information?

This Notice contains a summary of relevant information. You can review relevant Court Orders and additional information about this lawsuit on the case website at www.PeriodTrackerDataPrivacyLitigation.com. If you have questions about your rights as a potential Class Member, you may also contact Class Counsel (identified above) or the Notice Administrator by mail, email, or phone using the following contact information:

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c/o A.B. Data
P.O. Box 173126
Milwaukee, WI 53217
www.PeriodTrackerDataPrivacyLitigation.com
(866) 778-9626
info@PeriodTrackerDataPrivacyLitigation.com

**PLEASE DO NOT CONTACT THE COURT OR COURT CLERK'S OFFICE
TO INQUIRE ABOUT THIS CASE.**

DATED: June 17, 2025

BY ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA