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9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION  
 12

13 DANIEL M. MILLER,  
 14 Plaintiff,  
 15 v.  
 16 FACEBOOK, INC. and YAO WEI YEO,  
 17 Defendants.  
 18

Case No. 5:10-CV-00264 (WA)

**DECLARATION OF JULIO C.  
 AVALOS IN SUPPORT OF MOTION  
 TO DISMISS SECOND AMENDED  
 COMPLAINT**

Date: August 5, 2010  
 Time: 8:00 A.M.  
 Court: Courtroom 9, 19th Floor  
 Judge: Honorable William Alsup

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I, Julio C. Avalos, declare as follows:

1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel of record for Defendant Facebook, Inc., in this matter. I make this declaration in support of Facebook's Motion to Dismiss Second Amended Complaint. This declaration is based on my personal knowledge and could and would testify competently thereto if called to do so.

2. Attached hereto as **Exhibit A** is a true and correct copy of relevant excerpts of the May 27, 2010, transcript of the hearing on Miller's Motion for Leave to Amend Complaint.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 21st Day of June, 2010 at Menlo Park, California.

/s/ Julio C. Avalos

Julio C. Avalos