

EXHIBIT D



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September 9, 2010

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VIA ELECTRONIC MAIL

Brian D. Hancock, Esq.
Heninger Barrison Davis LLC
2224 1st Avenue North
Birmingham, AL 35203

Re: *Daniel M. Miller v. Facebook, Inc., et al.*
USDC ND CA No.: 10-cv-00264 WHA

Dear Mr. Hancock:

I write in response to your letter of August 30, 2010 regarding Facebook's responses to Plaintiff's First Consolidated Discovery Requests in the above-referenced matter.

As made clear in Facebook's responses, Plaintiff's "consolidated" requests—in addition to being substantively defective—are premature, as are Plaintiff's current requests to meet and confer. Given the pending motion to dismiss, we see no reason to expend time and resources discussing discovery requests or drafting proposed protective orders that will likely soon be moot. Should Plaintiff's Complaint survive the current motion, Facebook will abide by its discovery obligations, including meeting and conferring on Plaintiff's defective requests. Until such time, however, Facebook refuses to join in Plaintiff's continued campaign to unnecessarily drive up the cost of this litigation. Rather than misusing the discovery process in order to extract a settlement prior to dismissal, we suggest that Plaintiff wait out the five court days remaining before the September 16 hearing.

Sincerely,



Julio C. Avalos

JCA/ek