

1 ROBBINS UMEDA LLP
 BRIAN J. ROBBINS (190264)
 2 FELIPE J. ARROYO (163803)
 SHANE P. SANDERS (237146)
 3 GINA STASSI (261263)
 600 B Street, Suite 1900
 4 San Diego, CA 92101
 Telephone: (619) 525-3990
 5 Facsimile (619) 525-3991
 brobbins@robbinsumeda.com
 6 farroyo@robbinsumeda.com
 ssanders@robbinsumeda.com
 7 gstassi@robbinsumeda.com

8 Counsel for Plaintiff William Cole

9 [Additional counsel on signature page.]

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

12 WILLIAM COLE, Derivatively on Behalf of)	Case No. 3:12-cv-03367-MMC
FACEBOOK, INC.,)	
13)	STIPULATION AND [PROPOSED] ORDER
Plaintiff,)	REGARDING HEARING DATES
14)	
v.)	Judge: Honorable Maxine M. Chesney
15)	
MARK ZUCKERBERG, DAVID A.)	
16 EBERSMAN, SHERYL K. SANDBERG,)	
DAVID M. SPILLANE, PETER A. THIEL,)	
17 JAMES W. BREYER, MARC L.)	
ANDREESSEN, DONALD E. GRAHAM,)	
18 REED HASTINGS, ERSKINE B.)	
BOWLES, and DOES 1-25, Inclusive,)	
19)	
Defendants,)	
20)	
-and-)	
21)	
FACEBOOK, INC., a Delaware corporation,))	
22)	
Nominal Defendant.)	
23)	
_____)	

24
25 STIPULATION AND [PROPOSED] ORDER
REGARDING HEARING DATES

Case No. 3:12-cv-03367-MMC

1 WHEREAS the *Hubuschman* Action¹ was originally filed in the Superior Court of
2 California, San Mateo County (the "State Court") on June 28, 2012, and the *Cole* Action² was
3 originally filed in the State Court on May 31, 2012 (collectively, the "Derivative Actions");

4 WHEREAS on June 28, 2012, Defendants³ removed the Derivative Actions to this Court;

5 WHEREAS on July 13, 2012, Defendants filed Motions for Stay of Proceedings Pending
6 Decision on Transfer by the Judicial Panel on Multidistrict Litigation (the "Stay Motions") in the
7 Derivative Actions, and the hearings on the Stay Motions are set for August 17, 2012, at 9:00
8 a.m.;

9
10 WHEREAS plaintiffs Hal Hubuschman and William Cole ("Plaintiffs") believe that
11 removal of the Derivative Actions was improper and will timely file motions to remand the
12 Derivative Actions to State Court (the "Remand Motions") on or before August 1, 2012, in
13 accordance with 28 U.S.C. §1447(c);

14
15 WHEREAS Plaintiffs intend to notice the Remand Motions for a September 7, 2012
16 hearing date;

17 WHEREAS the parties to the Derivative Actions agree that the interests of efficiency and
18 judicial economy will best be served by having the Stay Motions and Remand Motions heard at
19 the same time;

20
21
22 _____
23 ¹ "*Hubuschman* Action" refers to the action captioned *Hubuschman v. Zuckerberg, et al.*, Case
No. 12-cv-03366-MMC.

24 ² "*Cole* Action" refers to the action captioned *Cole v. Zuckerberg, et al.*, Case No. 12-cv-03367-
MMC.

25 ³ "Defendants" refers to: Nominal defendant Facebook, Inc., Mark Zuckerberg, David A.
26 Ebersman, Sheryl K. Sandberg, David M. Spillane, Peter A. Thiel, James W. Breyer, Marc L.
27 Andreessen, Donald E. Graham, Reed Hastings, and Erskine B. Bowles.

1 WHEREAS Defendants, therefore, intend to re-notice the hearing on the Stay Motions
2 for a September 7, 2012 hearing date;

3 WHEREAS in light of the above, the parties shortly will agree to briefing schedules for
4 the Stay Motions and the Remand Motions which they will submit to the Court.

5 WHEREAS the parties to the Derivative Actions have not previously requested an
6 extension of any deadlines to file briefs in opposition to or in support of the Stay Motions;
7

8 WHEREAS nothing in this stipulation prevents any party from seeking further extensions
9 on the consent of the other parties or from the Court;

10 WHEREAS in light of the agreement to re-notice the hearing on the Stay Motions,
11 Plaintiffs' obligation to file oppositions to the Stay Motions, otherwise due on July 27, 2012, is
12 held in abeyance until the parties submit their agreed briefing schedule; and
13

14 WHEREAS in the event that the Court determines not to enter an order consistent with
15 this stipulation, Defendants agree that, in view of Plaintiffs' reliance on this stipulation and
16 proposed order, Defendants shall not assert in any motion, brief, or proceeding that Plaintiffs
17 failed timely to file their briefs in opposition to the Stay Motions. In that event, the parties to the
18 Derivative Actions shall meet and confer regarding an alternative scheduling stipulation
19 consistent with the Court's determination.
20

21 Dated: July 26, 2012

Respectfully submitted,

ROBBINS UMEDA LLP
BRIAN J. ROBBINS
FELIPE J. ARROYO
SHANE P SANDERS
GINA STASSI

22
23
24
25
26 /s/Shane P. Sanders
SHANE P. SANDERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

600 B Street, Suite 1900
San Diego, CA 92101
Telephone: (619) 525-3390
Facsimile: (619) 525-3391

*Counsel for Plaintiffs Hal Hubuschman
William Cole*

HOLZER HOLZER & FISTEL LLC
MICHAEL I. FISTEL JR.

200 Ashford Center North, Suite 300
Atlanta, GA 30338
Telephone: (770) 392-0090
Facsimile: (770) 392-0029

Counsel for Plaintiff William Cole

Dated: July 26, 2012

KIRKLAND & ELLIS LLP
JAMES F. BASILE
ELIZABETH L. DEELEY

/s/ James F. Basile

555 California Street
San Francisco, CA 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

KIRKLAND & ELLIS LLP
ANDREW B. CLUBOK)
BRANT W. BISHOP, P.C.
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900

WILLKIE FARR & GALLAGHER LLP
RICHARD D. BERNSTEIN
1875 K Street, N.W.
Washington, D.C. 20006-1238
Telephone: (202) 303-1000
Facsimile: (202) 303-2000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WILLKIE FARR & GALLAGHER LLP
TODD COSENZA
787 Seventh Avenue
New York, N.Y. 10019-6099, U.S.A.
Telephone: (212) 728-8000
Facsimile: (212) 728-8111

Counsel for Mark Zuckerberg, David A. Ebersman, Sheryl K. Sandberg, David M. Spillane, Peter A. Thiel, James W. Breyer, Marc L. Andreessen, Donald E. Graham, Reed Hastings, Erskine B. Bowles and Facebook, Inc.

I, Shane P. Sanders, am the ECF user whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER REGARDING HEARING DATES. In compliance with General Order 45, X.B., I hereby attest that James F. Basile has concurred in this filing.

*** * * ORDER * * ***

PURSUANT TO STIPULATION, IT IS SO ORDERED. Plaintiff need not file an opposition to defendants' pending Motion for Stay until the date set pursuant to further court order adopting a revised briefing schedule.

July 27, 2012
DATED _____


HONORABLE MAXINE M. CHESNEY
U.S. DISTRICT JUDGE

755764