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18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN JOSE DIVISION**

21 DAVID GOULD, individually and on behalf of all
 22 others similarly situated,

23 Plaintiff,

24 v.

25 FACEBOOK, INC., a Delaware corporation,

26 Defendant.

Case No. 10-cv-02389-JW (PVT)

**STIPULATION AND
 [PROPOSED] ORDER
 CONSOLIDATING CASES FOR
 ALL PURPOSES, ALLOWING
 FOR THE FILING OF A
 CONSOLIDATED COMPLAINT,
 SETTING A CASE
 MANAGEMENT CONFERENCE
 FOR OCTOBER 25, 2010, AND
 APPOINTING LEAD COUNSEL**

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MIKE ROBERTSON, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

FACEBOOK, INC., a Delaware corporation, and
DOES 1-50, inclusive,

Defendant.

Case No. 10-cv-02408-JW (PVT)

1 This Stipulation is entered into by and among plaintiffs David Gould and Mike Robertson
2 (collectively, “Plaintiffs”) and defendant Facebook, Inc. (“Defendant”) by and through their
3 respective counsel.

4 WHEREAS the complaint in *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW
5 (“*Gould*”) was filed on May 28, 2010;

6 WHEREAS the complaint in *Robertson v. Facebook, Inc.*, Case No. 10-cv-02408-JW
7 (“*Robertson*”) was filed on June 1, 2010;

8 WHEREAS the Court ordered the cases related under Civil Local Rule 3-12 on July 26,
9 2010 (*Gould* Docket No. 17; *Robertson* Docket No. 7);¹

10 WHEREAS the Court set a Case Management Conference for the related actions for
11 September 13, 2010 (*Gould* Docket No. 17; *Robertson* Docket No. 7);

12 WHEREAS, counsel for the Parties have conferred, and the Parties are in agreement that
13 the *Gould* action should be consolidated with the *Robertson* action for all purposes because the
14 cases involve similar complaints and common questions of law and fact and because
15 consolidation would advance the interests of judicial and party economy;

16 WHEREAS, the Parties are in agreement that a Consolidated Complaint should be filed;

17 WHEREAS, the Parties had previously stipulated pursuant to Civil L.R. 6-1(a) to extend
18 the deadlines for Defendant’s response to the Complaint in *Gould* and the Complaint in
19 *Robertson* to August 13, 2010, but now have agreed on a schedule for the filing of a Consolidated
20 Complaint and response thereto;

21 WHEREAS, Plaintiffs, through their counsel of record, have agreed to a leadership
22 structure appointing Michael Aschenbrener of Edelson McGuire LLC and Kassra Nassiri of
23 Nassiri & Jung LLP as Co-Lead Counsel;

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25
26 ¹ Another case concerning the same underlying subject matter was filed in the District of Rhode
27 Island, *Marfeo v. Facebook, Inc.*, Case No. 10-cv-2062-S-LDA, June 17, 2010. Counsel for
28 Gould has attempted to contact counsel for Marfeo multiple times by telephone and email, but the
Marfeo counsel has not returned any messages. Additionally, Marfeo has not served Facebook in
the *Marfeo* action.

1 WHEREAS, good cause exists to appoint Co-Lead Counsel and such structure would
2 promote the efficient drafting and filing of a Consolidated Complaint, as well as the ability of the
3 Parties to efficiently dispense with a multitude of case management issues for the proposed
4 consolidated action; AND,

5 WHEREAS, Defendant does not oppose Plaintiffs' proposed leadership structure;

6 **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned
7 counsel for Plaintiffs and Defendant, as follows:

8 1. Pursuant to Federal Rule of Civil Procedure 42(a), the following actions are hereby
9 consolidated for all purposes into one action:

10 a. *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW; and

11 b. *Robertson v. Facebook, Inc.*, Case No. 10-cv-02408-JW.

12 2. These actions shall be referred to herein as the "Consolidated Actions." The
13 Master Docket and Master File for the Consolidated Actions shall be that for *Gould v. Facebook,*
14 *Inc.*, Case No. 10-cv-02389-JW.

15 3. Every pleading in the Consolidated Actions shall bear the following caption:

16 DAVID GOULD, individually and on behalf) Case No. 10-cv-02389-JW
17 of all others similarly situated,)
18)
19 Plaintiff,)
20)
21 v.)
22 FACEBOOK, INC., a Delaware corporation,)
and DOES 1-50, inclusive,)
Defendants.)

23 All orders, pleadings, motions and other documents shall, when filed and docketed in the Master
24 File, be deemed filed and docketed in each individual case to the extent applicable.

25 4. All subsequently filed class or individual actions against the Defendant alleging
26 the same or similar claims as alleged in the complaints in Consolidated Actions shall be
27 consolidated under the case *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW.
28

1 5. The Plaintiffs shall file a Consolidated Complaint on or before August 27, 2010.
2 Defendant shall file a response (answer, motion to dismiss, or other response) to the Consolidated
3 Complaint on or before September 27, 2010. In light of the consolidation and filing of a
4 Consolidated Complaint, Defendant has no obligation to respond to the Complaint in *Gould* or
5 the Complaint in *Robertson* that are currently on file.²

6 6. The parties shall appear for a Case Management Conference in the Consolidated
7 Actions on Monday, October 25, 2010 at 10:00 a.m. On or before October 15, 2010, the parties
8 shall file a Joint Case Management Statement pursuant to Fed. R. Civ. P. 26 and Civil L.R. 16-9.
9 The Case Management Conference currently scheduled for September 13, 2010 and the
10 corresponding deadline of September 3, 2010 for the parties to file their Joint Case Management
11 Statement (see *Gould* Docket No. 17; *Robertson* Docket No. 7) are hereby vacated.

12 7. The Court's previous Orders Setting Initial Case Management Conference and
13 ADR Deadlines in each case (see *Gould* Docket No. 3; *Robertson* Docket No. 4) are otherwise
14 modified as follows:

- 15 a. October 4, 2010 will be the last day to meet and confer re: initial
16 disclosures, early settlement, ADR process selection, and discovery plan
17 (Fed. R. Civ. Pro. 26(f) & ADR L.R. 3-5).
- 18 b. October 15, 2010 will be the last day to:
- 19 i. file ADR certification signed by Parties and Counsel (Civil L.R. 16-
20 8(b) & ADR L.R. 3-5(b));
- 21 ii. file either Stipulation to ADR Process or Notice of Need for ADR
22 Phone Conference (Civil L.R. 16-8(c) & ADR L.R. 3-5(b) & (c));
23 and
- 24 iii. file the Rule 26(f) Report, complete initial disclosures or state
25 objection in Rule 26(f) Report and file Case Management Statement
26

27 ² Under Civil L.R. 6-1(a), this constitutes the stipulation of the Parties concerning the deadline
28 (previously extended by stipulation to August 13, 2010) for Defendant's responses to the separate
Complaints that are currently on file.

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per the Court’s Standing Order re Contents of Joint Case Management Statement (Fed. R. Civ. Pro. 26(a)(1) & Civil L.R. 16-9).

8. Defendant does not oppose the appointment of the following counsel as Plaintiffs’ Co-Lead Counsel, pursuant to Fed. R. Civ. P. 23(g)(3):

- a. Michael Aschenbrener of Edelson McGuire LLC; and
- b. Kassra Nassiri of Nassiri & Jung LLP.

9. Co-Lead Counsel shall have day-to-day responsibility for the conduct of the Consolidated Actions; shall determine how to prosecute the action and shall initiate, coordinate and supervise the efforts of plaintiffs’ counsel in the Consolidated Actions in the areas of discovery, briefing, trial and settlement.

10. Co-Lead Counsel shall coordinate, initiate, and conduct discovery on behalf of Plaintiffs consistent with the requirements of Fed. R. Civ. P. 26, including preparing joint interrogatories and requests for production of documents and the examination of witnesses in depositions; fund the necessary and appropriate costs of discovery and other common benefit efforts; consult with and employ consultants or experts, as necessary; coordinate settlement discussions or other ADR efforts on behalf of Plaintiffs, under the supervision of the Court, if and as appropriate; and enter into stipulations with opposing counsel as necessary for the conduct of the Consolidated Actions.

11. Co-Lead Counsel shall designate responsibilities for specific tasks to plaintiffs’ counsel in the Consolidated Actions in a manner to assure that pretrial preparation is conducted effectively, efficiently and economically; and shall monitor the activities of plaintiffs’ counsel to assure that schedules are met and unnecessary expenditures of time and money are avoided. Co-Lead Counsel shall maintain the official service list of all plaintiffs’ counsel in the Consolidated Actions, including their addresses. Co-Lead Counsel shall interface with the Court and shall perform any additional functions that may be assigned to them by the Court.

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FILER'S ATTESTATION

Pursuant to General Order No. 45, Section X, Subparagraph B, the undersigned attests that all parties have concurred in the filing of this STIPULATION AND [PROPOSED] ORDER CONSOLIDATING CASES FOR ALL PURPOSES, ALLOWING FOR THE FILING OF A CONSOLIDATED COMPLAINT, SETTING A CASE MANAGEMENT CONFERENCE FOR OCTOBER 25, 2010, AND APPOINTING LEAD COUNSEL.

Dated: August 10, 2010

COOLEY LLP

By: _____
Matthew D. Brown

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