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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

Karen Beth Young,

Plaintiff

And

Facebook, INC.,

Defendant

) Case No.: 110CV178574
)
) MEMORANDUM IN SUPPORT OF EX PARTE
) APPLICATION FOR PRELIMINARY
) INJUNCTION TO PRESERVE EVIDENCE, AND
) SUPPORTING PAPERS.
)
)
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)

Date: August 9, 2010
Time: 8:15 am
Location: Superior Court of California
191 N. First Street
San Jose, Ca. 95113
Judge: William J. Elfving
Date Action Filed: August 9, 2010
Trial Date: Not Set

1 MEMORANDUM

2 This memorandum is submitted on behalf of plaintiff Karen Beth Young and against defendant Facebook, INC. in
3 support of plaintiff Young's EX PARTE APPLICATION FOR PRELIMINARY INJUNCTION TO PRESERVE
4 EVIDENCE, AND SUPPORTING PAPERS.

5 STATUTES INVOLVED

6 I. United States Constitution amendment I

7 II. United States Constitution amendment XIV

8 III. California Code of Civil Procedure Section 2035.010

9 (a) One who expects to be a party or expects a successor in interest to be a party to any action that may be
10 cognizable in any court of the State of California, whether as a plaintiff, or as a defendant, or in any other capacity,
11 may obtain discovery within the scope delimited by Chapters 2 (commencing with Section 2017.010) and
12 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with
13 Section 2019.010), for the purpose of perpetuating that person's own testimony or that of another natural person or
14 organization, or of preserving evidence for use in the event an action is subsequently filed.

15 (b) One shall not employ the procedures of this chapter for the purpose either of ascertaining the possible existence
16 of a cause of action or a defense to it, or of identifying those who might be made parties to an action not yet filed.

17 ~~IV~~, California Code of Civil Procedure Section 2016.010 - 2036.05

18 Discovery of electronically stored information under the Civil Discovery Act

19 ~~V~~, California Code of Civil Procedure Section 1985.8, 2031.010-2031.510

20 Electronic Discovery Act

21 ~~VI~~, Stored Communications Act (SCA) - 18 USC 2702 (b)(3)

22 Permits the disclosure of otherwise protected communication, if the subscriber, or author of the intended receiver of
23 such communication gives consent.

24 ~~VII~~, California Code of Civil Procedure Section 2023.010

25 Misuses of the discovery process include, but are not limited to, the following:

26 (a) Persisting, over objection and without substantial justification, in an attempt to obtain information or materials
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1 that are outside the scope of permissible discovery.

2 (b) Using a discovery method in a manner that does not comply with its specified procedures.

3 (c) Employing a discovery method in a manner or to an extent that causes unwarranted annoyance, embarrassment,
4 or oppression, or undue burden and expense.

5 (d) Failing to respond or to submit to an authorized method of discovery.

6 (e) Making, without substantial justification, an unmeritorious objection to discovery.

7 (f) Making an evasive response to discovery.

8 (g) Disobeying a court order to provide discovery.

9 (h) Making or opposing, unsuccessfully and without substantial justification, a motion to compel or to limit
10 discovery.

11 (i) Failing to confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good
12 faith attempt to resolve informally any dispute concerning discovery, if the section governing a particular discovery
13 motion requires the filing of a declaration stating facts showing that an attempt at informal resolution has been
14 made.

15 HISTORY

16 Plaintiff previously filed EX PARTE APPLICATION FOR PRELIMINARY INJUNCTION AND NOTICE OF
17 MOTION FOR PERMANENT INJUNCTION, SUPPORTING DECLARATION OF KAREN BETH YOUNG ON
18 August 4, 2010 with the Superior Court of California which was denied by Honorable William J. Elfving. Plaintiff
19 entered into a legal contract with defendant online. Plaintiff had numerous problems and concerns with her account
20 yet never received proper assistance or response from defendant Facebook, INC. Plaintiff suffered and continues to
21 suffer from undue hardship and harm due to the actions and inactions of defendant. Defendant has temporarily
22 deleted all of plaintiffs account information and seeks to permanently delete all of plaintiffs account information.
23 Plaintiff received threats of physical harm and was subjected to large amount of hatred, violence and threats on the
24 "DEAR LORD" prayer for death Facebook page. Plaintiff interacted with the "Petition To Remove" hate page for
25 help. The pages websites are listed as "DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR,
26 PATRICK SWAYZIE. YOU TOOK MY FAVORITE ACTRESS, FARAH FAWCETT. YOU TOOK MY
27 FAVORITE SINGER, MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE
28 PRESIDENT IS BARACK OBAMA. AMEN" and "Petition to remove facebook group praying for President

1 Obama's death." Plaintiff set up additional pages to her own Karen Beth Young account. These pages were
2 established to help and interact with people who had cancer and as a form of support for those who were struggling.
3 Also, they were to be supportive of the caregivers and those who had suffered the loss of a loved one. Plaintiffs
4 mother and sister are fighting breast cancer. The additional pages plaintiff established were "Cancer Forum",
5 "Cartesian Plane For The Cure", "Karen Beth Young - Public Figure", and "Join Karen Petition Facebook Say No
6 To 5000 Friends." Plaintiff has made a request for all of her account information to be stored/save/released as it is
7 relevant to legal proceedings as pertinent evidence. Defendant continues to be non-responsive.

8 DISCUSSION

9 I

10 Preservation of evidence

11 Federal Rules of Civil Procedure support the preservation of electronically stored information (ESI). Plaintiff has a
12 right to request the preservation of any/all evidence relevant to discovery in litigation. Additionally, the defendant
13 has a duty to preserve all ESI associated with this complaint. A litigation hold should be implemented in order to
14 preserve information on all of the aforementioned pages. And, also assist to prevent any automatic document
15 destruction, or suspend any document destruction policies or software in place. More so, all of the posts and
16 interactions with the Karen Beth Young account and pages should be saved as they are evidence in this case. E-
17 discovery encompasses all aspects of account transactions. The hate page and petition to remove hate page are
18 directly connected with the plaintiffs well being and her account. As such, they should be included with the Karen
19 Beth Young account in the preservation of evidence.

20 II

21 Lack of adherence to established policies and procedures

22 The defendants lack of adherence to established and advertised policies has caused irreparable harm to plaintiff. The
23 further or permanent destruction of evidence will cause additional amounts of harm. Plaintiff has and continues to
24 suffer from broken and strained relationships. Plaintiff entered into a contract with the defendant with an
25 understanding that safety and genuine concern would be supported. However, defendant failed to act to prevent
26 harm and continues to show disregard. Defendant failed to enforce and follow company standards promoted online.
27 And, shows deliberate indifference to advertised procedures and plaintiff. As such, the plaintiff has suffered from
28 threats of violence and subsequent rights to life, liberty, property and due process of law.

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CONCLUSION

Based on the law and references set forth above, plaintiff Karen Beth Young respectfully requests that the court grant plaintiffs motion for preliminary injunction to preserve evidence.

Date: August 9, 2010



Karen Beth Young