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7 Attorneys for Defendant
 8 FACEBOOK, INC.

ENDORSED Santa Clara
 08/11/10 8:31am
 David H. Yamasaki
 Chief Executive Offic
 S#1 Janal DTSC1V01013
 R#201000086506
 \$355.00
 \$355.00
 Case: 1-10-CV-178574

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF SANTA CLARA

11
 12 KAREN BETH YOUNG,
 13 Plaintiff,
 14 v.
 15 FACEBOOK, INC.,
 16 Defendant.

CASE NO. 110 CV 178574
DECLARATION OF JULIO C. AVALOS IN SUPPORT OF DEFENDANT FACEBOOK, INC.'S EX PARTE APPLICATION FOR AN ORDER VACATING COURT'S TEMPORARY RESTRAINING ORDER OF AUGUST 9, 2010

17
 18 I, Julio C. Avalos, declare as follows:

19 1. I am a member of, and in good standing with, the Bar of the State of California and
 20 am admitted to practice before this Court. I am an associate at the law firm of Orrick, Herrington
 21 & Sutcliffe LLP, counsel to Defendant Facebook, Inc. ("Facebook"). I make this declaration of
 22 my own personal knowledge unless otherwise indicated herein. If called as a witness, I could and
 23 would testify competently to the truth of the matters set forth herein.

24 2. Plaintiff filed her Complaint in pro per against Facebook on July 31, 2010.

25 3. On August 6, 2010, Plaintiff served Facebook with an ex parte application seeking
 26 a preliminary injunction "for the preservation of evidence."
 27
 28

OHS West:260967326.1

1 4. On August 9, 2010, I, along with my colleague Morvarid Metanat, arrived at the
2 Santa Clara Superior Courthouse located at 191 N. 1st Street, San Jose, California at
3 approximately 7:15 a.m. When the courthouse opened at 8:00 a.m., Ms. Metanat and I checked
4 the clerk's posted calendar to locate the department for Judge Elfving. The calendar stated that
5 Judge Elfving was covering for Judge McKenney's Department 21 hearings. By approximately
6 8:07, Ms. Metanat and I were seated in front of Department 2. The courtroom doors were locked
7 and there were no signs or placards relating to the Court's ex parte procedure. For instance,
8 Department 1 instructed ex parte parties to walk around the courtroom to the court's antechamber
9 for ex parte proceedings. No such instructions existed for Department 2.

10 5. At approximately 8:30 a.m., I instructed Ms. Metanat to go back downstairs to
11 confirm that we were in the correct Department. I also communicated with a senior paralegal in
12 my firm's Menlo Park office to make sure that the matter had not been turned over to a discovery
13 magistrate or commissioner.

14 6. At approximately 9:00 a.m., we both walked down to the law and motion clerk to
15 confirm that Plaintiff had not shown up to file her ex parte application. Surprisingly, the clerk
16 informed me that Plaintiff had in fact filed her ex parte application and that she had gone to the
17 hearing in Department 2. I told the clerk that this seemed impossible, as Ms. Metanat and I had
18 been sitting in front of the courtroom for an hour and had seen no one walk in or out. The clerk
19 once again told us that the ex parte proceedings were in fact being held in Department 2 and that
20 we should knock on the locked doors.

21 7. After knocking on the doors and speaking to a clerk, we were invited into Judge
22 Elfving chambers. His Honor stated that Plaintiff had presented her ex parte application directly
23 in the Court's antechamber. He briefly discussed what had transpired at the hearing. He stated
24 that he had denied Plaintiff's preliminary injunction because such an injunction was not
25 permissible on an ex parte basis. However, he stated that he had converted the preliminary
26 injunction into a temporary restraining order based on Plaintiff's representation that it was
27 Facebook's stated policy to preserve the targeted information for 90 days. According to the
28

1 Court, he perceived no prejudice to Facebook in requiring them in a temporary restraining order
2 to do what they were already doing based on their business policy.

3 8. A true and correct copy of the August 9, 2010 temporary restraining order is
4 attached hereto as **Exhibit A**.

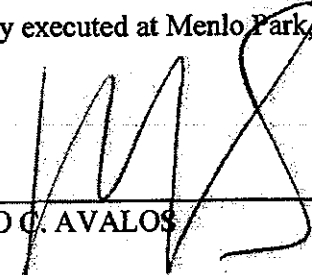
5 9. On August 9, 2010, at approximately 4:00 p.m., my colleague Tom Gray and I
6 telephoned Plaintiff at the telephone number she provided in the Complaint. We left a voicemail
7 message for Plaintiff providing her notice that at 8:15 a.m. on Wednesday, August 11, 2010,
8 Facebook would be filing an ex parte application with Judge Elfving requesting that the August 9
9 temporary restraining order be dissolved, vacated, and/or otherwise modified.

10 10. On August 10 2010, Plaintiff telephoned both me and Mr. Gray to advise us that
11 she would be opposing Facebook's ex parte application. Plaintiff also e-mailed us to confirm her
12 opposition to the ex parte application.

13 11. Attached hereto as **Exhibit B** is a true and correct copy of the website located at
14 [www.facebook.com/pages/DEAR-LORD-THIS-YEAR-YOU-TOOK-MY-FAVORITE-ACTOR-](http://www.facebook.com/pages/DEAR-LORD-THIS-YEAR-YOU-TOOK-MY-FAVORITE-ACTOR-PATRICK-SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH-AWCETT-YOU-TOOK-MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-PRESIDENT-IS-BARACK-OBAMA-AMEN)
15 [PATRICK-SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH-AWCETT-YOU-](http://www.facebook.com/pages/DEAR-LORD-THIS-YEAR-YOU-TOOK-MY-FAVORITE-ACTOR-PATRICK-SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH-AWCETT-YOU-TOOK-MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-PRESIDENT-IS-BARACK-OBAMA-AMEN)
16 [TOOK-MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-](http://www.facebook.com/pages/DEAR-LORD-THIS-YEAR-YOU-TOOK-MY-FAVORITE-ACTOR-PATRICK-SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH-AWCETT-YOU-TOOK-MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-PRESIDENT-IS-BARACK-OBAMA-AMEN)
17 [KNOW-MY-FAVORITE-PRESIDENT-IS-BARACK-OBAMA-AMEN](http://www.facebook.com/pages/DEAR-LORD-THIS-YEAR-YOU-TOOK-MY-FAVORITE-ACTOR-PATRICK-SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH-AWCETT-YOU-TOOK-MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-PRESIDENT-IS-BARACK-OBAMA-AMEN). As evident on the
18 website screenshot itself, the group has over 1 million active members. Posts are made every few
19 minutes, on average. The screenshot accurately portrays the website as it appeared to me online.

20 12. On August 10, 2010, I visited the "Petition to remove Facebook group praying for
21 President Obama's death" Facebook page referenced in Plaintiff's ex parte application and
22 Complaint. The page has 912, 228 active members.

23 I declare under penalty of perjury under the laws of the United States that the foregoing is
24 true and correct and that this declaration was hereby executed at Menlo Park, California on
25 August 10, 2010.

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JULIO C. AVALOS

EXHIBIT A

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

800

FILED

2010 AUG -9 AM 8:57

Deputy Clerk of the Superior Court
By *A. Pacheco*
A. PACHECO

Karen Beth Young

Plaintiff

And

Facebook, INC.

Defendant

) Case No.: 110CV178574

) *TO SHOW CAUSE RE:*
) *ORDER FOR PRELIMINARY INJUNCTION*

) *TEMPORARY RESTRAINING*
) *ORDER*

WJM

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

ORDER

1. Application having been made by Karen Beth Young, moving party, and good cause appearing therefor,
2. IT IS ORDERED that (1) Any/all of the "Karen Beth Young" electronic account information be preserved as
3. evidence to include all; pages, messages, instant messages, photos, posts or other information pertaining to the
4. account, (2) Any/all of the "DEAR-LORD-THIS-YEAR-YOU-TOOK-MY-FAVORITE-ACTOR-PATRICK-
5. SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH-FAWCETT-YOU-TOOK-MY-FAVORITE-
6. SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-PRESIDENT-
7. IS-BARACK-OBAMA-AMEN" electronic account information, past, present and future be preserved as
8. evidence, (3) Any/all of the "Petition to remove facebook group praying for President Obama's death" electronic
9. account information, past, present and future be preserved as evidence.

This is a Temporary Restraining Order. Defendant Facebook, Inc is ordered to appear in Department 21, 191 No. First St. San Jose, CA, 95113 on August 31, 2010 at 9am to show Cause why the above orders should not be made as a Preliminary Injunction.

~~Dated: August 9, 2010~~

Dated: 8/9/10

William J. Gorman
Judge of the Superior Court

EXHIBIT B

DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR, PATRICK SWAYZIE. YOU TOOK MY FAVORITE ACTRESS, FARAH FAWCETT. YOU TOOK MY FAVORITE SINGER, MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE PRESIDENT IS BARACK OBAMA. AMEN Like

Wall Info Photos Discussions



Suggest to Friends

Creator: Hunter Holt

Information

Location: Marysville, OH, 43040

1 Friend Likes This

1,123,628 People Like This

Filters

Andres Cullen Anyone know the reds/cardinals score? 18 minutes ago · Flag

Osaze Paul where can I find to send me a link 17 minutes ago · Flag

Andres Cullen is on Fox Sports Net... maybe even ESPN again... (Holy breaking out the AM radio)... 16 minutes ago · Flag

Kelly Schaeffer This is where I live, and this is beautiful Catalina Island in the background. The three cute girls surrounding me on the left belong to me (I birthed them.)



20 minutes ago · Flag

Renee Witham likes this

Osaze Paul wow nice children... I will put my message in the next post 18 minutes ago

Jimmy Coupe Deville @Osaze Paul If I read the Bible, I'll go to Heaven. What

Create an Ad Yo Gabba Gabba at SF ZOO!



SF Zoo is having a Meet & Greet with all 5 of the Yo Gabba Gabba Live characters on Sunday August 15, 2010! Like

Shakespeare Festival



Enjoy The Complete Works of William Shakespeare - Abridged, July 9 - Aug. 22 on the shores of Lake Tahoe. Book online. Like

Hike Chat (Offline)

facebook


DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR, PATRICK SWAYZIE. YOU TOOK MY FAVORITE ACTRESS, FARAH FAWCETT. YOU TOOK MY FAVORITE SINGER, MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE PRESIDENT IS BARACK OBAMA. AMEN

[Like](#)

[Wall](#) [Info](#) [Photos](#) [Discuss](#)

DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR, PATRICK SWAYZIE. YOU TOOK MY FAVORITE ACTRESS, FARAH FAWCETT. YOU TOOK MY FAVORITE SINGER, MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE PRESIDENT IS BARACK OBAMA. AMEN'S Albums

VOTE FOR OBAMA



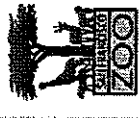
REALISE SOCIALIS
 Profile Pictures
 2 photos

Photos by Others 7,489 photos
[View Comments](#)



1 2 3 4 5 Next Last

Create an Ad
Yo Gabba Gabba at SF ZOO!



SF Zoo is having a Meet & Greet with all 5 of the Yo Gabba Gabba Live characters on Sunday August 15, 2010!
[Like](#)

Shakespeare Festival



Enjoy The Complete Works of William Shakespeare - Abridged, July 9 - Aug. 22 on the shores of Lake Tahoe.
[Book online.](#)
[Like](#)

[Hike](#) [Chat \(Offline\)](#)

DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR, PATRICK SWAYZIE. YOU TOOK MY FAVORITE ACTRESS, FARAH FAWCETT. YOU TOOK MY FAVORITE SINGER, MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE PRESIDENT IS BARACK OBAMA. AMEN Like

Displaying all 19 topics.

Why are people calling whites racist just because we dont like obama??
155 posts, Created on April 19, 2010 at 12:15pm
Page 1 2 3 4 5 6

National day of Prayer
20 posts, Created on April 18, 2010 at 11:17am

this group
629 posts, Created on April 10, 2010 at 11:30pm
Page 1 2 3 4 5 6 7 8 9 10 11 ... Last Page

Now that the HC bill has been passed, this is what will happen
15 posts, Created on April 19, 2010 at 4:29pm

Greatest President ever?
16 posts, Created on April 19, 2010 at 4:45pm

pro-obama trolls have infiltrated
122 posts, Created on April 19, 2010 at 6:59am
Page 1 2 3 4 5

Should Obama bow to other national leaders
32 posts, Created on April 17, 2010 at 5:01pm
Page 1 2

Can this be considered a threat?
113 posts, Created on April 16, 2010 at 12:17pm

Yo Gabba Gabba at SF ZOO!
SF Zoo is having a Meet & Greet with all 5 of the Yo Gabba Gabba Live characters on Sunday August 15, 2010! Like

Shakespeare Festival x
The Complete Works of William Shakespeare - Abridged, July 9 - Aug. 22 on the shores of Lake Tahoe. Book online. Like

Latest post by Barbara Barringer Zito
Posted on April 20, 2010 at 1:23pm

Latest post by Joey Makin Maqueda
Posted on April 20, 2010 at 1:10pm

Latest post by Kevin Lee
Posted on April 20, 2010 at 1:05pm

Latest post by Tasha Hanna
Posted on April 20, 2010 at 12:46pm

Latest post by Dave Tweddell
Posted on April 20, 2010 at 5:50am

Latest post by Dave Tweddell
Posted on April 20, 2010 at 5:39am

Latest post by Jesse McGean
Posted on April 20, 2010 at 5:16am

Latest post by August Dittbenner
Posted on April 20, 2010 at 3:51am

1,123,628 People Like This

Photos

4 of 7,489 photos by others See All

Links

3 of 149 links See All

- U.S. National Debt Clock
1:21pm Apr 20
- COME TO THIS PAGE TO SPEAK

People Like This

- Sydney Gray
- Diana Morisse
- Eric Lee
- Donna House
- Evelyn Ross Redding

Comments

23 minutes ago · Flag

Jimmy Coupe DeVille @Osazee Paul If I read the Bible, I'll go to Heaven, What happens if I read the Teachings of Buddha- eternal damnation??

Osazee Paul I dont say if u read the Bible u will go to Heaven Jimmy... but I am now saying that if u believe Jesus Christ is Lord and Savior and that he came down and died for u... and ur sins to be forgiven then... good for u and God

22 minutes ago · Flag

29 minutes ago · Flag

Jeffrey G Martin likes this

View all 4 comments

Osazee Paul Hey! Copy and paste this to your status and share the good news!! For God loved the world so much that he gave his one and only Son, so that everyone who believes in him will not perish but have eternal life. (John 3:16)

18 minutes ago · Flag

Osazee Paul becuze they use God doerst mean that is GOD that told them... dont know what to say for them... if u see a Christian or muslim u will know

18 minutes ago · Flag

Comments

38 minutes ago · Flag

Renee Witham Poem time??!

2 people like this

View all 28 comments

Osazee Paul cool... I am in Wales though... London is were I need to live!

20 minutes ago · 21 person · Flag

Comments

23 minutes ago · Flag


Osazee Paul Add meaning to a great hike - on Sept 26th, hike Mt. Tam with the Breast Cancer Fund!


Like


More Ads

you're over the world so much... how do i get that exterior me thing? and what's the
big deal about John at 3:16 pm?
40 minutes ago · Flag


2 people like this
View all 11 comments


 Jeffrey G Martin What a condescending asshole you are Jesus freak I am comfortable now I am also an Agnostic homosexual. Chew on that
29 minutes ago · Flag

 Osaze Paul that's ur business bro.....God help u and forgive u
17 minutes ago · Flag

 Amanda Taylor its beer 30
48 minutes ago · Flag


5 people like this
View all 25 comments


 Andres Cullen how is jeffrey doing tonight by the way?
33 minutes ago · Flag

 Jeffrey G Martin Addressss! Me good by u?
26 minutes ago · Flag

 Scott Carlson How come Facebook hasn't shutdown Kelly's commenting ability yet? That chick has posted more comments in one day then i think i ever have.
54 minutes ago · Flag

View all 21 comments

 Kelly Scheuffer I have been warned.....
can't just turn off my computer fkt gets too annoying?
37 minutes ago · Flag

 Kelly Scheuffer I am deleting some pics though, don't want my daughter one out there. Mess with me all you want, I could care less. BUT don't EVER mess with one of my kids.
36 minutes ago · 1 person · Flag


 Scott Carlson Has Jeffrey figured out that I blocked him yet?

 Kelly Scheuffer Scott is amused by last names yet has no picture of himself up what a weenie.
about an hour ago · Flag

 Jeffrey G Martin likes this.
View all 10 comments


 Dave Lundell Kelly you keep speaking god like that and you will remind me of someone that wants to see everyone's penis here and it ain't a girl!
59 minutes ago · 13 people · Flag

 Kelly Schaeffer Oh sorry, who else does that? Its kind of my way of not being blasphemous against God in case people are religious.
58 minutes ago · 1 person · Flag

 Nolrina Blackburn Makes AT Least \$16,857 Per Month On Facebook Here:
<http://www.facebook.com/facebook/>
Crack The Facebook Code To Generate \$16,857 Per Month On Autopilot! See Here:
<http://www.facebook.com/facebook/>
about an hour ago · Flag

 Andres Cullen Damin, Dear Lord players, been a while since we conversated!! I hope all is well on your farm and mine!
about an hour ago · Flag

 Randal Graves likes this.

 Dmoney Schums I can't believe that the morons in charge of this country want to raise taxes during times like these. Why do you want to make people pay more when they are already struggling enough as it is?
about an hour ago · Flag

 2 people like this.

 Scott Carlsson Because the moron Left just thinks about the increased tax money they will get from the rich they don't think about the obvious repercussions that will ensue.
about an hour ago · 1 person · Flag

 Jeffrey G Martin idiot, they do not want the struggle to pay, they