

1 Karen Beth Young  
 2 PO Box 2335  
 3 San Jose, California  
 4 95109  
 5 mskbvyoung@aol.com  
 6 301-991-1937

**FILED**

SEP 9 - 2010

*DW*

UNITED STATES DISTRICT COURT  
 CALIFORNIA NORTHERN DISTRICT  
 SAN JOSE DIVISION

RICHARD W. WIENING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

Karen Beth Young

Plaintiff

V.

Facebook, Inc.

Defendant

) Case No.: C 10-03579 *JF*  
 )  
 ) PLAINTIFF'S MOTION IN OPPOSITION TO  
 ) DEFENDANT FACEBOOK, INC'S. NOTICE OF  
 ) MOTION AND MOTION TO DISMISS PURSUANT  
 ) TO FED. R. CIV. P. 12 (b)(6)  
 )  
 )  
 )  
 )

Date: October 15, 2010

Time: 9:00 am

Courtroom 3

Magistrate Judge: Patricia V. Trumbull

District Judge: Jeremy Fogel

Karen Beth Young

1 **TABLE OF CONTENTS**

2  
3 **I. TABLE OF AUTHORITIES**

4 **A.** Federal Cases

5 **B.** State Cases

6 **C.** Federal Statutes

7 **D.** State Statutes

8 **E.** Miscellaneous

9 **II. FACEBOOK PUBLIC POLICIES**

10 **A.** Statement of Rights and Responsibilities

11 **B.** Principles

12 **C.** Privacy Policy

13 **III. INTRODUCTION**

14 **A.** List of Defense Counsel to date

15 **B.** History of Motions

16 **C.** History of Facts

17 **IV. PAGE REFERENCES**

18 **A - 1)** Karen Beth Young

19 2) Cancer Forum

20 3) Cartesian Plane For The Cure

21 4) Karen Beth Young - Public Figure

22 5) Join Karen Petition Facebook Say No To 5000 Friends

23 **B - 1)** DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR, PATRICK SWAYZIE.

24 YOU TOOK MY FAVORITE ACTRESS, FARAH FAWCETT. YOU TOOK MY FAVORITE

25 SINGER, MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE

26 PRESIDENT IS BARACK OBAMA. AMEN

1 **TABLE OF CONTENTS - CONT.**

2  
3 [http://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-FAWCETT-YOU-TOOK-MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-PRESIDENT-IS-BARACK-OBAMA-AMEN/111712585523370)  
4 [PATRICK-SWAYZIE-YOU-TOOK-MY-FAVORITE-ACTRESS-FARAH- FAWCETT-YOU-TOOK-](http://www.facebook.com/pages/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/111712585523370)  
5 [MY-FAVORITE-SINGER-MICHAEL-JACKSON-I-JUST-WANTED-TO-LET-YOU-KNOW-MY-FAVORITE-](http://www.facebook.com/pages/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/111712585523370)  
6 [PRESIDENT-IS-BARACK-OBAMA- AMEN/111712585523370](http://www.facebook.com/pages/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/111712585523370)

7 2) Petition to remove facebook group praying for

8 PresidentObama'sDeath

9 <http://www.facebook.com/group.php?gid=121236781223275>

10 **V. ARGUMENT**

11 **A.** Legal Issues and Discussion

12 **B.** 1st & 14th Amendment/United States Constitution/Civil Rights Issues

13 **C.** Breach of Contract by Defendant

14 **D.** Breach of Implied Covenant of Good Faith and Fair Dealing by defendant

15 **E.** Negligence by Defendant

16 **F.** Fraud by Defendant

17 **G.** Additional Criminal Concern

18 **VI. ADMINISTRATIVE PAPERS**

19 **A.** Notice of Motion

20 **B.** Proposed Order

21 **C.** Plaintiff Declaration

22 **D.** Proof of Service

23 **VII. CONCLUSION**

24 **VIII. EXHIBITS**

25 **A.** Email with Facebook

26 **B.** Facebook, Inc contract with United States Government and government representatives

27 **C.** Images for Karen Beth Young pages

1 **TABLE OF CONTENTS – CONT.**

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

**D.** Prayer for death hate page photos pre and post filing examples

**E.** Additional Criminal Concern

**F.** Forbes Article

1 **TABLE OF AUTHORITIES**

2 **FEDERAL CASES**

3 ***Al-Kidd v. Ashcroft, 580 F.3d 949 (9<sup>th</sup> Cir. 2009)***

4 *American Mfrs. Mut. Ins. Co. v. Sullivan,*  
5 *526 U.S. 40 (1999)*

6 ***Armstrong v. Davis (9th Circuit)***

7 *Ashcroft v. Iqbal,*  
8 *129 S. Ct. 1937 (2009)*

9 *Bell Atl. Corp. v. Twombly,*  
10 *550 U.S. 544 (2007)*

11 *Beverage Distributors, Inc. v. Olympia Brewing Co.,*  
12 *440 F.2d 21 (9th Cir. 1971)*

13 *Black v. Google Inc.,*  
14 *2010 U.S. Dist. LEXIS 82905 (N.D. Cal. Aug. 13, 2010)*

15 ***Burton v. Wilmington Parking Authority***

16 *Carafano v. Metrosplash.com, Inc.,*  
17 *339 F.3d 1119 (9th Cir. 2003)*

18 ***Chaplinsky v. New Hampshire***  
19 ***315 U.S. 568 (1942)***

20 *In re Facebook PPC Adver. Litig.,*  
21 *2010 U.S. Dist. LEXIS 39776 (N.D. Cal. April 22, 2010)*

22 *Fair Housing Council of San Fernando Valley v. Roommates.Com, LLC.*  
23 *521 F.3d 1157, 1162 (9th Cir. 2008)*

24 ***Forbes v. City of New York***

25 ***Fowler v. UPMC Shadyside, 578 F.3d 203 (3d Cir. 2009)***

26 ***Gitlow v. New York***

27 ***Grey v. Wilburn ( 8th Cir.)***

28 *Jackson v. Brown,*  
*513 F.3d 1057, 1079 (9th. Cir. 2008)*

*Joaquin v. Geico Gen. Ins. Co.,*  
*2008 U.S. Dist. LEXIS 2077 (N.D. Cal. Jan. 2, 2008)*

*Jones v. Community Redevelopment Agency of Los Angeles,*  
*733 F.2d 646 (9th Cir. 1984)*

*Liao v. Ashcroft, No. C 08-2776 PJH*

1 2009 WL 636116 (N.D. Cal. Mar. 11, 2009)

2 *Masters v. Screen Actors Guild*,  
2004 U.S. Dist. LEXIS 27297 (N.D. Cal. Dec. 8, 2004)

3 *McMillan v. Department of Interior*,  
4 907 F. Supp. 322 (D.Nev. 1995), *aff'd*, 87 F.3d 1320 (9th Cir. 1996)

5 *Miron v. Herbalife Int'l Inc.*,  
11 Fed. Appx. 927, (9th Cir. 2001)

6 ***National Federation Of The Blind v. Target***

7 *Opinrealbig.com v. Ironport Sys.*,  
8 323 F. Supp. 2d 1037 (N.D. Cal. 2004)

9 ***Rail Freight Fuel Surcharge Antitrust Litig.*, 587 F. Supp. 2d 27 (D.D.C. 2008)**

10 ***Sandoval v. Hagan (11th Circuit)***

11 *Schucker v. Rockwood*,  
846 F.2d 1202 (9th Cir. 1988)

12 *Sprewell v. Golden State Warriors*,  
13 266 F.3d 979 (9th Cir. 2001)

14 *Van Ort v. Estate of Stanewich*,  
92 F.3d 831 (9th Cir. 1996)

15 *West v. Atkins*,  
16 487 U.S. 42 (1988)

17 ***Wickersham v. City of Columbia***

18 *Zeran v. America Online, Inc.*,  
129 F.3d 327 (4th Cir. 1997)

19  
20 **STATE CASES**

21 *Berkley v. Dowds*,  
152 Cal.App.4th 518 (2007)

22 *Carma Dev't, Inc., v. Marathon Dev't Cal., Inc.*,  
23 2 Cal. 4th 342 (1992)

24 *Committee on Children's Television, Inc. v. General Foods Corp.*,  
35 Cal. 3d 197 (1983)

25 *Conroy v. Regents of University of California*,  
26 45 Cal. 4th 1244 (2009)

27 *Gilmer v. Ellington*,  
159 Cal.App.4th 190 (2008)

1 *Guz v. Bechtel National, Inc.*,  
24 Cal. 4th 317 (2000)

2 *Jacoves v. United Merch. Corp.*,  
9 Cal.App.4th 88 (1992)

3  
4 ***Miller v. California***

5 *Murphy v. Hartford Accident & Indem. Co.*,  
177 Cal.App.2d 539 (1960).

6 *Racine & Laramie, Ltd. v. Department of Parks & Recreation*,  
11 Cal.App.4th 1026 (1992)

7  
8 *Shin v. Kong*,  
80 Cal.App.4th 498 (2000)

9 ***Venegas v. County of Los Angeles***  
10 **32 Cal.App4th 820,841 (2004)**

11 **FEDERAL STATUTES**

12  
13 **American with Disabilities Act (ADA)**

14 **Airport and Transportation Security Act of 2001 - S. 1447**

15 **Civil Rights Act of 1871**

16 **Contract Disputes Act**

17 **Craigslist Censorship**

18 **Cybersecurity Act of 2009**

19 **18 USC Secs. 2 to 3**

20 **18 USC Sec. 871**

21 **18 U.S.C. 2701-271**

22 **42 U.S.C. 1983**

23 **47 U.S.C. 230**

24 **Fed. R. Civ. P. Rule 8(a)(2)**

25 **Fed. R. Civ. P. Rule 12(b)(6)**

26 **Financial Anti-Terrorism Act of 2001**

27 **Freedom of Information Act**

28

1 **Privacy Act of 1974**

2 **Rehabilitation Act of 1973**

3 **Telecommunications Act of 1996**

4 **Terrorism Risk Insurance Act of 2002**

5 **Tom Bane Civil Right's Act**

6 **Tucker Act**

7 **Unfair Practices Act**

8 **USA PATRIOT Act of 2001 - H.R. 3162**

9  
10 **STATE STATUTES**

11 **California Code of Civil Procedure**

12 **California Constitution Article I, 7 (a) & (b)**

13 **California Constitution Article I, 31**

14 **California Penal Code Sections 30-33**

15 **Unruh Civil Rights Act**

16  
17 **MISCELLANEOUS**

18 **3 Witkin, Cal. Procedure, Pleading at 574 (2d ed. 1971)**

19 ***Senate Hearing*, (statement of Gregory G. Garre), at 20**

20 **Hon. Colleen McMahon, "The Law of Unintended Consequences: Shockwaves in the**  
21 **Lower Courts After *Bell Atlantic Corp. v. Twombly*," 41 Suffolk U.L. Rev. 851, 852 (2008)**

22 **Administrative Office of the United States Courts, Statistics Division,**  
23 **"Motions to Dismiss," (Dec. 2009)**

24 **Government Services Administration**

25 **The Department Of State**

26 **Federal Communication Commission**

27 **Justice Edward Sanford Quote**



1 **II. INTRODUCTION**

2 Plaintiff has been working with defense counsel from Orrick, Herrington & Sutcliffe LLP  
3 1000 Marsh Road Menlo Park, CA. 94025 - [www.orrick.com](http://www.orrick.com)

4  
5 **A. List of Defense Counsel to date**

- 6 1) Attorney Julio Avalos - Intellectual Property - Managing Associate  
7 2) Attorney Morvarid Metanat - Intellectual Property - Associate  
8 3) Attorney Thomas Gray - Intellectual Property - Partner  
9 4) Attorney Theresa Sutton - Intellectual Property - IP Litigation  
10 5) Attorney Neel Chatterjee - Intellectual Property - Partner  
11 6) Attorney Gary Weiss - Intellectual Property - Chair Partner

12  
13 **B. History of Motions**

14  
15 **1 - A. EX PARTE APPLICATION FOR PRELIMINARY INJUNCTION AND NOTICE OF MOTION**  
16 **FOR PERMANENT INJUNCTION,**

17 **SUPPORTING DECLARATION OF KAREN BETH YOUNG**

18  
19 **B. Motion denied by Judge Elfving - Improper paperwork procedure**

20  
21 **C. Filed August 4, 2010 in Superior Court of California**

22  
23 **2 - A. EX PARTE APPLICATION FOR PRELIMINARY INJUNCTION AND NOTICE OF MOTION**  
24 **FOR PERMANENT INJUNCTION,**

25 **SUPPORTING DECLARATION OF KAREN BETH YOUNG**

26  
27 **B. Temporary Restraining Order issued by Judge Elfving, Defendant ordered to appear in**  
28 **Superior Court of California, Dept. 21**

1 on August 31, 2010. - Defense counsel missed hearing date

2  
3 **C.** Filed August 9, 2010 in Superior Court of California

4  
5 **3 - A.** DEFENDANT FACEBOOK, INC'S EX PARTE APPLICATION FOR AN ORDER VACATING,  
6 OR, IN THE ALTERNATIVE, MODIFYING

7 COURT'S TEMPORARY RESTRAINING ORDER OF AUGUST 9, 2010 PURSUANT TO  
8 C.C.P. SECTIONS 533 AND 1008

9 &

10 DECLARATION OF KAREN BETH YOUNG IN COMPLETE OPPOSITION OF DEFENDANTS  
11 MOTION TO VACATE OR MODIFY ORDER

12  
13 **B.** Motion vacated per Judge Elfving - Defense advised of possible sanctions

14  
15 **C.** Filed August 11, 2010 in Superior Court of California

16  
17 **4 - A.** (Through the use of e-filing after plaintiffs email notice to defendant Thursday, August 12 at  
18 12:16 pm and copy of motion delivered August 13 at 9:00 am

19 regarding plaintiff's intent of filing - EX PARTE APPLICATION FOR RENEWED MOTION W/4  
20 EXHIBITS)

21 DEFENDANT FACEBOOK, INC'S NOTICE TO ADVERSE PARTY OF REMOVAL TO UNITED  
22 STATES DISTRICT COURT

23  
24 **B.** Motion granted per general procedure rules of court per Judge Elfving - Plaintiff  
25 advised that EX PARTE APPLICATION FOR RENEWED

26 MOTION W/4 EXHIBITS was unable to be heard at this time per jurisdiction rules of court.

27  
28 **C.** Filed August 13, 2010 at 11:22 am via electronic filing

1 Filing discussed August 16, 2010 per Judge Elfving during plaintiffs exparte  
2 hearing for RENEWED MOTION W/4 EXHIBITS

3  
4 **5 - A. DECLINATION TO PROCEED BEFORE A MAGISTRATE JUDGE AND REQUEST FOR**  
5 **REASSIGNMENT TO A UNITED STATES**  
6 **DISTRICT JUDGE**

7  
8 **B. Motion granted per general procedure rules of court per The Executive Committee. Case**  
9 **reassigned to Judge Jeremy Fogel for all further**  
10 **proceedings and Magistrate Judge Patricia V. Trumbull for all discovery matters.**

11  
12 **C. Filed August 18, 2010 in United States District Court**

13  
14 **6 - A. Motion For Order To Preserve Evidence And Supporting Papers**

15  
16 **B. Motion unheard at this time**

17  
18 **C. Filed August 23, 2010 in United States District Court**

19  
20 **7 - A. APPLICATION TO PROCEED IN FORMA PAUPERIS AND SUPPORTING PAPERS**

21  
22 **B. Motion ~~unheard~~<sup>denied</sup> at this time**

23  
24 **C. Filed August 23, 2010 in United States District Court**

25  
26 **8 - A. DEFENDANT FACEBOOK, INC.'S NOTICE OF MOTION AND MOTION TO DISMISS**  
27 **PURSUANT TO FED. R. CIV. P. 12(b)(6)**

1           **B.** Motion scheduled for October 15, 2010

2  
3           **C.** Filed August 24, 2010 in United States District Court

4  
5           **9 - A.** PLAINTIFF'S MOTION IN OPPOSITION TO, DEFENDANT FACEBOOK, INC.'S NOTICE OF  
6 MOTION AND MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)

7  
8           **C. History of Facts**

- 9  
10          - After my first account deletion
- 11          - After my numerous email attempts
- 12          - After my numerous phone calls to computer generated automatic responses
- 13          - After a response saying my account had been deleted with no appeal right
- 14          (email included - **Exhibit A - 1**)
- 15          - After no phone response or personal email response from Facebook, I drove to California for the first
- 16          time ( Per Facebook Santa Clara policy ) in order to personally discuss the issue.
- 17
- 18          - At headquarters my drive was minimized as not being a big deal because many others had done the
- 19          same thing & some had driven there from Canada
- 20          - At headquarters receptionist said she was not authorized to give her name
- 21          - At headquarters receptionist and security guard only
- 22          - At headquarters I was not allowed to call anyone in a Facebook office
- 23          - At headquarters receptionist was not allowed to call anyone in Facebook office without a name of
- 24          someone.
- 25          - At headquarters, no one gives out their name
- 26          - At headquarters told not allowed to speak with anyone or call anyone
- 27
- 28

- 1 - At headquarters told that I must fill out a written complaint form
- 2 - At headquarters told to leave and that someone would contact me when they were available
- 3 - After, about day two, I got an email from Gianna
- 4 - After, Gianna's email was vague but stated my account problem related to a computer red flag problem
- 5 and possibly a number of friends/friends interactions
- 6 - After, I was told my account was reinstated
- 7 - After, I immediately sent an email back asking how I could help fix or prevent a problem
- 8 (email included - **Exhibit A - 2**) and expressed the want to meet in person to personally discuss the
- 9 issue.
- 10 - After, about 3 days with no response I drove back to Maryland with account back up
- 11 - After, in Maryland about 2 days, my account was deleted again without any discussion or attempts of
- 12 discussion by Facebook
- 13 - After, I drove to California for a second time and filed original paperwork
- 14
- 15 -Recently, I received a response from Facebook via the Better Business Bureau (**Exhibit A - 3**) requiring
- 16 me to provide Facebook with more information.
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1  
2 **III. FACEBOOK PUBLIC POLICIES**

3 **A. STATEMENT OF RIGHTS AND RESPONSIBILITIES**

4 "You will not post content that: is hateful, threatening, or pornographic; incites violence;  
5 or contains nudity or

6 The Facebook Statement of Rights and Responsibilities is the Facebook Terms of  
7 Service. It was established by Facebook, Inc. as a legal  
8 precedent for corporate and online behavior by both Facebook representatives and  
9 account members. It is legally supposed to be enforced by Facebook  
10 and backed by US laws. Facebook, Inc. represents themselves with the  
11 following statement for public policy. Below are some examples of advertising:

12 "This statement of Rights and Responsibilities ("Statement") derives from the  
13 Facebook Principles, and governs our relationship with users and others who interact  
14 with Facebook. By using or accessing Facebook, you agree to this statement."

15 **Section 3 (Safety)**

16 - Number 6 -

17 "You will not bully, intimidate, or harass any user."

18 - Number 7 -  
19 graphic or gratuitous violence."

20 - Number 10 -

21 "You will not use Facebook to do anything unlawful, misleading, malicious, or  
22 discriminatory"

23 - Number 12 -

24 "You will not facilitate or encourage any violations of this Statement"

25 **Section 5 (Protecting Other People's Rights)**

26 - Number 1 -

27 "You will not post content or take any action on Facebook that infringes or violates  
28 someone else's rights or otherwise violates the law"

29 - Number 2 -

1 "We can remove any content or information you post on Facebook if we believe that it  
2 violates this Statement"

3 **Section 10 (About Advertisements on Facebook)**

4 - Number 3 -

5 "You understand that we may not always identify paid services and communications as  
6 such"

7 **Section 11 (Special Provisions Applicable to Advertisers)**

8 - Number 5 -

9 "We do not guarantee the activity that your ads will receive, such as the number of  
10 clicks you will get"

11 **Section 18 (Other)**

12 - Number 2 -

13 "If any portion of this Statement is found to be unenforceable, the remaining portion will  
14 remain in full force and effect"

15 - Number 3 -

16 "If we fail to enforce any of this Statement, it will not be considered a waiver"

17 - Number 6 -

18 "All of our rights and obligations under this Statement are freely assignable by us in  
19 connection with a merger, acquisition, or sale of  
20 assets, or by operation of law or otherwise"

21 - Number 7 -

22 "Nothing in this Statement shall prevent us from complying with the law"

23 **B. PRINCIPLES**

24 The Facebook Principles are represented as, "Achieving these principles should be constrained only by  
25 limitations of law, technology, and evolving social norms.

26 We therefore establish these Principles as the foundation of the rights and responsibilities of those within  
27 the Facebook Service."

28 **Section 1 (Freedom to Share and Connect)**

Plaintiff should never have lost her ability to socialize and connect with others online who shared her  
critical concerns. Plaintiffs relationships should never

1 have been offended, broken, strained or lost.

2  
3 **Section 2 & 3 (Ownership and Control of Information & Free Flow of Information)**

4 Plaintiff has a legal right to all of her communications supported by the Stored Communications Act - 18  
5 USC 2702 (b)(3) and any other applicable law.

6  
7 **Section 4 (Fundamental Equality)**

8 Plaintiff never should have lost her inclusion with the defendants advertisement, "There should be a  
9 single set of principles, rights and responsibilities that should apply to all People using  
10 the Facebook Service." This outside and separate from all enforcing United States laws and  
11 standards.

12  
13 **Section 5 (Social Value)**

14 Plaintiff's name and reputation has been degraded by defendant. Plaintiff has and continues to suffer  
15 irreparable harm.

16  
17 **Section 7 (Fundamental Service)**

18 Plaintiff's right to service should never have been compromised. Plaintiff suffers from defamation of  
19 character and irreparable harm.

20  
21 **Section 8 (Common Welfare)**

22 Plaintiff's common welfare was disregarded. Plaintiff's actions on Facebook were always in support of the  
23 defendant and in support  
24 of a civil and ethical Statement of Rights and Responsibilities forum.

25  
26 **Section 10 (One World)**

27 Plaintiff was not included in the outline of One World. Plaintiff should never have been excluded from  
28 defendants policy of

"The Facebook Service should transcend geographic and national boundaries and be  
available to everyone

in the world." Plaintiff continues to suffer from degradation of name, defamation of character  
and irreparable harm.

29  
30 **C. PRIVACY POLICY**

31 All aspects of plaintiff's privacy have been offended and lost. That in and of itself is entirely intangible.

32  
33 **Section 1 - Introduction  
(Safe Harbor & Scope)**

34 Facebook states it "adheres to the Safe Harbor framework developed by the  
35 U.S. Department of Commerce and the European Union. And, that "This privacy policy  
36 covers all of Facebook."



1 **Section 2 - Information We Receive**  
2 **(Information About Yourself & Content)**

3 Facebook states, "Once you register you can provide other information about yourself by  
4 connecting with, for example, your  
5 current city, hometown, family, relationships, networks, activities, interests, and places.

6 And, goes on to state that,

7 "One of the primary reasons people use Facebook is to share content with others. This  
8 along with, "invite your contacts who  
9 do not have Facebook accounts to join. Safety and concern is promised with, "We use  
10 "cookies" to make Facebook easier to  
11 use, to make our advertising better, and to protect both you and Facebook."

12 **Section 3 - Sharing information on Facebook**  
13 **(Name and Profile Picture & "Everyone" Information)**

14 Facebook, Inc. highlights, "Facebook is designed to make it easy for you to find and connect  
15 with others." As well as, "Information  
16 set to "everyone" is publicly available information.....Such information may, for  
17 example, be accessed by everyone on the Internet."

18 **Section 5 - How We Use Your Information**

19 Facebook states, "We use the information we collect to try to provide a safe, efficient, and  
20 customized experience.

21 **(To manage the service)**

22 "We use the information we collect to provide our services and features to you, to  
23 measure and improve those services and features,  
24 and to provide you with customer support." Plaintiff never received customer service or  
25 customer concern.

26 **(To serve social ads)**

27 "We occasionally pair advertisements we serve with relevant information we have about  
28 you and your friends to make advertisements more interesting and tailored to you and  
29 your friends." Plaintiff's genuine account relationship was never more appreciated than defendants  
30 profit from advertising.

31 **Section 6 - How We Share Information**

32 **(To advertise our services)**

33 "We may ask advertisers outside of Facebook to display ads promoting our services.  
34 We may ask them to deliver those ads based on the presence  
35 of a cookie."

36 **(To respond to legal requests and prevent harm)**

37 "We may also share information.....To protect ourselves and you from people violating  
38 our Statement of Rights and Responsibilities. This may

1 include sharing information with other companies, lawyers, courts or other government  
2 entities."

3 **Section 7 - How You Can Change or Remove Information**

4 **(Backup Copies)**

5 "Removed and deleted information may persist in backup copies for up to 90 days, but  
6 will not be available to others."

1  
2  
3 **IV. PAGE REFERENCES**  
4

5 **A - 1) Karen Beth Young**  
6

7 This was the original Facebook account page that I made for family, friends and strangers/new  
8 friends. At the time of my first account deletion it had approximately 4300 people on it.  
9

10 **2) Cancer Forum**

11 This was a page that I established as an account administrator to help people socialize who cared  
12 about the cancer cause. It was designed in a light-hearted manner in order to support people and provide  
13 encouragement. It contained pictures of the Abel Prize/John Tate, American Flag, Pope, Electron Boy,  
14 Farrah Fawcett, Patrick Swayze, Lance Armstrong, Tim McGraw, Tug McGraw, Team McGraw, Cancer  
15 Related Events, and Chicken Soup Bowls for the Trivia Question Of The Day which was always about  
16 chicken noodle soup. At the time of my account deletion it had approximately 1600 people.  
17

18 **3) Cartesian Plane For The Cure**

19 This was a page that I established as an account administrator to help people see how  
20 mathematics and cancer research are interrelated. It was designed with scientific inquiry and  
21 developments in mind and was more serious in nature. This page had postings which sought to enlighten  
22 and encourage others in the field of general health with an emphasis on mathematics. It placed an  
23 emphasis on analytical thinking and hope for a better quality of life. It contained pictures of the Abel  
24 Prize/John Tate, American Flag/Statue of Liberty, Pope, Electron Boy, Cartesian Plane Graph, World  
25 Atlas, World Globe, Yarmouth Globe, Cancer Cells, Farrah Fawcett, Patrick Swayze, Lance Armstrong,  
26 Tim McGraw, Tug McGraw Foundation, Team McGraw, Work of Dr. Larry Norton, Anil Nerode etc. At  
27 the time of my account deletion it had approximately 2700 people. This page contained acts of kindness  
28 and support from the following; Professor Anil Nerode – Cornell University, Professor Neta Bahcall –

1 Princeton University, Professor John Bahcall – Institute For Advanced Study,

2  
3 Professor David Vogan – MIT, The Tim McGraw family – Mr. McGraw, Cari McGraw, Henry McGraw  
4 and Mark McGraw, The Tug McGraw Foundation, Team McGraw, Professor Tim Dalrymple on behalf  
5 of Professor William Stuntz – Harvard University, and Dr. Brian Lawenda – U.S. Medical Center.

6 4) Karen Beth Young - Public Figure

7 This was a page that I established as an account administrator because I found out that their was  
8 a 5000 friend limit on friendships. I did not like this page because it did not have more intimate features  
9 like birthdays and mutual sharings. I felt it was more distant or removed and spoke out against it, all the  
10 while trying to explain to friends that I would try to make it as personal as possible. Some friends felt  
11 like they were loosing me as a friend and that it was less personal. I agreed with them and explained that  
12 I didn't want to have to create it but that it was a Facebook necessity. At the time of my account deletion  
13 it had approximately 1100 people.

14 5) Join Karen Petition Facebook Say No To 5000 Friends

15 This is the petition page that I established as an account administrator because of the upset with  
16 my friend page. At the time of my first account deletion it had approximately 125 people. At the time of  
17 my second account deletion it had over 200 people.

18 **B - 1)** This is the "Prayer For Death" hate page that I saw advertised which is listed in the  
19 complaint. This prayer for death hate page regularly engages in violations of Facebook's Statement of  
20 Rights and Responsibilities, Facebook Principles, and Facebook's Privacy Policy. This page has an  
21 ongoing and strong theme of violence, discrimination, pornography, racism, hatred and it fosters and  
22 encourages cult like and life threatening activity. This is a hate page of founded threats to the President  
23 of the United States and the well being of United States citizens. This page has people very upset  
24 with the page on it in order to regularly monitor and complain about the site, and to seek its removal as a  
25 direct violation of Facebooks aforementioned policies. This is not a place where so called third party acts  
26 are a casual occurence. Third party acts are an established and required theme of hatred necessary to  
27 posses, otherwise you are severely and offensively acted against.

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

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

<http://www.facebook.com/pages/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/111712585523370>

2) This is the petition to remove the Facebook group praying for the death of the President of the United States. It stands up against all the ongoing acts of violence, discrimination, pornography, racism, hatred etc. and has continually complained to Facebook administrators to no resolve or concern.  
Petition to remove facebook group praying for President Obama's death

<http://www.facebook.com/group.php?gid=121236781223275>

1  
2  
3 **V. ARGUMENT - A - Legal Issues and Discussion**  
4

5 The most glaring word in the defenses motion stands out very easily, it is called decency. The  
6 Communications **Decency** Act was passed by a group of individuals who had decency on their minds.  
7 They were the definition of decent citizens committing a decent act. The definition of decency can be  
8 seen in the American Heritage Dictionary and can be defined as any of the following:

9 *n., pl., -cies.*

- 10  
11 1. The state or quality of being decent; propriety.  
12 2. Conformity to prevailing standards of propriety or modesty.  
13 3. **decencies**  
14 a. Social or moral proprieties.  
15 b. Surroundings or services deemed necessary for an acceptable standard of living.

16 It could be used in a sentence like "Montague, besides what **common decency** and absolute necessity  
17 require." from the *Sketches of the Life and Character of Patrick Henry*.

18 The Founding Fathers should be respected and revered. Freedom of speech did not mean fill modern  
19 society with violent words, racist words, discriminatory words or words filled with hatred that incite  
20 violence and anger. Freedom of speech did not mean do whatever you want because its easy to do  
21 online behind a cold, disconnected computer screen lacking in social responsibility and respect. The  
22 Founding Fathers were concerned about the safety and well being of this country and all United States  
23 citizens first and foremost. And, they are the highest credit to this nation not Facebook "Law."

24 There are clear exceptions to Section 230 immunity to include the following. It is notable that the statute  
25 states that it "shall not be construed to impair the enforcement" of any Federal criminal statute or "to limit  
26 or expand any law pertaining to intellectual property." 47 U.S.C. § 230(e)(1) & (2). Moreover, Section 230  
27 does not impair the enforcement of any consistent State law and does not "limit the application of the  
28 Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any  
similar State law." 47 U.S.C. § 230(e)(3) & (4).

1 The Cybersecurity Act of 2009 speaks to these values, "A bill to ensure the continued free flow of  
2 commerce within the United States and with its global trading partners through secure cyber  
3 communications, to provide for the continued development and exploitation of the Internet and intranet  
4 communications for such purposes, to provide for the development of a cadre of information technology  
5 specialists to improve and maintain effective cybersecurity defenses against disruption, and for other  
6 purposes."

7 This is an open congress summary:

8 "This is comprehensive legislation designed to address our nation's vulnerabilities to cyber crime, global  
9 cyber espionage, and cyber attacks. It would establish a new Cybersecurity Advisory Panel within the  
10 White House and stream-line the cybersecurity effort through all levels of government. The bill also calls  
11 on the Department of Commerce to establish and maintain a clearinghouse on information related to  
12 cybsecurity threat and vulnerability information to public and private infrastructure deemed "critical" by the  
13 President. The Secretary of Commerce would be given access to this information "without regard to any  
14 provision of law, regulation, rule, or policy restricting such access." The bill would also give the President  
15 new authority to "declare a cybersecurity emergency and order the limitation or shutdown of Internet  
16 traffic to and from any compromised Federal Government or United States critical infrastructure  
17 information system or network."

18 Facebook has been, currently is, and further seeks to abuse the established and precedented entity of  
19 decency. Billion dollar profits are clouding their judgement and  
20 fueling their resolve. The basic and most fundamental elements of decency should be held in high  
21 esteem. Facebook is hypocritically using the Communications Decency Act  
22 as a piece mail legislation so to speak. The Communications Decency Act was designed with a broader  
23 purpose that reflects societal values as a whole portraying a proud and decent representation of the  
24 United States. This to include Internet actions and communications reflecting a United States  
25 government and population that is a worldwide leader.

26 Facebooks actions and inactions have been a disgrace to this country. Facebook "Law" is not the law of  
27 the United States government and it's people. The preservation of commerce standards are imperative,  
28 as is the upholding of the dignity and respect of the most powerful country in the world. This country is

1 founded on the clicks of men and women who have died with the proud definition of decency. Facebook  
2 clicks do not define the decency of the United States or all that it stands for. Facebook "Law" does not  
3 define decency. Facebook needs to adhere to the concept of decency instead of hiding behind  
4 it collecting a check. The Craigslist censorship was long overdue and absolutely needed. The  
5 Internet care free attitude should be addressed now so as to protect the next generation of children and  
6 society yet to come. A lack of legislation or rule during this time in society would only be detrimental to  
7 the well being of this revered nation. There is no Federal Rule of Civil Procedure that protects the  
8 arrogance and selfishness of the defenses motion. This is a waste of the courts time and entirely lacking  
9 in legitimate concern. Second key word of notice, "civil" stands out.

10 The cases of *Zeran v. America Online*, *Black v. Google Inc.*, and the *Fair Housing Council of San*  
11 *Fernando Valley v. Roommates.Com* are inadequate, barred and insufficiently pled by defense in this  
12 above regard as they do not reflect cult like online activity that breeds violence and the threat of  
13 assassination of the President of the United States. Thus, subsequently threatening the lives of all United  
14 States citizens and the application of the Communications Decency Act in its entirety.

15 The Communications Decency Act clearly states:

16 **Section B Policy** - It is the policy of the United States that the United States

17 **(1)** promote the continued development of the Internet and other interactive computer services and other  
18 interactive media;

19 **(2)** preserve the vibrant and competitive free market that presently exists for the Internet and other  
20 interactive computer services, unfettered by Federal or State regulation;

21 **(3)** encourage the development of technologies which maximize user control over what information is  
22 received by individuals, families, and schools who use the Internet and other interactive computer  
23 services;

24 **(4)** remove disincentives for the development and utilization of blocking and filtering technologies that  
25 empower parents to restrict their children's access to objectionable or inappropriate online material; and

26 **(5)** ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity,  
27 stalking, and harassment by means of computer

28 **Section E Effect on other laws** -



1 **(1) No effect on criminal law**

2 Nothing in this section shall be construed to impair the enforcement of section 223 or 231 of this title,  
3 chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, or any other  
4 Federal criminal statute.

5 **(2) No effect on intellectual property law**

6 Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

7 **(3) State law**

8 Nothing in this section shall be construed to prevent any State from enforcing any State law that is  
9 consistent with this section. No cause of action may be brought and no liability may be imposed under  
10 any State or local law that is inconsistent with this section.

11 **(4) No effect on communications privacy law**

12 Nothing in this section shall be construed to limit the application of the Electronic Communications  
13 Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

14 **Section F Definitions**

15 As used in this section:

16 **(1) Internet**

17 The term "Internet" means the international computer network of both Federal and non-Federal  
18 interoperable packet switched data networks.

19 **(2) Interactive computer service**

20 The term "interactive computer service" means any information service, system, or access software  
21 provider that provides or enables computer access by multiple users to a computer server, including  
22 specifically a service or system that provides access to the Internet and such systems operated or  
23 services offered by libraries or educational institutions.

24 **(3) Information content provider**

25 The term "information content provider" means any person or entity that is responsible, in whole or in part,  
26 for the creation or development of information provided through the Internet or any other interactive  
27 computer service.

1  
2 **(4) Access software provider**

3 The term "access software provider" means a provider of software (including client or server software), or  
4 enabling tools that do any one or more of the following:

5 (A) filter, screen, allow, or disallow content;

6 (B) pick, choose, analyze, or digest content; or

7 (C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

8 The Facebook page "DEAR LORD" praying for the death of the United States president compromises the  
9 integrity and security of United States Law, the United States Internet and the lives of United States  
10 citizens.

11 Additionally, there is great merit in the "Access to Justice vs. Absolute Right to Discovery" case standard.

12 This is supported by the following and eradicates defendants innappropriate representation with *Bell Atl.*

13 *Corp. v. Twombly, Ashcroft v. Iqbal* and *Sprewell v. Golden State Warriors*.

14 "Some have erroneously pointed to the number of times *Twombly* has been cited ( "approximately 28,000  
15 decisions cite to *Twombly* and over 8,800 decisions cite to *Iqbal*. See *Senate Hearing*, (statement of  
16 Gregory G. Garre), at 20 ("Given the staggering number of suits filed in federal court each year—  
17 250,000...—and the number of motions to dismiss filed each year, it is not surprising that the *Twombly*  
18 and *Iqbal* cases have been cited with enormous frequency by the lower courts.")

19 as proof that courts are mechanically applying the plausibility standard to dismiss meritorious claims.

20 ("See, e.g., Hon. Colleen McMahon, "The Law of Unintended Consequences: Shockwaves in the Lower  
21 Courts After *Bell Atlantic Corp. v. Twombly*," 41 *Suffolk U.L. Rev.* 851, 852 (2008).")

22 Because *Twombly* and *Iqbal* effectively clarified well-settled law, it is no surprise that lower courts have  
23 frequently cited these decisions. However, citations to *Twombly* or *Iqbal*, standing alone, reveal nothing  
24 about whether the same result would have ensued had the courts misapplied *Conley's* "no set of facts"  
25 language.

26 Furthermore, the assertions that an insurmountable obstacle for injured parties has been raised are  
27 belied by even a cursory look at the post-*Iqbal* case law. As United States District Judge Mark Kravitz of  
28 Connecticut, who chairs the Judicial Conference Advisory Committee on Civil Rules, stated, *Iqbal* has not

1 proved to be "a blockbuster that gets rid of any case that is filed." A comprehensive study by the Advisory  
2 Committee concludes that "most of the case law to date does not indicate a drastic change in pleading  
3 standards." Another empirical study of the 94 federal district court dockets from January 2007 through  
4 September 2009 (before and after both the *Twombly* and *Iqbal* decisions) revealed no significant rise in  
5 dismissals of civil complaints. ("Administrative Office of the United States Courts, Statistics Division,  
6 "Motions to Dismiss," (Dec. 2009) (available at  
7 <http://www.uscourts.gov/rules/Motions%20to%20Dismiss.pdf>). During the four-month period after *Iqbal* in  
8 2009, only 16 percent of civil rights employment cases filed were dismissed, as compared to the 20  
9 percent that were dismissed prior to *Twombly* in 2007. And in "other civil rights cases," only 25 percent of  
10 all filed cases were dismissed during the four-month period after *Iqbal*, compared to the 26 percent that  
11 were dismissed during the four-month period prior to *Twombly*. *Id.* at 9–11.")

12 Both studies severely undercut any notion that post-*Iqbal*, civil complaints are being dismissed  
13 wholesale. To the contrary, courts have applied *Twombly* and *Iqbal* to deny motions to dismiss in a wide  
14 range of claims from civil rights ("See, e.g., *Fowler v. UPMC Shadyside*, 578 F.3d 203 (3d Cir. 2009).") to  
15 commercial claims, ("See, e.g., *In re Rail Freight Fuel Surcharge Antitrust Litig.*, 587 F. Supp. 2d 27  
16 (D.D.C. 2008).") and even claims against government officials for actions taken to defend the nation  
17 against terrorism."

18 ("See, e.g., *Al-Kidd v. Ashcroft*, 580 F.3d 949 (9<sup>th</sup> Cir. 2009).") A terrorist threat can not be taken lightly in  
19 this country or be easily dismissed. A terrorist threat to this nation

20 is a highly warranted concern and priority for all. A terrorist threat is a real and credible threat. The  
21 DEAR LORD prayer for death hate page promotes a forum of terrorist, cult like activity and threatens the  
22 life of the President of the United States and the lives of all United States citizens. The USA PATRIOT  
23 Act of 2001 - H.R. 3162, Airport and Transportation Security Act of 2001 - S. 1447, Financial Anti-  
24 Terrorism Act of 2001 and Terrorism Risk Insurance Act of 2002 were passed to protect the people and  
25 the economy of the United States. Commerce and Internet interactions are entirely relevant. Facebook  
26 "Law" does not determine what protects the American people from terrorist attacks.

27 With all due respect to the defense, the three cases *McMillan v. Department of Interior*, *Schucker v.*  
28 *Rockwood*, and *Jones v. Community Redevelopment Agency of Los Angeles* are filler fodder for their

1 motion. This case has an incredible amount of merit, and even the parts which the defense contends  
2 don't have merit are founded in merit. Facebook needs to remind itself that the White House is  
3 Headquarters and that the United States Senate and House of Representatives make United States law  
4 for the protection and security of United States citizens, not Facebook "Law."

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

1  
2  
3 **V. ARGUMENT - B - 1st and 14th Amendment/Civil Rights**

4 Facebook has Federal government contracts ( Exhibit B ) and benefits from financial and economic  
5 advantage due to them. Facebook is acting under color of state law and compromising the Constitutional  
6 rights of all United States citizens. Case example West v. Atkins.

7 Facebook hypocritically deteriorates and undermines the secured rights of all United States citizens  
8 through both their actions and inactions. And, completely degrades the value of government by doing so.

9 **They promote things that they say they discourage. For ex. - Facebook solicits members to**  
10 **accept and send friend requests. Plaintiff did not violate her obligation to the Facebook**  
11 **advertised guidelines or policies and reacted to solicitations.**

12 Commercial Advertising fills the nations economy in and on every level all the while benefiting from  
13 government affiliations. Facebook is a state actor and liable under 42 U.S.C. 1983. Defendants portrayal  
14 of *Liao v Ashcroft*, *American Mfrs. Mut. Ins. Co. v. Sullivan*, and *Van Ort v. Estate of Stanewich* are  
15 irrelevant in this case. An action against defendant is proper as defendant is a willful participant in joint  
16 action with the State and its agents. Furthermore, the infringements in this case are attributable to the  
17 defense

18 as the defendant is also acting with self serving, mixed values in deceit. "On March 25, 2009, *Federal*  
19 *Computer Week* reported that the Government Services Administration (GSA) signed agreements with  
20 social networking and cloud computing service providers, including Flickr, YouTube, Vimeo and Blip.tv  
21 concerning federal agencies' use of Web 2.0 services. The GSA often enters into contracts on behalf of  
22 multiple federal agencies in an effort to promote efficiency in government contracting. The news report  
23 stated that a coalition of agencies have been working with private corporations to develop terms of  
24 service for federal agencies' participation in social media companies. The article cited a GSA official as  
25 stating that some of the areas of concern involved liability limits, endorsements and freedom of  
26 information. On April 10, 2009, *Federal Computer Week* further reported that the GSA signed an  
27 agreement with Facebook that allows federal agencies to use the social-networking website. However,  
28

1 the GSA official declined to provide details about the agreements. *Federal Computer Week* stated that  
2 the GSA negotiated the agreements because service providers were reluctant to negotiate agreements  
3 with individual agencies. The Department of State has deployed a Facebook page with links to pictures  
4 hosted on Flickr and also provides links to other State Department web pages. In addition, the State  
5 Department Facebook page links to official government website resources concerning questions to the  
6 agency, employment opportunities, and information directed at youth." It is significant to note the fact that  
7 the data collection practices of federal agencies and their contractors are routinely subject to the Privacy  
8 Act of 1974 and is an omission of concern and contention. Contributing as well is The Freedom of  
9 Information Act or (FOIA). And, once again Facebook's policies and Facebook "Law" is contradicting.  
10 "The "Terms of Use" are implied by Facebook as being confidential information, and, to the extent  
11 permitted by law, Government Entity will maintain the same in strict confidence and not disclose the same  
12 to any third party..." Provisions that imply rights of confidentiality can be interpreted as contrary to FOIA  
13 provisions. In April of 2009 Facebook signed an agreement with the Government Services  
14 Administration.

15 And, "The contracts permit social media companies to serve advertising on government sites under  
16 certain circumstances. Facebook, for example, "will not guarantee that it can block the display of  
17 commercial advertisements off of Government Facebook pages." The contract goes on to state that "your  
18 sole remedy for Facebook's failure to implement such blocking technology shall be for you to terminate  
19 your use of pages." and the GSA is a civilian federal agency." This area of concern is a new area of  
20 concern for the court system

21 as well as for current and future court cases to start setting new or modified precedents. This is  
22 supported by GSA Acting Associate Administrator Martha Dorris in her statement,

23 "Several federal agencies helped to negotiate these agreements, so it's hoped that other agencies will  
24 find the language acceptable," by agency spokesperson Caren Auchman in that, ""GSA encourages the  
25 use of social media technologies to enhance communication, collaboration, and information exchange in  
26 support of GSA's mission," and by Gray Brooks of the Federal Communications Commission, New Media,  
27 "This initiative by GSA has been integral to the progress of FCC New Media." There are no current legal  
28 precedents that outline issues regarding the First Amendment and social media. Also in support of this is

1 a statement by Ryan Calo, lawyer from Stanford Law School's Center for Internet and Society, "We  
2 have constitutional values that will always need to be redefined due to changes in technology and  
3 society." In conjunction with this it is established that

4 "The Department of State has deployed a Facebook page with links to pictures hosted on Flickr and also  
5 provides links to other State Department web pages. In addition, the State Department Facebook page  
6 links to official government website resources concerning questions to the agency, employment  
7 opportunities, and information directed at youth." And, the mission of the GSA is, "to use expertise to  
8 provide innovative solutions for our customers in support of their missions and by so doing foster an  
9 effective, sustainable, and transparent government for the American people." The management of US  
10 Federal property receives help from the GSA, in line with GSA associations to include the Federal  
11 Acquisition Service (FAS), Public Buildings Service (PBS), Office of Governmentwide Policy and various  
12 Staff Offices, Office of Small Business Utilization, Office of Civil Rights, and the Office of Citizen Services  
13 and Communications. There is a direct connection which promotes a negotiated terms of service for all  
14 agencies with Open Government Directive.

15 Social networking, blogging, dialogue and varied means of online interaction are now federally  
16 intertwined. For example, "The terms of service agreement with Facebook, for example, allows the GSA-  
17 led initiative USA.gov and GobiernoUSA.gov to set up pages to interact with and engage the public at  
18 <http://www.facebook.com/USAgov>." "The General Services Administration has signed an agreement with  
19 Facebook that clears the way for federal agencies to use the social-networking Web site, a GSA official  
20 told Federal Computer Week." Facebook is acting under color of state law and as such should be  
21 required to amend or eliminate certain policies and practices. The Court of Appeals has  
22 ruled that, even though the state-actor inquiry depends on the specific facts of each case, "the one  
23 unyielding requirement is that there be a 'close nexus' not merely between the state and the private party,  
24 but between the state and the alleged deprivation itself." The clear deprivation here is strongly connected  
25 to both the First and Fourteenth Amendments.

26 Take for instance the case of *Burton v. Wilmington Parking Authority* which confronted the exclusions of  
27 black people from a private restaurant. Here the following was observed.

1 "The restaurant at issue in *Burton* was the Eagle Coffee Shoppe, located in Wilmington, Delaware. It  
2 operated in a commercial space that was part of a parking garage that a government agency -- the  
3 Wilmington Parking Authority -- had constructed and operated. Having parked his car in the garage, a  
4 black man, William Burton, attempted to eat in the coffee shop, only to be refused service. He then sued  
5 both the parking authority and the coffee shop for violating his equal protection rights under the  
6 Fourteenth Amendment.

7 The issue before the Supreme Court was whether the coffee shop was a state actor for purposes of the  
8 Constitution, which the Court readily found to be the case. In doing so, the Court relied on the lease  
9 relationship between the coffee shop and the parking authority, on the fact that the parking garage and  
10 the restaurant mutually benefited from their commercial relationship, and the fact that the parking  
11 authority had relied on public funds to erect the building in which the restaurant was located. These  
12 considerations, combined with the fact that the coffee shop was physically part of the parking garage,  
13 "indicates that degree of state participation and involvement in discriminatory action which it was the  
14 design of the Fourteenth Amendment to condemn." Another case of support for color of state law and  
15 action can be seen in *Forbes v. City of New York*. The Lincoln Center was categorized as a state actor  
16 with respect to the First Amendment claim. It was found that the "Lincoln Center had a vested interest in  
17 the City's rules governing the Great Lawn because those rules allowed Lincoln Center to use the area for  
18 certain concerts." The court should also consider the ruling in the *National Federation Of The Blind v.*  
19 *Target*.

20 Here in this case, Target had to determine all of the steps that were needed to be taken in order to make  
21 its Web site more accessible. Subsequently setting internal guidelines for  
22 more efficient Web accessibility. The *U.S. Rehabilitatin Act of 1973* reflects on the prohibition of  
23 "discrimination on the basis of disability in programs conducted by Federal agencies, in programs  
24 receiving Federal financial assistance, in Federal employment, and in the employment practices of  
25 Federal contractors." Defendants means of and lack of communication is hindering and discriminatory.  
26 Section 504 of the Rehabilitation Act is enforceable in federal courts against recipients of federal funds.  
27 *Grey v. Wilburn (8th Circuit), Armstrong v. Davis (9th Circuit), and Sandoval v. Hagan (11th Circuit).*



1  
2  
3  
4 **V. ARGUMENT - C - Breach of Contract**

5 Here once again the defendant seeks to hide behind the principles of decency. While the  
6 Communications Decency Act may or may not apply to the third party attacks in this case, these  
7 circumstances are not solely defined by that one portion of my complaint. The issues at hand here reflect  
8 a business establishment which influences commerce, has direct ties with the United States government,  
9 and refuses to follow it's own documented Statement of Rights and Responsibilities, Principles and  
10 Policies. All three of these contractual arrangements are binding on both parties involved and there are  
11 no disclaimers for defendants legal obligations for transacting commercial business. Black, 2010 does  
12 not address the defendants negligence, bad faith, fraud, Unruh Civil Rights Act, American with Disabilities  
13 Act or federal rights guaranteed by 42 U.S.C.1983. Facebook is acting as a public place of  
14 accommodation benefiting from all aspects of society. Plaintiffs claims are based on user  
15 content, page content, poor business practices and poor business procedures which have resulted in the  
16 indifferent rights of the plaintiff and irreparable harm. Defendants customs, practices and policies are  
17 vague and contradicting in application. While Facebook advertises all social aspects of social networking,  
18 it penalizes and deletes members that seek to do just that. More so, Facebook solicites members to  
19 accept friend requests of strangers that they do not know through Internet advertising. *Miron v Herbalife*  
20 and *Joaquin v Geico Gen. Ins. Co.* are more examples of Facebook "Law" and it's inappropriate  
21 application. In the case of *Facebook PPC Adver. Litig., No. 5:09-CV-03043 (Fogel,J.)* it is important to  
22 note that parties had a contractual agreement entirely dissimilar to plaintiffs. Above this, Section 2.3 of  
23 the SRR does not invalidate all of the contractual and legal obligations of the defendant. If that were the  
24 case, there would be no need for all of the other Facebook documented sections and articles,  
25 or a United States government foundation. Facebook "Law" is not the governing body. Plaintiff has  
26 clearly outlined areas of default by defendant and reasserts all claims to that affect.  
27  
28

1  
2  
3  
4 **V. ARGUMENT - D - Breach of Implied Covenant of Good Faith and Fair Dealing**

5 Here the defense references *Guz v. Bechtel National, Inc.* which is a valid case for plaintiff.

6  
7 The defense had an obligation to adhere to their terms of agreement rather than allow for the  
8 degradation of plaintiffs rights by means of hypocritical policies and practices and neglect. Thus,  
9 preventing the subsequent frustration of rights of benefits the agreement was supposed to depict.

10 Facebook is operating with terms of service that are vague, misleading, and contradictory  
11 at the same time not providing a proper forum or means of assistance for further clarification and  
12 correction. *Racine & Laramie, Ltd. v. Department of Parks & Recreation* does not adequately depict  
13 Facebook's status, actions or affects in society. Plaintiff realleges all previous supporting sections of this  
14 argument and reminds defendant that they have an ethical and applied obligation to all of them. The  
15 case of *Carma Dev't, Inc., v. Marathon Dev't. Cal., Inc.*, reflects on the notion of prohibiting a party from  
16 doing what is expressly permitted by an agreement and is entirely invalid. Defendant is not only permitted  
17 to legally abide by its own terms of service, it is required to by United States law. The Facebook "Law"  
18 reflecting hypocrisy is nonapplicable. At top, defendant's claims are weak at best. Defendant  
19 has and continues to act with bad faith and bad dealing. Also, in addition, in a recent article by Forbes  
20 writer Kashmir Hill, an interview reveals that a law professor was banned by Facebook. This man  
21 identified as David Lat states that he was granted an appeal through Facebook with his account problem.  
22 Plaintiff was never granted such equal rights or opportunity.

23 "If Facebook signifies existence, then being banned by the network can feel like a death  
24 sentence. When my friend and Above the Law colleague David Lat was expunged from the  
25 network in 2008, he penned a column for The Observer calling it one of the worst weeks of his  
26 life. Lat was eventually reinstated after appealing his case through "Facebook's Kafkaesque  
27 justice system."

28 After being banned in July, Karen Beth Young of Maryland also tried to appeal her case to  
Facebook. After not getting any responses to her emails to the company, and not being able to  
talk to anyone on the phone, she went so far as to drive her 10-year-old station wagon across

1 country to Facebook's headquarters in California. After a brief two-day reinstatement, her  
2 account was disabled again. Now she's taking her case to state court..."

3  
4 **V. ARGUMENT - E - Negligence**

5 Plaintiff realleges and incorporates all previous arguments and complaints. *Carafano v.*  
6 *Metrosplash.com/Inc.* and *Optinrealbig.com v Ironport Sys.* are examples of random third party violations.  
7 The "DEAR LORD" prayer for death hate page is a cult like page of activity that threatens the Office of the  
8 Presidency and all United States citizens. It is negligently mishandled by defendant and allowed to exist  
9 despite ongoing complaints and upset regarding violence, racism, death threats, intimidation,  
10 pornography, hatred etc. Defendant has a history of acting complacent and hiding behind the 1st and  
11 14th Amendment with this issue, all the while people have their Constitutional rights stripped and  
12 violated on behalf of company profit. Financial status and advertising is more important  
13 than defendant adhering to its own terms of service. The prima facie case of negligence is more than  
14 supported by plaintiff. And, the case references by defense are clearly attributable to the validity and  
15 sound nature of this negligence claim. *Berkley v. Dowds, Gilmer v. Ellington, Shin v Kong, and Jacoves v.*  
16 *United Merch. Corp.* can all be used as support for the plaintiff in this case. Defendant seeks to dismiss  
17 the truth rather than adhere to it and seek proper resolution to this matter. Clearly the "DEAR LORD" hate  
18 page is a violation to the rights of many. As before, defendant has a legal duty to use due care when  
19 hiring and training personnel to monitor and enforce website activity according to their outlined  
20 contractual agreement. Facebook has failed in its responsibility to condemn all acts or statements that  
21 inspire, imply, incite or directly threaten violence against anyone. This should not be defined as an  
22 overarching duty. Facebook wants broad protections to help foster violence and deceit. A main aspect of  
23 this case which makes it different from random third party occasional complaints is that the "DEAR  
24 LORD" death page is founded in a threat to the President of the United States and supported by large  
25 scale, cult like, violent and threatening activity. It has a strong precedent and ongoing theme of hatred  
26 and offensive actions which compromise the "decency" general principles which the Communications  
27 Decency Act was originally designed to address. This not including the additional aspect of Prayer For  
28 Death. Plaintiff did not violate any terms of agreement with Facebook and acted according to guidelines

1 and with advertisings and solicitations. Plaintiff's account was deleted without reason for accusations that  
2 directly relate to Defendants actions and solicitations. This is hypocritical business practice and has  
3 caused direct harm to plaintiffs relationships in her life.

4 **V. ARGUMENT - F - Fraud**

5  
6 Defendant Facebook has misrepresented itself to members by posting and advertising content which is  
7 inconsistent with practices and concern. Defendant Facebook has clear knowledge of its falsity with  
8 feedback and ongoing reports from a petition page to remove the "DEAR LORD" prayer for death page.  
9 Defendant Facebook knowingly does not work to correct the ongoing offenses, but rather relies on page  
10 solicitations and user clicks for mass support of its inequity. This all amounts to a justifiable reliance and  
11 resulting to many people. Plaintiff has been approached regarding a class action lawsuit with pro bono  
12 representation for varying reasons. Plaintiff has previously made defenses counsel aware of this  
13 situation. However, plaintiff wishes to work with this particular case and seek future assistance from gratis  
14 counsel or other in order to adequately resolve this flagrant injustice. *Conroy v. Regents of Univ. of Cal*  
15 *and Comm. on Children's Television, Inc.v. General Foods Corp.* speak to the plaintiffs concerns and is  
16 more detrimental to defense counsel than remarkable. Any and all threats to the President of the United  
17 States should never be minimized on behalf of a bottom line. Fraud in the above defined context is  
18 directly applied in this situation and further applied with the handling of plaintiffs personal accounts. The  
19 application of *3 Witkin, Cal. Procedure, Pleading at 574* should be satisfied in relation to the specifics of  
20 plaintiffs case and personal situation given all surrounding and interacting issues. As before, defendant  
21 has mislead plaintiff in relation to its practices and procedures all the while intentionally and carelessly not  
22 providing assistance when needed. Defendant has supported continual acts of oppresion and  
23 evasiveness. The defendant created an environment that was threatening and harmful by allowing for the  
24 ongoingly development of a cult like page with death threats. A third party page of standard and required  
25 offenses is very different and a new area of review for the legal system. It speaks to the development and  
26 modification of online media in the context of negative effects that threaten and tarnish the structure  
27 of society essential to national unity. It is directly attributable to fraud when not acted upon but rather  
28 with. Exceptions to Freedom of Speech can and should be justified when speech causes substantial

1 harm to the public or speech which the Founding Fathers could not have intended to protect. This is  
2 clearly evident in *Chaplinsky v New Hampshire* where fighting words or words by their utterance inflict  
3 injury or tend to incite an immediate breach of the peace. Incitement of crime is not protected by the First  
4 Amendment. It should not be fostered by a company on a mass level. In *Miller v. California* the court  
5 established a three prong test for obscenity which is included in the Communications **Decency Act**.  
6 Justice Edward Sanford declared that "utterances inciting to the overthrow of organized government by  
7 unlawful means, present a sufficient danger of substantive evil to bring their punishment within the range  
8 of legislative discretion...Such utterances by their very nature, involve danger to the public peace and to  
9 the security of state." And, *Gitlow v. New York* established that the First Amendment  
10 is incorporated by the Fourteenth Amendment to apply to the states. A private actor and entity can be  
11 sued for violating civil rights when the entity or individual uses the machine of government to accomplish  
12 or support an illegal goal. A company can also be sued for not honoring their Statement of Rights and  
13 Responsibilities, Policies, and Procedures. The conscious disregard of plaintiffs rights  
14 or any other's rights does not limit or invalidate certain state laws. Further, "The Supreme Court  
15 cautioned that at some point, active involvement in the creation of defamatory content....may expose a  
16 defendant to liability as the originator of the defamatory content, while also noting that other courts have  
17 required conduct that goes beyond the traditional editorial role of a publisher in order to overcome  
18 the immunity provided by the Communications Decency Act." Relatedly, The *Unfair Practices Act*  
19 establishes guidelines for consumers injured by the unfair and deceptive trade practices of businesses.  
20 And the *Telecommunications Act of 1996* sets a precedent for the FCC and interstate activity along  
21 with regulations for the economy. Plaintiff realleges all previous concerns and applies them once again in  
22 this realm.

1 **V. ARGUMENT - G - Additional Criminal Concern**

2  
3 It is important to bring the court's and defense counsel's attention to a post made on the Forbes website  
4 regarding a recent article.

5 [http://blogs.forbes.com/kashmirhill/2010/09/01/maryland-woman-sues-after-being-banned-by-](http://blogs.forbes.com/kashmirhill/2010/09/01/maryland-woman-sues-after-being-banned-by-facebook/#comments)  
6 [facebook/#comments](http://blogs.forbes.com/kashmirhill/2010/09/01/maryland-woman-sues-after-being-banned-by-facebook/#comments)

7 This post is in relation to a previous criminal case against Dr. Crouch in Frederick, Md. Due to the  
8 malicious inflection by the poster "annhan", Plaintiff has reason to be concerned about her well being as  
9 well as the further and more in depth review of the background associated with this individual. Plaintiff  
10 will seek any/all legal information associated with the poster "annhan" on the Forbes website, to include  
11 any/all relations with Facebook and all of Plaintiff's accounts. The message posted by "annhan"  
12 ( **Exhibit F** ) contains an element of a message delivered by Plaintiff to another person on Facebook  
13 and in relation to the Cartesian Plane For The Cure. This is of extreme importance and Plaintiff further  
14 requests the review of this case by the Frederick, Maryland States Attorney's Office. Any of Plaintiff's  
15 accounts may be directly connected with a previous criminal act associated with the Dr. Crouch case.  
16 Further, and a very important issue for the court, all anonymous complaints to Plaintiff's account should  
17 be reviewed in their entirety. Facebook may be knowingly or unknowingly aiding and abetting a criminal  
18 and/or a criminal act. Facebook has a one way legal system where they listen to and act on submitted  
19 complaints or allegations without contacting the accused. They make no attempt to contact both  
20 parties involved. Particularly, in this case, Facebook may have acted on false allegations against Plaintiff  
21 in a direct threat to Plaintiff's well being based on a motive of revenge and hatred. My past contentions  
22 were related to Dr. Crouch, his son, and his 50 something year old wife. Plaintiff further requests the court  
23 to consider any anonymous complaints or allegations against any of Plaintiff's accounts as evidence  
24 which must be saved by the defense. This information must be released to the court. The preservation of  
25 this information is critical to further review. Facebook's policy reflects they have no obligation to release  
26 this sort of information because they want to protect the complainers privacy. This hidden information

1 is completely unacceptable as those types of complaints or allegations can be detrimental and  
2 discriminatory, if not aiding and abetting of a criminal or a criminal act. Facebooks policy serves to foster  
3 criminal activity and fraud by acting as a court. Facebook acts as it's own legal system.

4 Facebook acts as both judge and jury without hearing both sides of a situation. This is very relevant in  
5 this case and violates all foundations of the established United States legal system as a whole. A person  
6 has a right to address their accuser, let alone know that one exists. The information regarding the Dr.

7 Crouch case is included ( **Exhibit E** : ) to include the following information for the court to review:

8 - Dr. Crouch insisted on driving Plaintiff to his office to help him on his computer

9 - Dr. Crouch insisted on Plaintiff contracting Comcast to install the Internet service at his home in order to  
10 teach him the computer

11 - Dr. Crouch said his son was a computer expert

12 - Dr. Crouch referenced drugs and his son

13 - Dr. Crouch pushed drugs and sex on Plaintiff

14 This relates to California Penal Code Sections 30-33 & Federal Statute 18 USC Secs. 2 to 3

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

**VI. ADMINISTRATIVE PAPERS -**

- A.** Notice of Motion
- B.** Proposed Order
- C.** Plaintiff Declaration
- D.** Proof of Service



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

**NOTICE OF OPPOSITION MOTION**

To Facebook, Inc. defendant in this case:

PLEASE TAKE NOTICE that on October 15, 2010 in the United States District Court of California Northern District, San Jose Division, in the presence of District Court Judge Jeremy Fogel the following opposition motion will be addressed. PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANT FACEBOOK, INC'S NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)

This motion is made on the grounds that plaintiff has and will continue to suffer harm as a result of defendants actions and inactions. The motion is based on the contents of this motion and on all of the papers, pleadings, and records on file in this action.

DATED: September 8, 2010



Karen Beth Young

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

**ORDER**

Application having been made by Karen Beth Young, moving party, and good cause appearing therefore,  
It is ordered that the court deny DEFENDANT FACEBOOK, INC'S. NOTICE OF MOTION AND MOTION TO  
DISMISS PURSUANT TO FED. R. CIV. P. 12 (b)(6). It is further ordered that defendant Facebook, Inc. be  
odered to save evidence in this case to include the following:

- 1) Any/all Karen Beth Young account information to include all such information listed to date  
in this case. Personal page, additional pages, messages, instant messages, all posts made and received, photos etc.
- 2) Any/all account information on the "DEAR LORD, THIS YEAR YOU TOOK MY FAVORITE ACTOR,  
PATRICK SWAYZIE. YOU TOOK MY FAVORITE ACTRESS FARRAH FAWCETT. YOU TOOK MY  
FAVORITE SINGER MICHAEL JACKSON. I JUST WANTED TO LET YOU KNOW, MY FAVORITE  
PRESIDENT IS BARACK OBAMA." from day one of its postings and any/all future activity.
- 3) Any/all account information on the "Petition to remove facebook group praying for President Obama's death  
from day one of its postings and any/all future activity.

DATED: October 15, 2010

Judge of the District Court

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

**DECLARATION**

I Karen Beth Young declare:

1. I reallege and incorporate by reference the allegations included in all of all paperwork submitted by me to date as set forth in full herein.
2. I am the plaintiff in this action.
3. I have personal and general electronic information that has been temporarily deleted by defendant Facebook, Inc. that is directly relevant and critical to all aspects of this case. This has caused me great harm and I continue to suffer from all actions and inactions by defendant.  
I have and continue to hurt from strained and broken relationships at the hand of the defendant.
4. I have suffered from all aspects of hardship which are founded in civil rights and disability law violations.
5. I have suffered from all aspects of hardship which are relevant to defendants contradicting and lack of adherence to established policies and procedures.
6. Irreperable injury will continue to exist if facts and evidence are not saved in this case for further court review.
7. A copy of this motion with supporting papers has been supplied to defendants attorney.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: September 8, 2010



Karen Beth Young

From: mskbyoung@aol.com

To: javalos@orrick.com; nchatterjee@orrick.com

Cc: christian\_delaney@cand.uscourts.gov; diana\_munz@cand.uscourts.gov

Subject: Receipt For Motion

Date: Thu, Sep 9, 2010 2:21 pm

---

September 9, 2010

Re: Waiver Of Service

Attorney Avalos,

I never heard back from you regarding the waiver of service issue. Today, Attorney Neal Chatterjee accepted PLAINTIFFS MOTION IN OPPOSITION TO DEFENDANT INC'S NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12 (b)(6) to include all supporting paperwork. This was in lieu of formal service and this email is a receipt request per Attorney Chatterjee.

I am also forwarding a copy of this receipt to the District Court offices of Judge Fogel and Judge Trumbull.

Sincerely,  
Karen Young

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

**CONCLUSION**

For reasons contained herein and in conjunction with all previous filings, plaintiff requests that this case be completely and thoroughly reviewed by the court as is and proceed per court guidelines without prejudice.

Further, plaintiff requests the opportunity to amend or modify if unacceptable to the court, however this would cause further undue hardship on plaintiff. Plaintiff requests case be heard.

Dated: September 8, 2010



Karen Beth Young

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

**VIII. EXHIBITS**