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Register of Actions/Docket

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Case Information

Associated Cases

Number: **1-11-CV-200467**

Title: **R. Ung, Et Al Vs Facebook, Inc.**

Category: **Other Complaint - Unlimited**

Filed: **5/9/2011** Disposed: **None** Status: **Open**

Calendared Events

Involved Parties

Documents

Type	Name	Disposition
Plaintiff	Ryan Ung None	None
	Attorney:	Jeff S. Westerman Milberg LLP , 300 South Grand Avenue, Suite 3900, Los Angeles, Ca 90071
Plaintiff	Chi Cheng None	None
	Attorney:	Jeff S. Westerman Milberg LLP , 300 South Grand Avenue, Suite 3900, Los Angeles, Ca 90071
Plaintiff	Alice Rosen None	None
	Attorney:	Jeff S. Westerman Milberg LLP , 300 South Grand Avenue, Suite 3900, Los Angeles, Ca 90071
Defendant	Facebook, Inc. None	None

Involved Parties

Calendared Events

Documents

Date	Time	Dept.	Event Description	Result			Notice Printed	Reset	
				Description	By	Date		To	From
10/4/2011	03:00PM	08	CV CMC-Case Management Conf	None	None	None	None	None	None

Involved Parties

Documents

Calendared Events

For an explanation of the abbreviations used in the Document Description/Text columns, [click here](#).

Number-Sequence	Document Description	Document Text	Filed	Ruling	Date
0011-000	Cv Ntc:Entry Of Order		06/08/2011	None	06/08/2011
	For: Facebook, Inc. / DEF				
0010-000	Cv Ex Parte Order	Click for text	06/08/2011	Granted	06/08/2011
	For: Facebook, Inc. / DEF				
0009-000	Cv Proof Of Svc By Email		06/08/2011	None	06/08/2011
	For: Facebook, Inc. / DEF				
0008-000	Cv Declaration	Click for text	06/08/2011	None	06/08/2011
	For: Facebook, Inc. / DEF				
0007-000	Cv Memo:Ps & As/Suppt Of Mtn	Click for text	06/08/2011	None	06/08/2011
	For: Facebook, Inc. / DEF				
0006-000	Cv Ex Parte No Fee	Click for text	06/08/2011	None	06/08/2011
	For: Facebook, Inc. / DEF				
0005-000	Cv First Paper Def - Unltd	Click for text	06/08/2011	None	06/08/2011
	For: Facebook, Inc. / DEF				
0004-000	Cv Proof Of Svc Compl/Pet/Summons		06/01/2011	None	06/02/2011
	For: Ryan Ung / PLT For: Chi Cheng / PLT For: Alice Rosen / PLT				
0003-000	Cv Summons Filed		05/09/2011	None	05/09/2011
	For: Ryan Ung / PLT For: Chi Cheng / PLT For: Alice Rosen / PLT Against: Facebook, Inc. / DEF				
0002-000	Cv Complaint Filed/Summs Issued		05/09/2011	None	05/09/2011
	For: Ryan Ung / PLT For: Chi Cheng / PLT For: Alice Rosen / PLT Against: Facebook, Inc. / DEF				
0001-000	Cv Case Cover Sheet		05/09/2011	None	05/09/2011
	For: Ryan Ung / PLT For: Chi Cheng / PLT For: Alice Rosen / PLT Against: Facebook, Inc. / DEF				
For an explanation of the abbreviations used in the Document Description/Text columns, click here .					

RETURN

U0010

WITHOUT ATTORNEY (Name, State Bar number and address):
 ERMAN (SBN 94559) / DAVID E. AZAR (SBN 218319)
 Street Address: 191 N. First Street
 City and Zip Code: San Jose 95113
 Branch Name: Downtown Superior Court

FOR COURT USE ONLY
 2011 MAY -9 PM 1:31
 District Court
 Santa Clara County
 Superior Court
 David E. Azar

CASE NAME:
 UNG v. FACEBOOK, INC.
 CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)
 Complex Case Designation
 Counter Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **11CV200467**
 JUDGE:
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PIP/D/W (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PIP/D/W (23)
Non-PIP/D/W (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PIP/D/W tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (28)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input checked="" type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 2: Violation of Art. 1, Sec. 1 of the California Const.; Unjust Enrichment
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: May 6, 2011
 David E. Azar
 (TYPE OR PRINT NAME)

David E. Azar
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

FAXED

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UCS

FILED Santa Clara Co
 05/09/11 1:46pm
 David H. Yamasaki
 Chief Executive Office
 By: msorum DTSC1VD101
 R#20100051020
 CK \$395.00
 TL \$395.00
 Case: 1-11-CV-200467

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

12 RYAN UNG,
 13 CHI CHENG and
 ALICE ROSEN,
 14 on Behalf of Themselves and All Others
 Similarly Situated,
 15 Plaintiffs,
 16 v.
 17 FACEBOOK, Inc.
 18 Defendants

Case No. **111 CV 200467**
CLASS ACTION COMPLAINT
 COMPLAINT FOR:
 VIOLATION OF ARTICLE I, SECTION 1
 OF THE CALIFORNIA CONSTITUTION
 AND UNJUST ENRICHMENT
JURY TRIAL DEMANDED

FAXED

CLASS ACTION COMPLAINT

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1 **CLASS ACTION COMPLAINT**

2 Plaintiffs allege the following, upon personal knowledge with respect to themselves, and
3 on information and belief derived from, among other things, investigation of counsel and review
4 of public documents, as to all other matters:

5 **NATURE OF THE ACTION**

6 1. This is an action on behalf of a class of millions of California Internet users (as
7 defined herein) who have visited one or more websites displaying the Facebook "Like" button
8 (as defined below). The action arises from Facebook's surreptitious use of the "Like" button and
9 "Facebook Connect" to collect and store sensitive, private, and personally identifiable
10 information in violation of Article I, Section 1 of the California Constitution. The information is
11 secretly collected and stored regardless of whether the website visitor clicks the "Like" button
12 and, in most cases, regardless of whether the Internet user is a Facebook member.

13 **JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over these proceedings because defendant Facebook is
15 headquartered in the State of California, transacts business within this state, has committed
16 wrongful acts within the state, and has committed wrongful acts that have caused injuries to
17 persons within the state.

18 3. Venue lies in this court because many of those affected by defendants' wrongful
19 conduct reside in this county, and many of the potential witnesses reside and work in this county.

20 **THE PARTIES**

21 4. Plaintiff Ryan Ung resides in San Francisco. Mr. Ung is a Facebook member who
22 visited websites that display the Facebook "Like" button. Facebook used the "Like" button to
23 track and collect his browsing history and link it to personally identifiable information without
24 his consent.

25 5. Plaintiff Chi Cheng resides in San Francisco. Mr. Cheng is a non-Facebook
26 member who visited a website in the Facebook Connect network and subsequently visited a
27 website displaying the Facebook "Like" button. Facebook used the Like Button and Facebook
28

1 Connect to collect his browsing history and personally identifiable information without his
2 consent.

3 6. Plaintiff Alice Rosen resides in Sunnyvale, California. Ms. Rosen is a non-
4 Facebook member who visited a website in the Facebook Connect network and subsequently
5 visited a website displaying the Facebook "Like" button. Facebook used the Like Button and
6 Facebook Connect to collect her browsing history and personally identifiable information
7 without her consent.

8 7. Defendant Facebook ("hereinafter "Facebook") is a Delaware Corporation that
9 maintains its headquarters in Santa Clara County, California. Facebook conducts business
10 throughout California, the nation, and internationally.

11 **STATEMENT OF FACTS:**
12 **About Facebook, Its "Like" Button, and Facebook Connect**

13 **Facebook**

14 8. Facebook is the world's largest social networking website with more than 500
15 million registered users worldwide.

16 9. Facebook requires that Facebook registrants provide their actual names, rather
17 than merely create a "screen name" or "user name" as is commonplace with other, non-social
18 networking website registrations. Facebook then assigns each Facebook member a user ID
19 number that uniquely identifies that member.

20 **The Facebook "Like" Button**

21 10. The Facebook "Like" button is an image displaying a thumbs-up symbol
22 accompanied by the word "Like." According to Facebook, the "Like" button allows Facebook
23 members to share third-party content that they find interesting, funny, or for which they have
24 some sort of affinity with other Facebook members. When a Facebook member clicks the
25 "Like" button on a website, an item appears on the user's Facebook profile page with a link back
26 to the website. Anyone can implement the "Like" button on their website by adding a computer
27 code, which is available for free and provided for by Facebook.

28

1 11. Facebook promotes the "Like" button to website owners as follows:

2 "[t]he Like button lets a user share your content with friends on Facebook. When
3 the user clicks the Like button on your site, a story appears in the user's friends'
4 News Feed with a link back to your website.

5 12. Website owners have a substantial financial incentive to include the "Like" button
6 on their websites because it tends to increase traffic to the website and thereby increase the
7 amount the website owner can charge for displaying advertising on the website. Indeed, more
8 than 2.5 million websites have integrated the Facebook "Like" button. According to comScore,
9 those 2.5 million websites include all of the top ten sports sites, nine of the top ten news sites,
10 nine of the top ten entertainment sites, and 18 of the top 25 retails sites. Overall, 80% of the
11 United States' comScore top websites are fully integrated. Every day, 10,000 more websites add
12 the "Like" button. The "Like" button has become so deeply embedded in our societal
13 consciousness that we sometimes do not even realize how much it has permeated our culture. It
14 is an indelible part of the "online experience."

14 **Facebook Connect**

15 13. Facebook Connect enables Facebook members to log onto third-party websites,
16 applications, mobile devices, and gaming systems with their Facebook identity. While logged
17 on, users can connect with friends via these media and post information and updates to their
18 Facebook profile. Within a year of its launch in December 2008, Facebook Connect was on
19 almost 1 million websites, and in March 2009 more than 40 million unique visitors of Facebook
20 Connect implementations were counted.

21 **Facebook Uses the "Like" button and Facebook Connect To Track Facebook Members
22 and Non-Members**

23 14. Unbeknownst to Internet users, Facebook uses the "Like" button to track Internet
24 users as they browse the web and thereby collects private and, in some cases, sensitive
25 information about them. Facebook follows Facebook members and, in some cases, non-
26 members as they browse the Internet, linking their records of each new page visited to
27 Facebook's records of all the "Like" button- or Facebook Connect-affiliated pages that the user
28 has visited in the previous minutes, months, and years. It may thereby construct and update a

1 long-term profile of what particular users are doing with their web browsers. Anyone who has
2 used the Internet to seek advice about hemorrhoids, sexually transmitted diseases, abortion, drug
3 rehabilitation, dementia — the list goes on and on — can be reasonably certain that Facebook
4 has tracked at least some of those visits and in many cases, identified them with a particular
5 individual, such that the information can easily be incorporated into a personal profile for sale to
6 marketers of all sorts, or to be put at the disposal of the United States or state government
7 agencies. The information is collected *even if the website visitor does not click on the "Like"*
8 *button*. This practice was brought to light by Arnold Roosendaal, whose work in progress,
9 *Facebook Tracks and Traces Everyone: Like This!*, is available at
10 <http://www.ssrn.com/abstract=1717563>.

11 15. The tracking mechanism differs depending on whether the Internet user is a
12 Facebook member or not.

13 (a) **Facebook Members:** Upon registration, Facebook implants tracking
14 cookies on the members' computers. Each time the member visits a site displaying the Facebook
15 "Like" button, the updated Facebook cookie information, including the member's most recent
16 browsing history, is sent to Facebook. Facebook can then link the cookie information with the
17 member's unique Facebook identifier, thereby associating the personally sensitive information
18 with the particular user and his account information. This occurs regardless of whether the
19 Facebook member clicks the "Like" button.

20 (b) If a Facebook member deactivates his or her account through the process
21 Facebook provides, the entire account is nevertheless kept by Facebook, which can continue to
22 link data to the account just as when the account was active. If the users wish to delete the
23 account entirely, such that Facebook no longer has access to their personal data, they must make
24 a specific request to Facebook that takes two weeks to process.

25 (c) **Non-Facebook Members:** Facebook implants tracking cookies on the
26 computers of non-Facebook members when the non-Facebook member visits one of the million
27 websites in the Facebook Connect network. Thereafter, Facebook's data profile of the non-
28

1 member is updated each time the non-Facebook member visits a site displaying the Facebook
2 "Like" button, even if the non-member does not click the "Like" button. The data profile is
3 anonymous unless the non-member subsequently joins Facebook, at which point Facebook can
4 associate the previously anonymous "file" with the member and his or her account information,
5 which includes, at a minimum, the members' names and addresses. Facebook thus tracks and
6 collects extensive information about non-Facebook members — *i.e.* individuals who consciously
7 choose not to participate in Facebook. If a user subsequently opens an account on Facebook, all
8 of the previously compiled information can be linked to the Facebook account holder and, from
9 that time on, all subsequent requests for Facebook content are accompanied by the Facebook
10 identifier unique to the user.

11 16. The personal information collected by Facebook is an asset of the sort that is
12 priced, bought, and sold in discrete units for marketing and other purposes. "Websites and stores
13 can . . . easily buy and sell information on valued visitors with the intention of merging
14 behavioral with demographic and geographic data in ways that will create social categories that
15 advertisers covet and target with ads tailored to them or people like them." Joseph Turow,
16 Jennifer King, Chris Jay Hoofnagle, Amy Bleakley & Michael Hennessy, *Americans Reject*
17 *Tailored Advertising and Three Activities that Enable It* (Sept. 29, 2009),
18 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1478214. The more information that is
19 known about a consumer, the more a company will pay to deliver a precisely targeted
20 advertisement to him or her. *See* F.T.C., *Protecting Consumer Privacy in an Era of Rapid*
21 *Change, Preliminary Staff Report* (Dec. 2010) ("F.T.C. Report"), at 24.

22 17. Personal data is viewed as currency. "In many instances, consumers pay for free
23 content and services by disclosing their personal information," according to former F.T.C.
24 commissioner Pamela Jones Harbour. F.T.C. Roundtable Series 1 on: Exploring Privacy (Matter
25 No. P095416) Dec. 7, 2009, at 148. (available at [http://www.ftc.gov/bcp/](http://www.ftc.gov/bcp/workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf)
26 [workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf](http://www.ftc.gov/bcp/workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf)). In *Property,*
27 *Privacy, and Personal Data*, Professor Paul M. Schwartz wrote:
28

1 Personal information is an important currency in the new millennium. The
2 monetary value of personal data is large and still growing, and corporate America
3 is moving quickly to profit from this trend. Companies view this information as a
corporate asset and have invested heavily in software that facilitates the collection
of consumer information.

4 Paul M. Schwartz, *Property, Privacy, and Personal Data*, 117 Harv. L. Rev. 2055, 2056-57
5 (2004).

6 18. On February 28, 2011, the *Wall Street Journal* published an article under the
7 headline "Web's Hot New Commodity: Privacy," in which it highlighted a company called
8 "Allow Ltd.," one of nearly a dozen companies that offer to sell people's personal information
9 on their behalf and give them 70% of the sale. An Allow Ltd. customer received a payment of
10 \$8.95 for letting Allow tell a credit card company he is shopping for new plastic. *Id.*

11 CLASS ACTION ALLEGATIONS

12 19. Pursuant to California Code of Civil Procedure § 382, Plaintiffs bring this action
13 on behalf of themselves and two subclasses of Internet users: 1) all Facebook members who
14 visited a website displaying the Facebook "Like" button from April 22, 2010 to the date of filing
15 of this complaint; and 2) all non-Facebook members who visited a website in the Facebook
16 Connect network and subsequently visited a website displaying the Facebook "Like" button from
17 April 22, 2010 to the date of the filing of this complaint. Venue is proper in this Court because
18 defendant Facebook maintains its principal place of business in this county and the defendants
19 engaged in wrongdoing in this county.

20 20. This Court has jurisdiction over these proceedings because defendant Facebook is
21 located in the State of California, Facebook transacts business within this state, has committed
22 wrongful acts within the state, and has committed wrongful acts that caused injury to persons
23 within the state.

24 21. This action is properly maintainable as a class action.

25 22. The Class is so numerous that joinder of all members is impracticable. There are
26 tens of millions of Internet users who have been tracked via the Facebook "Like" button.
27
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1 23. There are questions of law and fact that are common to the Class including, *inter*
2 *alia*, the following:

3 (a) whether Facebook engaged in conduct that invaded Plaintiffs' privacy
4 interests;

5 (b) whether Plaintiffs had a reasonable expectation of privacy as to the
6 interests invaded;

7 (c) whether the invasion of privacy was serious;

8 (d) whether this invasion of privacy caused Plaintiffs to suffer injury, damage,
9 loss, or harm; and

10 (e) whether Facebook was unjustly enriched by the unauthorized acquisition
11 of Plaintiffs' personally identifiable information.

12 24. Plaintiffs will fairly and adequately represent the Class. Plaintiffs are committed
13 to prosecuting this action and has retained competent counsel experienced in litigation of this
14 nature. Plaintiffs' claims are typical of the claims of other members of the Class and Plaintiffs
15 have the same interests as the other members of the Class.

16 25. Plaintiffs anticipate no difficulty in the management of this litigation.

17 26. Defendants have acted in a manner that affects Plaintiffs and all Class members
18 alike, thereby making appropriate injunctive, declaratory, and other relief appropriate with
19 respect to the Class as a whole.

20 27. The prosecution of separate actions by individual members of the Class would
21 create a risk of inconsistent or varying adjudications with respect to individual members of the
22 Class, establish incompatible standards of conduct for defendants or adjudications with respect to
23 individual members of the Class, and could be dispositive of the interests of other members or
24 substantially impair or impede their ability to protect their interests.

25 **FIRST CAUSE OF ACTION**
26 **(Violation of Article 1, Section 1 of the California Constitution)**

27 28. Plaintiffs incorporate each and every allegation as if fully set forth herein.

28

1 29. Article I, Section 1 of the California Constitution states that "All people are by
2 nature free and independent and have inalienable rights. Among these are enjoying and
3 defending life and liberty, acquiring, possessing, and protecting property, and pursuing and
4 obtaining safety, happiness, and privacy." Cal. Const. art. I, § 1.

5 30. Plaintiffs had a legally protected interest in their personal Internet browsing
6 history.

7
8 31. Plaintiffs reasonably expected that their browsing history would remain
9 anonymous.

10 32. Facebook committed a serious invasion of Plaintiffs' privacy interest by using the
11 "Like" button and Facebook Connect to secretly track Plaintiffs' website browsing history.

12 33. By the acts, transactions and courses of conduct alleged herein, defendant violated
13 Plaintiffs' inalienable right to privacy.

14 **SECOND CAUSE OF ACTION**
15 **(Unjust Enrichment)**

16 34. Plaintiffs incorporate each and every allegation as if fully set forth herein

17 35. Plaintiffs and the Class have conferred a benefit on Facebook. Facebook has
18 received and retained money belonging to Plaintiffs and the Class as a result of collecting and
19 storing its users' personal information, which is an asset, and selling it to third parties for
20 marketing purposes without the Internet users' knowledge.

21 36. Facebook appreciates or has knowledge of this benefit.

22 37. Under principles of equity and good conscience, Facebook should not be
23 permitted to retain money belonging to Plaintiffs and the Class that it unjustly received as a
24 result of its actions.

25 38. Plaintiffs and the Class have suffered loss as a direct result of Facebook's
26 conduct.

1 39. Plaintiffs, on their own behalf and on behalf of the Class, seek imposition of a
2 constructive trust on a restitution of the proceeds Facebook received as a result of its conduct
3 described herein and attorneys fees and costs pursuant to Cal. Civ. Proc. Code § 1021.5.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiffs and members of the Class seek relief against defendant as
6 follows:

7 A. Declaring that this action is properly maintainable as a class action and certifying
8 Plaintiffs as the representatives of the Class.

9 B. Declaring that Facebook's actions, as described herein, violate Article I, Section 1
10 of the California Constitution. Cal. Const. art. I, § 1.

11 C. Awarding injunctive and other equitable relief as is necessary to protect the
12 interests of Plaintiffs and the Class including, *inter alia*, an order prohibiting Facebook from
13 engaging in the wrongful and unlawful acts described herein.

14 D. Disgorgement of all revenue earned from selling or otherwise trading on the
15 private information obtained from Plaintiffs and the Class via the Facebook "Like" button.

16 E. Awarding Plaintiffs and the Class their reasonable litigation expenses and
17 attorneys fees; and

18 F. Awarding such other and further relief as equity and justice may require.

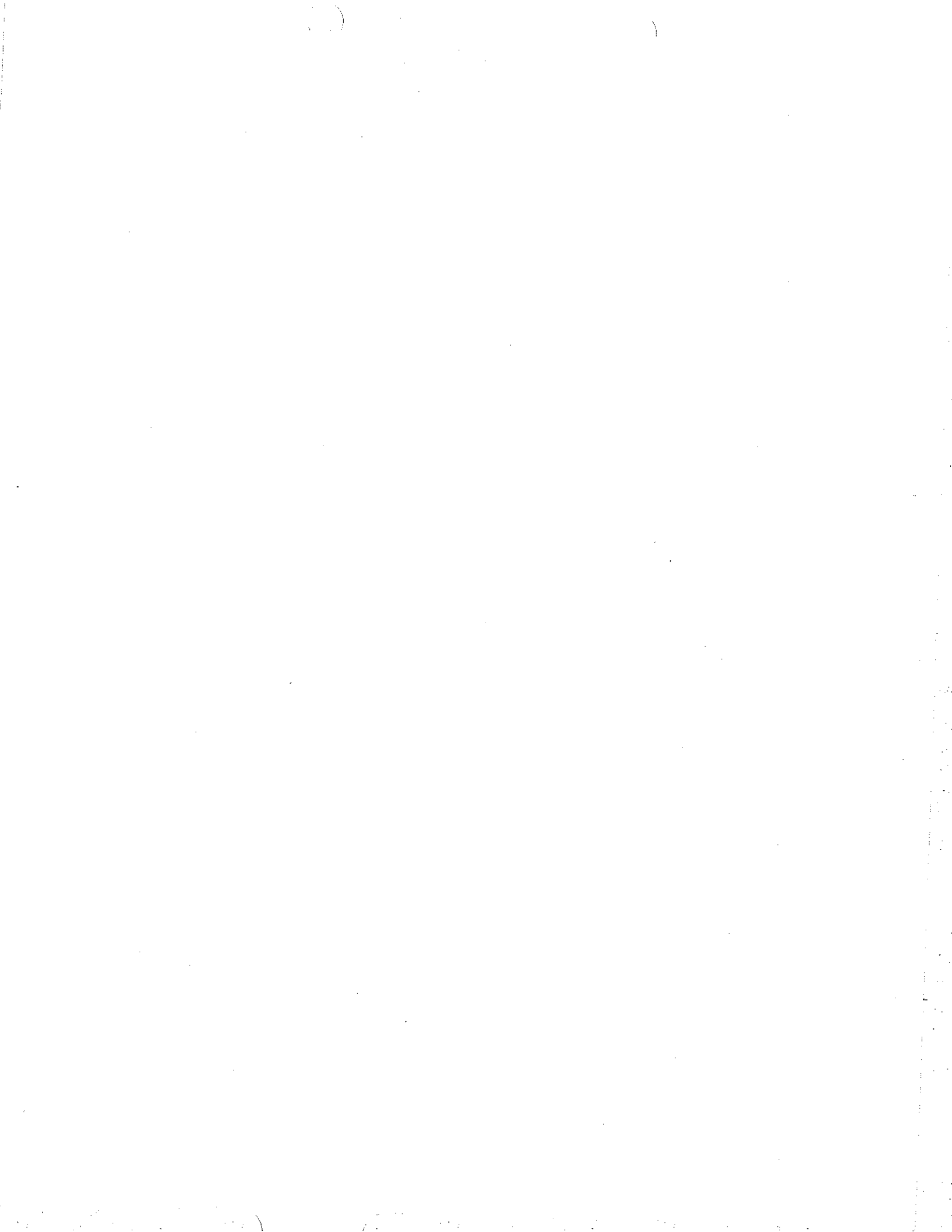
19 **DEMAND FOR JURY TRIAL**

20 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

21 DATED: May 6, 2011

22 **MILBERG LLP**
23 **JEFF S. WESTERMAN**
24 **DAVID E. AZAR**

25 
26 **DAVID E. AZAR**



COPY

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO): FACEBOOK, INC.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): RYAN UNG, CHI CHENG and ALICE ROSEN, on Behalf of Themselves and All Others Similarly Situated,

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE) ENDORSED 2011 MAY -9 1:45 M. Sorum

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below. You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación. Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: (El nombre y dirección de la corte es):

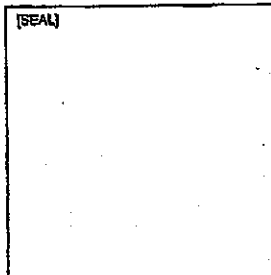
Superior Court of California, County of Santa Clara 191 N. First Street, San Jose, CA 95113

CASE NUMBER: 111CV200487

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

DATE: MAY - 9 2011 DAVID H. VALDEZ Clerk, by M. Sorum, Deputy (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify): Facebook, Inc.
under: CCP 416.10 (corporation) CCP 416.60 (minor)
CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
other (specify):
4. by personal delivery on (date):

**SANTA CLARA COUNTY SUPERIOR COURT
ALTERNATIVE DISPUTE RESOLUTION
INFORMATION SHEET**

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and settlement conferences. Therefore, all matters shall be referred to an appropriate form of Alternative Dispute Resolution (ADR) before they are set for trial, unless there is good cause to dispense with the ADR requirement.

What is ADR?

ADR is the general term for a wide variety of dispute resolution processes that are alternatives to litigation. Types of ADR processes include mediation, arbitration, neutral evaluation, special masters and referees, and settlement conferences, among others forms.

What are the advantages of choosing ADR instead of litigation?

ADR can have a number of advantages over litigation:

- **ADR can save time.** A dispute can be resolved in a matter of months, or even weeks, while litigation can take years.
- **ADR can save money.** Attorney's fees, court costs, and expert fees can be reduced or avoided altogether.
- **ADR provides more participation.** Parties have more opportunities with ADR to express their interests and concerns, instead of focusing exclusively on legal rights.
- **ADR provides more control and flexibility.** Parties can choose the ADR process that is most likely to bring a satisfactory resolution to their dispute.
- **ADR can reduce stress.** ADR encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Surveys of parties who have participated in an ADR process have found much greater satisfaction than with parties who have gone through litigation.

What are the main forms of ADR offered by the Court?

Mediation is an informal, confidential, flexible and non-binding process in the mediator helps the parties to understand the interests of everyone involved, and their practical and legal choices. The mediator helps the parties to communicate better, explore legal and practical settlement options, and reach an acceptable solution of the problem. The mediator does not decide the solution to the dispute; the parties do.

Mediation may be appropriate when:

- The parties want a non-adversary procedure
- The parties have a continuing business or personal relationship
- Communication problems are interfering with a resolution
- There is an emotional element involved
- The parties are interested in an injunction, consent decree, or other form of equitable relief

Neutral evaluation, sometimes called "Early Neutral Evaluation" or "ENE", is an informal process in which the evaluator, an experienced neutral lawyer, hears a compact presentation of both sides of the case, gives a non-binding assessment of the strengths and weaknesses on each side, and predicts the likely outcome. The evaluator can help parties to identify issues, prepare stipulations, and draft discovery plans. The parties may use the neutral's evaluation to discuss settlement.

Neutral evaluation may be appropriate when:

- The parties are far apart in their view of the law or value of the case
- The case involves a technical issue in which the evaluator has expertise
- Case planning assistance would be helpful and would save legal fees and costs
- The parties are interested in an injunction, consent decree, or other form of equitable relief

-over-

Arbitration is a less formal process than a trial, with no jury. The arbitrator hears the evidence and arguments of the parties and then makes a written decision. The parties can agree to binding or non-binding arbitration. In binding arbitration, the arbitrator's decision is final and completely resolves the case, without the opportunity for appeal. In non-binding arbitration, the arbitrator's decision could resolve the case, without the opportunity for appeal, unless a party timely rejects the arbitrator's decision within 30 days and requests a trial. Private arbitrators are allowed to charge for their time.

Arbitration may be appropriate when:

- The action is for personal injury, property damage, or breach of contract
- Only monetary damages are sought
- Witness testimony, under oath, needs to be evaluated
- An advisory opinion is sought from an experienced litigator (if a non-binding arbitration)

Civil Judge ADR allows parties to have a mediation or settlement conference with an experienced judge of the Superior Court. Mediation is an informal, confidential, flexible and non-binding process in which the judge helps the parties to understand the interests of everyone involved, and their practical and legal choices. A settlement conference is an informal process in which the judge meets with the parties or their attorneys, hears the facts of the dispute, helps identify issues to be resolved, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations. The request for mediation or settlement conference may be made promptly by stipulation (agreement) upon the filing of the Civil complaint and the answer. There is no charge for this service.

Civil Judge ADR may be appropriate when:

- The parties have complex facts to review
- The case involves multiple parties and problems
- The courthouse surroundings would be helpful to the settlement process

Special masters and referees are neutral parties who may be appointed by the court to obtain information or to make specific fact findings that may lead to a resolution of a dispute.

Special masters and referees can be particularly effective in complex cases with a number of parties, like construction disputes.

Settlement conferences are informal processes in which the neutral (a judge or an experienced attorney) meets with the parties or their attorneys, hears the facts of the dispute, helps identify issues to be resolved, and normally suggests a resolution that the parties may accept or use as a basis for further negotiations.

Settlement conferences can be effective when the authority or expertise of the judge or experienced attorney may help the parties reach a resolution.

What kind of disputes can be resolved by ADR?

Although some disputes must go to court, almost any dispute can be resolved through ADR. This includes disputes involving business matters; civil rights; collections; corporations; construction; consumer protection; contracts; copyrights; defamation; disabilities; discrimination; employment; environmental problems; fraud; harassment; health care; housing; insurance; intellectual property; labor; landlord/tenant; media; medical malpractice and other professional negligence; neighborhood problems; partnerships; patents; personal injury; probate; product liability; property damage; real estate; securities; sports; trade secret; and wrongful death, among other matters.

Where can you get assistance with selecting an appropriate form of ADR and a neutral for your case, information about ADR procedures, or answers to other questions about ADR?

Contact:

Santa Clara County Superior Court
Coordinator
ADR Administrator
408-882-2530

Santa Clara County DRPA
408-792-2784

CIVIL LAWSUIT NOTICE

Superior Court of California, County of Santa Clara
191 N. First St., San Jose, CA 95113

CASE NUMBER 11 CV 200467

PLEASE READ THIS ENTIRE FORM

PLAINTIFF (the person suing): Within 60 days after filing the lawsuit, you must serve each Defendant with the *Complaint*, *Summons*, an *Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANT (The person sued): You must do each of the following to protect your rights:

1. You must file a written response to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within 30 days of the date you were served with the *Summons and Complaint*;
2. You must serve by mail a copy of your written response on the Plaintiff's attorney or on the Plaintiff if Plaintiff has no attorney (to "serve by mail" means to have an adult other than yourself mail a copy); and
3. You must attend the first Case Management Conference.

Warning: If you, as the Defendant, do not follow these instructions, you may automatically lose this case.

RULES AND FORMS: You must follow the California Rules of Court and the Superior Court of California, County of Santa Clara Local Civil Rules and use proper forms. You can obtain legal information, view the rules and receive forms, free of charge, from the Self-Help Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), www.sccselfservice.org (Select "Civil") or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/rule1toc.htm>

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.

Your Case Management Judge is: Honorable Peter Kirwan Department: 8

The 1st CMC is scheduled for: (Completed by Clerk of Court)

Date: OCT - 4 2011 Time: 3:00 PM In Department: 8

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)

Date: _____ Time: _____ In Department: _____

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civil/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address) JEFF S. WESTERMAN (SBN 94559) / DAVID E. AZAR (SBN 218319) MILBERG LLP 500 S. Grand Avenue, Suite 3900 Los Angeles, California 90071 TELEPHONE NO: (213) 617-1200 FAX NO: (213) 617-1975 ATTORNEY FOR (Name): Plaintiffs		FOR COURT USE ONLY MAY - 9 12 1:45 Mr. Sorum
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 N. First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose 95113 BRANCH NAME: Downtown Superior Court		
CASE NAME: UNG v. FACEBOOK, INC.		CASE NUMBER: 111CV200467
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/DWD (23) Non-PIP/DWD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (26) <input type="checkbox"/> Other non-PIP/DWD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (05) <input type="checkbox"/> Rule 3.740 collections (06) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (28) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (35) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Will of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input checked="" type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): **2: Violation of Art. I, Sec. I of the California Const.; Unjust Enrichment**

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: May 6, 2011
David E. Azar

David E. Azar
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Page 1 of 2
Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.405, 3.740;
Cal. Standards of Judicial Administration, std. 9.10
www.courtinfo.ca.gov

FAXED

COPY

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6 Attorneys for Plaintiffs
7 [Additional Counsel on Signature Page]
8
9

ENDORSE

2011 MAY -9 10 1:

M. Sorum

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

12 RYAN UNG,
13 CHI CHENG and
ALICE ROSEN,
14 on Behalf of Themselves and All Others
Similarly Situated,
15 Plaintiffs,
16 v.
17 FACEBOOK, Inc.
18 Defendants

Case No. 111 CV 200467

CLASS ACTION COMPLAINT

COMPLAINT FOR:

VIOLATION OF ARTICLE I, SECTION 1
OF THE CALIFORNIA CONSTITUTION
AND UNJUST ENRICHMENT

JURY TRIAL DEMANDED

FAXED

CLASS ACTION COMPLAINT

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1 **CLASS ACTION COMPLAINT**

2 Plaintiffs allege the following, upon personal knowledge with respect to themselves, and
3 on information and belief derived from, among other things, investigation of counsel and review
4 of public documents, as to all other matters:

5 **NATURE OF THE ACTION**

6 1. This is an action on behalf of a class of millions of California Internet users (as
7 defined herein) who have visited one or more websites displaying the Facebook "Like" button
8 (as defined below). The action arises from Facebook's surreptitious use of the "Like" button and
9 "Facebook Connect" to collect and store sensitive, private, and personally identifiable
10 information in violation of Article I, Section 1 of the California Constitution. The information is
11 secretly collected and stored regardless of whether the website visitor clicks the "Like" button
12 and, in most cases, regardless of whether the Internet user is a Facebook member.

13 **JURISDICTION AND VENUE**

14 2. This Court has jurisdiction over these proceedings because defendant Facebook is
15 headquartered in the State of California, transacts business within this state, has committed
16 wrongful acts within the state, and has committed wrongful acts that have caused injuries to
17 persons within the state.

18 3. Venue lies in this court because many of those affected by defendants' wrongful
19 conduct reside in this county, and many of the potential witnesses reside and work in this county.

20 **THE PARTIES**

21 4. Plaintiff Ryan Ung resides in San Francisco. Mr. Ung is a Facebook member who
22 visited websites that display the Facebook "Like" button. Facebook used the "Like" button to
23 track and collect his browsing history and link it to personally identifiable information without
24 his consent.

25 5. Plaintiff Chi Cheng resides in San Francisco. Mr. Cheng is a non-Facebook
26 member who visited a website in the Facebook Connect network and subsequently visited a
27 website displaying the Facebook "Like" button. Facebook used the Like Button and Facebook
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1 Connect to collect his browsing history and personally identifiable information without his
2 consent.

3 6. Plaintiff Alice Rosen resides in Sunnyvale, California. Ms. Rosen is a non-
4 Facebook member who visited a website in the Facebook Connect network and subsequently
5 visited a website displaying the Facebook "Like" button. Facebook used the Like Button and
6 Facebook Connect to collect her browsing history and personally identifiable information
7 without her consent.

8 7. Defendant Facebook ("hereinafter "Facebook") is a Delaware Corporation that
9 maintains its headquarters in Santa Clara County, California. Facebook conducts business
10 throughout California, the nation, and internationally.

11 **STATEMENT OF FACTS:**

12 **About Facebook, Its "Like" Button, and Facebook Connect**

13 **Facebook**

14 8. Facebook is the world's largest social networking website with more than 500
15 million registered users worldwide.

16 9. Facebook requires that Facebook registrants provide their actual names, rather
17 than merely create a "screen name" or "user name" as is commonplace with other, non-social
18 networking website registrations. Facebook then assigns each Facebook member a user ID
19 number that uniquely identifies that member.

20 **The Facebook "Like" Button**

21 10. The Facebook "Like" button is an image displaying a thumbs-up symbol
22 accompanied by the word "Like." According to Facebook, the "Like" button allows Facebook
23 members to share third-party content that they find interesting, funny, or for which they have
24 some sort of affinity with other Facebook members. When a Facebook member clicks the
25 "Like" button on a website, an item appears on the user's Facebook profile page with a link back
26 to the website. Anyone can implement the "Like" button on their website by adding a computer
27 code, which is available for free and provided for by Facebook.

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1 11. Facebook promotes the "Like" button to website owners as follows:

2 "[t]he Like button lets a user share your content with friends on Facebook. When
3 the user clicks the Like button on your site, a story appears in the user's friends'
4 News Feed with a link back to your website.

5 12. Website owners have a substantial financial incentive to include the "Like" button
6 on their websites because it tends to increase traffic to the website and thereby increase the
7 amount the website owner can charge for displaying advertising on the website. Indeed, more
8 than 2.5 million websites have integrated the Facebook "Like" button. According to comScore,
9 those 2.5 million websites include all of the top ten sports sites, nine of the top ten news sites,
10 nine of the top ten entertainment sites, and 18 of the top 25 retails sites. Overall, 80% of the
11 United States' comScore top websites are fully integrated. Every day, 10,000 more websites add
12 the "Like" button. The "Like" button has become so deeply embedded in our societal
13 consciousness that we sometimes do not even realize how much it has permeated our culture. It
14 is an indelible part of the "online experience."

14 **Facebook Connect**

15 13. Facebook Connect enables Facebook members to log onto third-party websites,
16 applications, mobile devices, and gaming systems with their Facebook identity. While logged
17 on, users can connect with friends via these media and post information and updates to their
18 Facebook profile. Within a year of its launch in December 2008, Facebook Connect was on
19 almost 1 million websites, and in March 2009 more than 40 million unique visitors of Facebook
20 Connect implementations were counted.

21 **Facebook Uses the "Like" button and Facebook Connect To Track Facebook Members
22 and Non-Members**

23 14. Unbeknownst to Internet users, Facebook uses the "Like" button to track Internet
24 users as they browse the web and thereby collects private and, in some cases, sensitive
25 information about them. Facebook follows Facebook members and, in some cases, non-
26 members as they browse the Internet; linking their records of each new page visited to
27 Facebook's records of all the "Like" button- or Facebook Connect-affiliated pages that the user
28 has visited in the previous minutes, months, and years. It may thereby construct and update a

1 long-term profile of what particular users are doing with their web browsers. Anyone who has
2 used the Internet to seek advice about hemorrhoids, sexually transmitted diseases, abortion, drug
3 rehabilitation, dementia — the list goes on and on — can be reasonably certain that Facebook
4 has tracked at least some of those visits and in many cases, identified them with a particular
5 individual, such that the information can easily be incorporated into a personal profile for sale to
6 marketers of all sorts, or to be put at the disposal of the United States or state government
7 agencies. The information is collected *even if the website visitor does not click on the "Like"*
8 *button*. This practice was brought to light by Arnold Roosendaal, whose work in progress,
9 *Facebook Tracks and Traces Everyone: Like This!*, is available at
10 <http://www.ssrn.com/abstract=1717563>.

11 15. The tracking mechanism differs depending on whether the Internet user is a
12 Facebook member or not.

13 (a) **Facebook Members:** Upon registration, Facebook implants tracking
14 cookies on the members' computers. Each time the member visits a site displaying the Facebook
15 "Like" button, the updated Facebook cookie information, including the member's most recent
16 browsing history, is sent to Facebook. Facebook can then link the cookie information with the
17 member's unique Facebook identifier, thereby associating the personally sensitive information
18 with the particular user and his account information. This occurs regardless of whether the
19 Facebook member clicks the "Like" button.

20 (b) If a Facebook member deactivates his or her account through the process
21 Facebook provides, the entire account is nevertheless kept by Facebook, which can continue to
22 link data to the account just as when the account was active. If the users wish to delete the
23 account entirely, such that Facebook no longer has access to their personal data, they must make
24 a specific request to Facebook that takes two weeks to process.

25 (c) **Non-Facebook Members:** Facebook implants tracking cookies on the
26 computers of non-Facebook members when the non-Facebook member visits one of the million
27 websites in the Facebook Connect network. Thereafter, Facebook's data profile of the non-
28

1 member is updated each time the non-Facebook member visits a site displaying the Facebook
2 "Like" button, even if the non-member does not click the "Like" button. The data profile is
3 anonymous unless the non-member subsequently joins Facebook, at which point Facebook can
4 associate the previously anonymous "file" with the member and his or her account information,
5 which includes, at a minimum, the members' names and addresses. Facebook thus tracks and
6 collects extensive information about non-Facebook members — *i.e.* individuals who consciously
7 choose not to participate in Facebook. If a user subsequently opens an account on Facebook, all
8 of the previously compiled information can be linked to the Facebook account holder and, from
9 that time on, all subsequent requests for Facebook content are accompanied by the Facebook
10 identifier unique to the user.

11 16. The personal information collected by Facebook is an asset of the sort that is
12 priced, bought, and sold in discrete units for marketing and other purposes. "Websites and stores
13 can . . . easily buy and sell information on valued visitors with the intention of merging
14 behavioral with demographic and geographic data in ways that will create social categories that
15 advertisers covet and target with ads tailored to them or people like them." Joseph Turow,
16 Jennifer King, Chris Jay Hoofnagle, Amy Bleakley & Michael Hennessy, *Americans Reject
17 Tailored Advertising and Three Activities that Enable It* (Sept. 29, 2009),
18 http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1478214. The more information that is
19 known about a consumer, the more a company will pay to deliver a precisely targeted
20 advertisement to him or her. *See* F.T.C., *Protecting Consumer Privacy in an Era of Rapid
21 Change, Preliminary Staff Report* (Dec. 2010) ("F.T.C. Report"), at 24.

22 17. Personal data is viewed as currency. "In many instances, consumers pay for free
23 content and services by disclosing their personal information," according to former F.T.C.
24 commissioner Pamela Jones Harbour. F.T.C. Roundtable Series 1 on: Exploring Privacy (Matter
25 No. P095416) Dec. 7, 2009, at 148. (available at [http://www.ftc.gov/bcp/
26 workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf](http://www.ftc.gov/bcp/workshops/privacyroundtables/PrivacyRoundtable_Dec_2009_Transcript.pdf)). In *Property,
27 Privacy, and Personal Data*, Professor Paul M. Schwartz wrote:

1 Personal information is an important currency in the new millennium. The
2 monetary value of personal data is large and still growing, and corporate America
3 is moving quickly to profit from this trend. Companies view this information as a
corporate asset and have invested heavily in software that facilitates the collection
of consumer information.

4 Paul M. Schwartz, *Property, Privacy, and Personal Data*, 117 Harv. L. Rev. 2055, 2056-57
5 (2004).

6 18. On February 28, 2011, the *Wall Street Journal* published an article under the
7 headline "Web's Hot New Commodity: Privacy," in which it highlighted a company called
8 "Allow Ltd.," one of nearly a dozen companies that offer to sell people's personal information
9 on their behalf and give them 70% of the sale. An Allow Ltd. customer received a payment of
10 \$8.95 for letting Allow tell a credit card company he is shopping for new plastic. *Id.*

11 **CLASS ACTION ALLEGATIONS**

12 19. Pursuant to California Code of Civil Procedure § 382, Plaintiffs bring this action
13 on behalf of themselves and two subclasses of Internet users: 1) all Facebook members who
14 visited a website displaying the Facebook "Like" button from April 22, 2010 to the date of filing
15 of this complaint; and 2) all non-Facebook members who visited a website in the Facebook
16 Connect network and subsequently visited a website displaying the Facebook "Like" button from
17 April 22, 2010 to the date of the filing of this complaint. Venue is proper in this Court because
18 defendant Facebook maintains its principal place of business in this county and the defendants
19 engaged in wrongdoing in this county.

20 20. This Court has jurisdiction over these proceedings because defendant Facebook is
21 located in the State of California, Facebook transacts business within this state, has committed
22 wrongful acts within the state, and has committed wrongful acts that caused injury to persons
23 within the state.

24 21. This action is properly maintainable as a class action.

25 22. The Class is so numerous that joinder of all members is impracticable. There are
26 tens of millions of Internet users who have been tracked via the Facebook "Like" button.
27
28

1 39. Plaintiffs, on their own behalf and on behalf of the Class, seek imposition of a
2 constructive trust on a restitution of the proceeds Facebook received as a result of its conduct
3 described herein and attorneys fees and costs pursuant to Cal. Civ. Proc. Code § 1021.5.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiffs and members of the Class seek relief against defendant as
6 follows:

7 A. Declaring that this action is properly maintainable as a class action and certifying
8 Plaintiffs as the representatives of the Class.

9 B. Declaring that Facebook's actions, as described herein, violate Article I, Section 1
10 of the California Constitution. Cal. Const. art. I, § 1.

11 C. Awarding injunctive and other equitable relief as is necessary to protect the
12 interests of Plaintiffs and the Class including, *inter alia*, an order prohibiting Facebook from
13 engaging in the wrongful and unlawful acts described herein.

14 D. Disgorgement of all revenue earned from selling or otherwise trading on the
15 private information obtained from Plaintiffs and the Class via the Facebook "Like" button.

16 E. Awarding Plaintiffs and the Class their reasonable litigation expenses and
17 attorneys fees; and

18 F. Awarding such other and further relief as equity and justice may require.
19

20 **DEMAND FOR JURY TRIAL**

21 Plaintiffs hereby demand trial of their claims by jury to the extent authorized by law.

22 DATED: May 6, 2011

MILBERG LLP
JEFF S. WESTERMAN
DAVID E. AZAR

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28 DAVID E. AZAR

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Facsimile: (212) 253-4272

Attorneys for Plaintiffs

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1 COOLEY LLP
2 MICHAEL G. RHODES (116127)
3 (rhodesmg@cooley.com)
4 MATTHEW D. BROWN (196972)
5 (brownmd@cooley.com)
6 101 California Street, 5th Floor
7 San Francisco, CA 94111-5800
8 Telephone: (415) 693-2000
9 Facsimile: (415) 693-2222

10 Attorneys for Defendant
11 FACEBOOK, INC.

ENDORSED Santa Clara
06/08/11 8:42am
David H. Yamasaki
Chief Executive Office
By: Ioann DTSCIV01013
R#201100062351
CK \$395.00
TL \$395.00
Case: 1-11-CV-200467

12 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SANTA CLARA**

14 RYAN UNG, CHI CHENG, and ALICE
15 ROSEN, on Behalf of Themselves and All
16 Others Similarly Situated,

17 Plaintiffs,

18 v.

19 FACEBOOK, INC.,

20 Defendant.

Case No. 111CV200467

**EX PARTE APPLICATION, PURSUANT
TO STIPULATION, FOR AN ORDER
EXTENDING TIME TO RESPOND TO
COMPLAINT**

Date: June 8, 2011
Time: 8:15 a.m.
Judge: Hon. Peter Kirwan
Dept: 8

1 In accordance with California Rule of Court 3.1200 *et seq.*, Defendant Facebook, Inc.
2 ("Facebook"), pursuant to a stipulation with Plaintiffs, applies *ex parte* for an Order extending
3 time to respond to Plaintiffs' Complaint such that Facebook's deadline to answer, demur, or
4 otherwise respond to the Complaint is extended to and including July 20, 2011, and should
5 Facebook decide to demur to the Complaint, Plaintiffs' deadline to oppose Facebook's demurrer
6 will be September 1, 2011, Facebook's deadline to reply in support of its demurrer will be
7 September 28, 2011, and any hearing on Facebook's demurrer will be held no earlier than fourteen
8 days after Facebook's reply is due. This application is based on the memorandum of points and
9 authorities submitted with the application, the declaration of Matthew D. Brown in support
10 thereof, and the parties' joint stipulation to such an extension.

11 The contact information for Plaintiffs' attorneys is as follows:

12 MILBERG LLP
13 JEFF S. WESTERMAN (94559)
14 (jwesterman@milberg.com)
15 DAVID E. AZAR (218319)
16 (dazar@milberg.com)
17 One California Plaza
18 300 S. Grand Avenue, Suite 3900
19 Los Angeles, CA 90071
20 Telephone: (213) 617-1200
21 Facsimile: (213) 617-1975

22 Dated: June 7, 2011

COOLEY LLP

23 

24 MATTHEW D. BROWN
25 Attorneys for Defendant
26 FACEBOOK, INC.
27
28

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1 COOLEY LLP
MICHAEL G. RHODES (116127)
2 (rhodesmg@cooley.com)
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4 San Francisco, CA 94111-5800
Telephone: (415) 693-2000
5 Facsimile: (415) 693-2222

6 Attorneys for Defendant
FACEBOOK, INC.

(ENDORSED)
FILED

JUN - 8 2011

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY L. NGUYEN DEPUTY

9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF SANTA CLARA**

12 RYAN UNG, CHI CHENG, and ALICE
ROSEN, on Behalf of Themselves and All
13 Others Similarly Situated,

14 Plaintiffs,

15 v.

16 FACEBOOK, INC.,

18 Defendant.

Case No. 111CV200467

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF FACEBOOK,
INC.'S EX PARTE APPLICATION, PURSUANT
TO STIPULATION, FOR AN ORDER
EXTENDING TIME TO RESPOND TO
COMPLAINT**

Date: June 8, 2011
Time: 8:15 a.m.
Judge: Hon. Peter Kirwan
Dept: 8

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1 Pursuant to California Rule of Court 3.1200 *et seq.*, Defendant Facebook, Inc.
2 (“Facebook”), by its undersigned attorneys, applies *ex parte*, pursuant to a stipulation with
3 Plaintiffs, for an Order extending time to respond to Plaintiffs’ Complaint and adopting the
4 parties’ jointly agreed-upon and proposed schedule. Pursuant to California Rules of Court 3.1203
5 and 3.1204, Facebook provided notice to Plaintiffs’ counsel of the *ex parte* appearance by email at
6 9:04 a.m. on Tuesday, June 7, 2011. (Declaration of Matthew D. Brown, filed herewith, (“Brown
7 Decl.”) ¶ 6.)

8 There is good cause for granting the requested relief. This is a complex putative class
9 action, and the parties have met and conferred to agree upon a schedule that provides reasonable
10 time for Facebook to file a response to the class action complaint and, if Facebook elects to file a
11 demurrer, reasonable time for Plaintiffs to file an opposition and Facebook to file a reply. The
12 parties previously submitted a Joint Stipulation and [Proposed] Order to the Court last week on
13 Wednesday, June 1, 2011. (*See* Brown Decl. Ex. A.) Without an Order from the Court adopting
14 the schedule set forth in the parties’ Stipulation, Facebook’s deadline to answer, demur, or
15 otherwise respond to the Complaint would be this Friday, June 10, 2011 (two days away from this
16 *ex parte* appearance), and thus Facebook would not have the time it otherwise would have had
17 based on its agreement with Plaintiffs. (Brown Decl. ¶ 5.) Given that this is a complex class
18 action, a modest extension of the default deadlines is warranted so that the parties may present
19 well-developed briefing to the Court. Facebook is therefore in immediate danger of irreparable
20 harm, within the meaning of California Rule of Court 3.1203(c).

21 As stipulated to by the parties, Facebook seeks an Order such that Facebook’s deadline to
22 answer, demur, or otherwise respond to the Complaint is extended to and including July 20, 2011,
23 and should Facebook decide to demur to the Complaint, Plaintiffs’ deadline to oppose Facebook’s
24 demurrer will be September 1, 2011, Facebook’s deadline to reply in support of its demurrer will
25 be September 28, 2011, and any hearing on Facebook’s demurrer will be held no earlier than
26 fourteen days after Facebook’s reply is due. The Court has the authority to grant such an Order
27 pursuant to California Rule of Court 1.10(c).

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Dated: June 7, 2011

COOLEY LLP



MATTHEW D. BROWN
Attorneys for Defendant
FACEBOOK, INC.

1 COOLEY LLP
2 MICHAEL G. RHODES (116127)
3 (rhodesmg@cooley.com)
4 MATTHEW D. BROWN (196972)
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6 101 California Street, 5th Floor
7 San Francisco, CA 94111-5800
8 Telephone: (415) 693-2000
9 Facsimile: (415) 693-2222

10 Attorneys for Defendant
11 FACEBOOK, INC.

(ENDORSED)
FILED **D** **COPY**
JUN - 8 2011

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY L. NGUYEN DEPUTY

12 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **IN AND FOR THE COUNTY OF SANTA CLARA**

14 RYAN UNG, CHI CHENG, and ALICE
15 ROSEN, on Behalf of Themselves and All
16 Others Similarly Situated,

17 Plaintiffs,

18 v.

19 FACEBOOK, INC.,

20 Defendant.

Case No. 111CV200467

DECLARATION OF MATTHEW D. BROWN IN SUPPORT OF FACEBOOK, INC.'S EX PARTE APPLICATION, PURSUANT TO STIPULATION, FOR AN ORDER EXTENDING TIME TO RESPOND TO COMPLAINT

Date: June 8, 2011
Time: 8:15 a.m.
Judge: Hon. Peter Kirwan
Dept: 8

1 I, Matthew D. Brown, declare as follows:

2 1. I am an attorney duly licensed by the State of California and am admitted to
3 practice before this Court. I am a partner at Cooley LLP, counsel for Defendant, Facebook, Inc,
4 ("Facebook"). The matters set forth herein are of my own personal knowledge, and if called and
5 sworn as a witness, I could competently testify regarding them.

6 2. On Wednesday, June 1, 2011, Plaintiffs and Facebook (the "Parties") entered into a
7 stipulation to extend the time for Facebook to respond to Plaintiffs' Complaint and to set a
8 briefing schedule for any demurrer filed by Facebook. The Parties' Joint Stipulation and
9 [Proposed] Order Extending Time to Respond to Complaint is attached hereto as **Exhibit A**.

10 3. The Parties' Joint Stipulation and [Proposed] Order was filed with the Court on
11 Wednesday, June 1, 2011.

12 4. As of June 7, 2011, the Court has yet to rule on the Parties' Joint Stipulation and
13 [Proposed] Order.

14 5. Currently, the deadline for Facebook to answer, demur, or otherwise respond to
15 Plaintiffs' Complaint is this Friday, June 10, 2011, and thus, without the requested Order of this
16 Court adopting the schedule set forth in the Parties' Stipulation, Facebook would not have the time
17 it otherwise would have had based on its agreement with Plaintiffs.

18 6. I contacted counsel for Plaintiffs by email at 9:04 a.m. on Tuesday, June 7, 2011, to
19 provide notice that Facebook intended to appear *ex parte* before Judge Kirwan on Wednesday,
20 June 8, 2011, at 8:15 a.m. in Courtroom 8 regarding this *ex parte* application. Plaintiffs' counsel
21 has informed me that they intend to appear at the *ex parte* hearing. Plaintiffs do not intend to
22 oppose this *ex parte* application based on the Parties' previously filed Joint Stipulation and
23 [Proposed] Order Extending Time to Respond to Complaint.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct. Executed this 7th day of June, 2011 in San Francisco, California.

26

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1 Dated: June 7, 2011

COOLEY LLP

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4 MATTHEW D. BROWN
5 Attorneys for Defendant
6 FACEBOOK, INC.

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8 1223429 v1/SF

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EXHIBIT A

1 COOLEY LLP
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6 Attorneys for Defendant
FACEBOOK, INC.

7 MILBERG LLP
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8 (jwesterman@milberg.com)
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9 (dazar@milberg.com)
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11 Telephone: (213) 617-1200
Facsimile: (213) 617-1975
12

13 Attorneys for Plaintiffs
14

15 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **IN AND FOR THE COUNTY OF SANTA CLARA**

17
18 RYAN UNG, CHI CHENG, and ALICE
ROSEN, on Behalf of Themselves and All
19 Others Similarly Situated,

20 Plaintiffs,

21 v.

22 FACEBOOK, INC.,

23 Defendant.
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Case No. 111CV200467

**STIPULATION AND [PROPOSED]
ORDER EXTENDING TIME TO
RESPOND TO COMPLAINT**

Dept: 8
Judge: Hon. Peter Kirwan
Complaint Filed: May 9, 2011
Trial Date: Not yet set

1 This Stipulation is entered into by and among plaintiffs Ryan Ung, Chi Cheng, and Alice
2 Rosen (collectively, "Plaintiffs") and defendant Facebook, Inc. ("Facebook") (Plaintiffs and
3 Facebook collectively "the Parties"), by and through their respective counsel.

4 WHEREAS Plaintiffs filed their Class Action Complaint ("Complaint") on May 9, 2011;

5 WHEREAS Facebook was served with the Complaint on May 11, 2011 by personal
6 service;

7 WHEREAS the deadline under the California Code of Civil Procedure for Facebook to
8 answer, demur, or otherwise respond to the Complaint is June 10, 2011; AND

9 WHEREAS the Court may grant an extension of time within which any act is required to
10 be done by a party under California Rule of Court 3.503;

11 NOW, THEREFORE, the Parties hereby stipulate and agree, subject to the approval of the
12 Court, as follows:

13 1. Facebook's deadline to answer, demur, or otherwise respond to the Complaint is
14 extended to and including July 20, 2011.

15 2. Should Facebook decide to demur to the Complaint, Plaintiffs' deadline to oppose
16 Facebook's demurrer will be September 1, 2011, Facebook's deadline to reply in support of its
17 demurrer will be September 28, 2011, and any hearing on Facebook's demurrer will be held no
18 earlier than fourteen days after Facebook's reply is due.

19 Dated: June 1, 2011

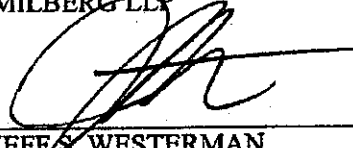
COOLEY LLP

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22 _____
23 MATTHEW D. BROWN
24 Attorneys for Defendant
25 FACEBOOK, INC.

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Dated: June 1, 2011

MILBERG LLP


JEFF S. WESTERMAN
Attorneys for Plaintiffs

[PROPOSED] ORDER

Upon the stipulation of the parties, and good cause appearing. **IT IS SO ORDERED.**

Dated: _____

HON. PETER KIRWAN
Judge of the Superior Court

1221043 v1/SF

1 **PROOF OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California. I am
3 employed in San Francisco County, State of California, in the office of a member of the bar of
4 this Court, at whose direction the service was made. I am over the age of 18 years, and not a
5 party to the within action. My business address is Cooley LLP, 101 California Street, 5th Floor,
6 San Francisco, California 94111-5800. My e-mail address is swarren@cooley.com. On June 1,
7 2011, I served the following document(s) on the parties listed below in the manner(s) indicated:

8 **STIPULATION AND [PROPOSED] ORDER**
9 **EXTENDING TIME TO RESPOND TO COMPLAINT**

- 10 (BY U.S. MAIL – CCP § 1013a(1)) I am personally and readily familiar with the
11 business practice of Cooley LLP for collection and processing of correspondence
12 for mailing with the United States Postal Service, and I caused such envelope(s)
with postage thereon fully prepaid to be placed in the United States Postal
Service at San Francisco, California.
- 13 (BY MESSENGER SERVICE – CCP § 1011) I consigned the document(s) to an
authorized courier and/or process server for hand delivery on this date.
- 14 (BY FACSIMILE – CCP § 1013(e)) I am personally and readily familiar with the
15 business practice of Cooley LLP for collection and processing of document(s) to
16 be transmitted by facsimile and I caused such document(s) on this date to be
transmitted by facsimile to the offices of addressee(s) at the numbers listed
below.
- 17 (BY OVERNIGHT MAIL – CCP § 1013(c)) I am personally and readily familiar
18 with the business practice of Cooley LLP for collection and processing of
19 correspondence for overnight delivery, and I caused such document(s) described
herein to be deposited for delivery to a facility regularly maintained by
20 _____ for overnight delivery.
- 21 (BY ELECTRONIC MAIL – CCP § 1010.6(a)(6)) Based on a court order or an
22 agreement of the parties to accept service by e-mail or electronic transmission, I
caused such documents described herein to be sent to the persons at the e-mail
23 addresses listed below at approximately _____. I did not receive, within a
reasonable time after the transmission, any electronic message or other indication
24 that the transmission was unsuccessful.

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28 1222614 v1/SF

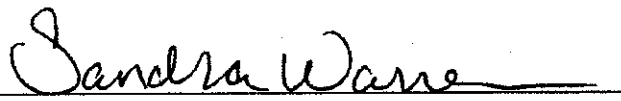
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MILBERG LLP
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(jwesterman@milberg.com)
DAVID E. AZAR (218319)
(dazar@milberg.com)
One California Plaza
300 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071
Telephone: (213) 617-1200
Facsimile: (213) 617-1975

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

Executed on June 1, 2011, at San Francisco, California.


Sandra A. Warren

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COOLEY LLP
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MATTHEW D. BROWN (196972)
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San Francisco, CA 94111-5800
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

Attorneys for Defendant
FACEBOOK, INC.

COPY
(ENDORSED)
FILED
JUN - 8 2011
DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA County of Santa Clara
BY L. NGUYEN DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

RYAN UNG, CHI CHENG, and ALICE
ROSEN, on Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 111CV200467

PROOF OF SERVICE

Dept: 8
Judge: Hon. Peter Kirwan
Complaint Filed: May 9, 2011
Trial Date: Not yet set

1 **PROOF OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California. I am
3 employed in San Francisco County, State of California, in the office of a member of the bar of
4 this Court, at whose direction the service was made. I am over the age of 18 years, and not a
5 party to the within action. My business address is Cooley LLP, 101 California Street, 5th Floor,
6 San Francisco, California 94111-5800. My e-mail address is swarren@cooley.com. On the
7 dates set forth below, I served the following documents on the party(ies) listed below in the
8 manners indicated below:

- 9 1. **NOTICE TO SUPERIOR COURT OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES**
10 **DISTRICT COURT;**
11 2. **DEFENDANT FACEBOOK, INC.'S FEDERAL RULE OF CIVIL PROCEDURE 7.1 DISCLOSURE**
12 **STATEMENT AND CIVIL LOCAL RULE 3-16 CERTIFICATION OF INTERESTED ENTITIES**
13 **OR PERSONS;**
14 3. **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF FACEBOOK, INC.'S EX**
15 **PARTE APPLICATION, PURSUANT TO STIPULATION FOR AN ORDER EXTENDING TIME**
16 **TO RESPOND TO COMPLAINT; AND**
17 4. **DECLARATION OF MATTHEW D. BROWN IN SUPPORT OF FACEBOOK, INC.'S EX PARTE**
18 **APPLICATION, PURSUANT TO STIPULATION FOR AN ORDER EXTENDING TIME TO**
19 **RESPOND TO COMPLAINT**

20 **(June 8, 2011: BY U.S. MAIL – CCP § 1013a(1))** I am personally and readily
21 familiar with the business practice of Cooley LLP for collection and processing
22 of correspondence for mailing with the United States Postal Service, and I caused
23 such envelope(s) with postage thereon fully prepaid to be placed in the United
24 States Postal Service at San Francisco, California.

25 **(BY MESSENGER SERVICE – CCP § 1011)** I consigned the document(s) to an
26 authorized courier and/or process server for hand delivery on this date.

27 **(BY FACSIMILE – CCP § 1013(e))** I am personally and readily familiar with the
28 business practice of Cooley LLP for collection and processing of document(s) to
be transmitted by facsimile and I caused such document(s) on this date to be
transmitted by facsimile to the offices of addressee(s) at the numbers listed
below.

(BY OVERNIGHT MAIL – CCP § 1013(c)) I am personally and readily familiar
with the business practice of Cooley LLP for collection and processing of
correspondence for overnight delivery, and I caused such document(s) described
herein to be deposited for delivery to a facility regularly maintained by
_____ for overnight delivery.


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(June 7, 2011: BY ELECTRONIC MAIL – CCP § 1010.6(a)(6)) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused such documents described herein to be sent to the persons at the e-mail addresses listed below at approximately 7:37 PM I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

MILBERG LLP
JEFF S. WESTERMAN (94559)
(jwesterman@milberg.com)
DAVID E. AZAR (218319)
(dazar@milberg.com)
One California Plaza
300 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071
Telephone: (213) 617-1200
Facsimile: (213) 617-1975

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

Executed on June 8, 2011, at San Francisco, California.


Sandra A. Warren

Superior Court Of California
Chief Executive Officer,
David H. Yamasaki
Superior Court Building
191 North First Street
San Jose, CA 95113-1090

Received From: Facebook, Inc.

1-11-CV-200467

CV UN Ans/1st Paper not P CK 395.00

Sub Total \$395.00

---NOF-----AMOUNT---

CK \$ 395.00

TOTAL DUE \$ 395.00

CASH RECEIVED \$ 0.00

CASH DUE \$ 0.00

CHANGE \$ 0.00

Receipt #201100062351

Cashier: LN2 DTSCIV010134

06/08/11 8:42am

Downtown Courthouse

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ENDORSED

2011 JUN -8 A 9:01

County of Santa Clara
By: R. SCHWARTZ
Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA

RYAN UNG, CHI CHENG, and ALICE
ROSEN, on Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 111CV200467

~~[PROPOSED]~~ ORDER GRANTING *EX PARTE* APPLICATION, PURSUANT TO STIPULATION, FOR AN ORDER EXTENDING TIME TO RESPOND TO COMPLAINT

Date: June 8, 2011
Time: 8:15 a.m.
Judge: Hon. Peter Kirwan
Dept: 8

1 Defendant Facebook, Inc.'s ("Facebook") *ex parte* application for an order extending time
2 to respond to Plaintiffs' Complaint came on for hearing on June 8, 2011 at 8:15 a.m. in
3 Department 8 of this Court. Based upon the *ex parte* application and supporting papers, including
4 stipulation of the parties, the papers on file herein, any oral argument present by counsel, and any
5 other information properly considered, and finding good cause, the Court grants the *ex parte*
6 application.

7 NOW, THEREFORE, the Court approves the following schedule:

8 1. Facebook's deadline to answer, demur, or otherwise respond to the Complaint is
9 extended to and including July 20, 2011.

10 2. Should Facebook decide to demur to the Complaint, Plaintiffs' deadline to oppose
11 Facebook's demurrer will be September 1, 2011, Facebook's deadline to reply in support of its
12 demurrer will be September 28, 2011, and any hearing on Facebook's demurrer will be held no
13 earlier than fourteen days after Facebook's reply is due.

14

15 IT IS SO ORDERED.

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Dated: JUN 08 2011

Peter H. Kirwan

19

HON. PETER KIRWAN
Judge of the Superior Court

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1223408 v1/SF

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California. I am
3 employed in San Francisco County, State of California, in the office of a member of the bar of
4 this Court, at whose direction the service was made. I am over the age of 18 years, and not a
5 party to the within action. My business address is Cooley LLP, 101 California Street, 5th Floor,
6 San Francisco, California 94111-5800. My e-mail address is swarren@cooley.com. On the
7 dates set forth below, I served the following document(s) on the party(ies) listed below in the
8 manner indicated below:

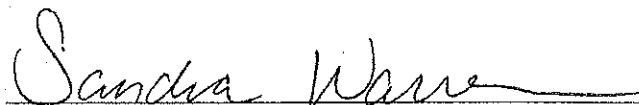
9 **NOTICE OF ENTRY OF ORDER**

10 (BY U.S. MAIL – CCP § 1013a(1)) I am personally and readily familiar with the
11 business practice of Cooley LLP for collection and processing of correspondence
12 for mailing with the United States Postal Service, and I caused such envelope(s)
13 with postage thereon fully prepaid to be placed in the United States Postal
14 Service at San Francisco, California.

14 MILBERG LLP
15 JEFF S. WESTERMAN (94559)
16 (jwesterman@milberg.com)
17 DAVID E. AZAR (218319)
18 (dazar@milberg.com)
19 One California Plaza
300 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071
Telephone: (213) 617-1200
Facsimile: (213) 617-1975

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

22 Executed on June 8, 2011, at San Francisco, California.

23 
24 Sandra A. Warren
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ENDORSED
FILED

2011 JUN -8 PM 4: 12

David H. ... Superior Court
County of Santa Clara

By: [Signature] / [Name]

Court Services

1 COOLEY LLP
2 MICHAEL G. RHODES (116127)
3 (rhodesmg@cooley.com)
4 MATTHEW D. BROWN (196972)
5 (brownmd@cooley.com)
6 101 California Street, 5th Floor
7 San Francisco, CA 94111-5800
8 Telephone: (415) 693-2000
9 Facsimile: (415) 693-2222

10 Attorneys for Defendant
11 FACEBOOK, INC.

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF SANTA CLARA

14 RYAN UNG CHI CHENG, and ALICE
15 ROSEN, on Behalf of Themselves and All
16 Others Similarly Situated,

17 Plaintiffs,

18 v.

19 FACEBOOK, INC.,

20 Defendant.

Case No. 111CV200467

NOTICE OF ENTRY OF ORDER

Dept: 8
Judge: Hon. Peter Kirwan
Complaint Filed: May 9, 2011
Trial Date: Not yet set

BY FAX

21 PLEASE TAKE NOTICE that on June 8, 2011, the Court issued an order GRANTING
22 Defendant Facebook, Inc.'s *Ex Parte* Application, Pursuant to Stipulation, for an Order Extending
23 Time to Respond to Complaint. A true and correct copy of Judge Kirwan's order is attached
24 hereto as Exhibit A.

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1 Dated: June 8, 2011

COOLEY LLP

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MATTHEW D. BROWN
Attorneys for Defendant
FACEBOOK, INC.

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1223646 v1/SF

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EXHIBIT A

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ENDORSED

2011 JUN -8 A 9:01

County of Santa Clara Superior Court
Clara, California
By: R. SCHWARTZ
Deputy Clerk

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IN AND FOR THE COUNTY OF SANTA CLARA**

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15 IT IS SO ORDERED.

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18 Dated: JUN 08 2011

Peter H. Kirwan

HON. PETER KIRWAN
Judge of the Superior Court

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21 1223408 v1/SF

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1 **PROOF OF SERVICE**

2 I am a citizen of the United States and a resident of the State of California. I am
3 employed in San Francisco County, State of California, in the office of a member of the bar of
4 this Court, at whose direction the service was made. I am over the age of 18 years, and not a
5 party to the within action. My business address is Cooley LLP, 101 California Street, 5th Floor,
6 San Francisco, California 94111-5800. My e-mail address is swarren@cooley.com. On the
7 dates set forth below, I served the following document(s) on the party(ies) listed below in the
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14 MILBERG LLP
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16 (jwesterman@milberg.com)
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18 (dazar@milberg.com)
19 One California Plaza
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Los Angeles, CA 90071
Telephone: (213) 617-1200
Facsimile: (213) 617-1975

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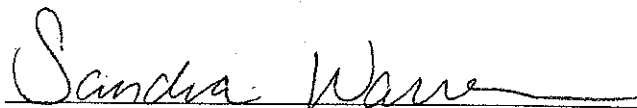
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24 Sandra A. Warren
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EXHIBIT A

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ENDORSED

2011 JUN -8 A 9:01

County of Santa Clara Superior Court
Clerk of the Court
By: R. SCHWARTZ
Clerk

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IN AND FOR THE COUNTY OF SANTA CLARA

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18 Dated: JUN 08 2011

Peter H. Kirwan

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HON. PETER KIRWAN
Judge of the Superior Court

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1223408 v1/SF

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4 this Court, at whose direction the service was made. I am over the age of 18 years, and not a
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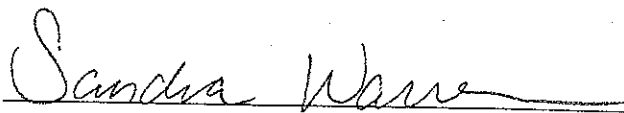
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12 for mailing with the United States Postal Service, and I caused such envelope(s)
13 with postage thereon fully prepaid to be placed in the United States Postal
Service at San Francisco, California.

14 MILBERG LLP
15 JEFF S. WESTERMAN (94559)
(jwesterman@milberg.com)
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(dazar@milberg.com)
17 One California Plaza
300 S. Grand Avenue, Suite 3900
18 Los Angeles, CA 90071
Telephone: (213) 617-1200
19 Facsimile: (213) 617-1975

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

22 Executed on June 8, 2011, at San Francisco, California.

23 
24 _____
25 Sandra A. Warren

1 **PROOF OF SERVICE**

2 **(FRCP 5)**

3 I am a citizen of the United States and a resident of the State of California. I am
4 employed in San Francisco County, State of California, in the office of a member of the bar of
5 this Court, at whose direction the service was made. I am over the age of eighteen years, and
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7 Floor, San Francisco, California 94111-5800. My e-mail address is swarren@cooley.com. On
8 the date set forth below I served the documents described below in the manner described below:

9 **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §§ 1332(D), 1446, & 1453(B)**

10 (BY U.S. MAIL – CCP § 1013a(1)) I am personally and readily familiar with the
11 business practice of Cooley LLP for collection and processing of correspondence
12 for mailing with the United States Postal Service, and I caused such envelope(s)
13 with postage thereon fully prepaid to be placed in the United States Postal
14 Service at San Francisco, California.

15 (BY MESSENGER SERVICE – CCP § 1011) I consigned the document(s) to an
16 authorized courier and/or process server for hand delivery on this date.

17 (BY FACSIMILE – CCP § 1013(e)) I am personally and readily familiar with the
18 business practice of Cooley LLP for collection and processing of document(s) to
19 be transmitted by facsimile and I caused such document(s) on this date to be
20 transmitted by facsimile to the offices of addressee(s) at the numbers listed
21 below.

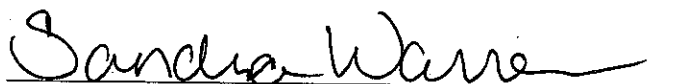
22 (BY OVERNIGHT MAIL – CCP § 1013(c)) I am personally and readily familiar
23 with the business practice of Cooley LLP for collection and processing of
24 correspondence for overnight delivery, and I caused such document(s) described
25 herein to be deposited for delivery to a facility regularly maintained by
26 _____ for overnight delivery.

27 (BY ELECTRONIC MAIL – CCP § 1010.6(a)(6)) Based on a court order or an
28 agreement of the parties to accept service by e-mail or electronic transmission, I
caused such documents described herein to be sent to the persons at the e-mail
addresses listed below at approximately _____. I did not receive, within a
reasonable time after the transmission, any electronic message or other indication
that the transmission was unsuccessful.

1 MILBERG LLP
JEFF S. WESTERMAN (94559)
2 (jwesterman@milberg.com)
DAVID E. AZAR (218319)
3 (dazar@milberg.com)
One California Plaza
4 300 S. Grand Avenue, Suite 3900
Los Angeles, CA 90071
5 Telephone: (213) 617-1200
Facsimile: (213) 617-1975
6

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

9 Executed on June 10, 2011, at San Francisco, California.

10
11 
12 Sandra A. Warren

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