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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15
16 IN RE: FACEBOOK, INC. INTERNET
17 TRACKING LITIGATION

No. 5:12-md-02314-EJD

18 **PLAINTIFFS' ADMINISTRATIVE MOTION**
19 **TO FILE PORTIONS OF MEMORANDUM**
20 **OF POINTS AND AUTHORITIES UNDER**
21 **SEAL**

22 N.D. Cal. L.R. 7-11 and 79-5

23 Next Hearing Date: April 28, 2016

24 Judge: The Honorable Edward J. Davila

1 **I. INTRODUCTION**

2 Pursuant to Civil Local Rules 7-11 and 79-5(e), Plaintiffs Perrin Davis, Cynthia Quinn, Matthew
3 Vickery and Brian Lentz respectfully submit this administrative motion to file portions of plaintiffs'
4 Memorandum of Points and Authorities in Opposition to Facebook's Motion to Dismiss (the
5 "Memorandum") under seal. Plaintiffs are lodging the Memorandum under seal because it contains
6 quotes from (or references to) documents produced in discovery that Defendant Facebook Inc. has
7 designated as "Highly Confidential" pursuant to the Stipulated Protective Order entered by Magistrate
8 Judge Paul S. Grewal in this matter on April 11, 2014 (the "Protective Order") [ECF No. 75].

9 Pursuant to Civil Local Rule 79-5(1), accompanying this motion is a Declaration of David A.
10 Straite (1) providing a public redacted version of the Memorandum; and (2) providing an unredacted
11 version of the Memorandum highlighting the text that reflects discovery material designated by
12 Facebook as "Highly Confidential."

13 **II. DISCUSSION**

14 Public policy favors public access to court records. *See Foltz v. State Farm Mutual Automobile*
15 *Insurance Co.*, 331 F.3d 1124, 1134-35 (9th Cir. 2003); *see also Nixon v. Warner Communications, Inc.*,
16 435 U.S. 589, 597 (1978) (recognizing "a general right to inspect and copy public records and
17 documents, including judicial records and documents"). Furthermore, "a party seeking to seal a judicial
18 record must articulate justifications for sealing that outweigh the public policies favoring disclosure."
19 *Dunbar v. Google, Inc.*, No. 5:12-cv-003305-LHK, 2012 WL 6202719, at *1 (N.D. Cal. Dec. 12, 2012).

20 Concurrent with this Motion to Seal, plaintiffs are filing the Memorandum. Several pages of the
21 Memorandum reflect discovery material designated "Highly Confidential" by Facebook. To comply
22 with the Protective Order and Civil Local Rule 79-5, Plaintiffs have lodged the Memorandum under
23 seal. To the best of plaintiffs' knowledge, the redactions to the Memorandum are consistent with
24 Facebook's designations.

25 **III. CONCLUSION**

26 Plaintiffs have filed this motion in compliance with the Protective Order and Civil Local Rule
27 79-5 to identify portions of the Memorandum that Facebook has designated "Highly Confidential" and
28 to redact the Memorandum in accordance therewith. Plaintiffs take no position on whether the

designations are appropriate until having a chance to evaluate Facebook's L.R. 79-5(e) declaration in response to this Motion justifying the designations.

Dated: February 18, 2016

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By: /s/ Paul R. Kiesel

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