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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

16  
17 IN RE: FACEBOOK INTERNET  
18 TRACKING LITIGATION

Case No.: 5:12-MD-02314-EJD

**PLAINTIFFS' NOTICE OF UNOPPOSED  
MOTION AND MOTION FOR  
ADMINISTRATIVE RELIEF TO AMEND  
CONSOLIDATION ORDER**

Judge: The Honorable Edward J. Davila  
Court Room: 4

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1 NOTICE IS HEREBY GIVEN that pursuant to Civil Local Rule 7-11, Plaintiffs hereby  
2 move this Honorable Court for an order modifying the April 3, 2012 Order Granting Plaintiffs'  
3 Motion to Consolidate and Appoint Interim Class Counsel [ECF No. 19] ("Consolidation Order"),  
4 as amended on June 26, 2013 [ECF No. 66] and March 12, 2015 [ECF No. 80].

5 In sum, the movants propose to streamline the leadership structure of this case in two  
6 ways: first, to eliminate the position of liaison counsel, and second, to add Jay Barnes to the  
7 interim steering committee. In support of this motion, movants state as follows and submit  
8 accompanying declarations of Jay Barnes, Paul Kiesel and Mark Mandell. The undersigned  
9 conferred with Facebook counsel, who confirmed that Facebook takes no position on this motion.

10 **I. ELIMINATION OF POSITION OF LIAISON COUNSEL**

11 1. In the Consolidation Order, this Court approved a stipulated leadership structure  
12 that included Kiesel Law LLP as interim liaison counsel. No member of the interim executive  
13 committee had offices in California at the time, necessitating the role of liaison counsel.

14 2. Last year, on March 12, 2015, this Court appointed David Straite to the interim  
15 executive committee. Mr. Straite is an attorney with the firm of Kaplan Fox & Kilsheimer LLP,  
16 which has an office in this District, in San Francisco. There is therefore no longer any need for  
17 separate liaison counsel, presenting an opportunity to streamline leadership and enhance efficiency  
18 for opposing counsel, class counsel and the Court.

19 3. Attorneys and paralegals at Kaplan Fox are familiar with Northern District practice.  
20 For example, Your Honor appointed Kaplan Fox as liaison counsel in *In re: LinkedIn User*  
21 *Privacy Litig.*, 5:12-cv-03088-EJD (N.D. Cal.). Likewise, Kaplan Fox currently acts as co-lead  
22 counsel in *In re: Yahoo Mail Litig.*, 5:13-cv-4980-LHK (N.D. Cal.), where no firm acts as separate  
23 liaison counsel.

24 4. Attorneys and paralegals at current liaison counsel Kiesel Law LLP are familiar  
25 with the substance of this case and have conferred benefit on the class beyond their roles as liaison  
26 counsel. The interim executive committee has thus asked the Kiesel firm to stay in the leadership  
27 structure, but on the interim steering committee. The undersigned proposed this change to the rest  
28

1 of the interim steering committee and no member objected. The declaration of Paul Kiesel  
2 agreeing to this change of duties accompanies today's motion.

3 **II. ADDING JAY BARNES TO THE STEERING COMMITTEE**

4 5. Jay Barnes is an attorney with Barnes & Associates in Jefferson City, Missouri, and  
5 is an elected member of the Missouri General Assembly. He currently chairs the Government  
6 Oversight and Accountability Committee, Barnes Decl. ¶ 3, and has become a leading voice for  
7 data privacy. He is counsel of record for Chandra Thompson in a case consolidated with this  
8 MDL. *See Thompson v. Facebook, Inc.*, 5:12-cv-0676-EJD (N.D. Cal.).

9 6. Mr. Barnes also successfully argued the appeal on behalf of the class in *In re:*  
10 *Google Cookie Placement Consumer Privacy Litig.*, No. 13-4300 (3d Cir.), and the undersigned  
11 anticipate Mr. Barnes providing assistance in advance of oral argument on defendant's motion to  
12 dismiss in this case. Including Mr. Barnes on the interim steering committee would benefit the  
13 class because of Mr. Barnes' prior role in *Google Cookie Placement* and the substantial overlap of  
14 issues between the two cases. The declaration of Jay Barnes accompanies this motion.

15 7. Current steering committee member Mark Mandell has volunteered to step down  
16 from the interim steering committee. Mandell Decl. ¶ 3. This will maintain a fixed number of  
17 members in the leadership structure. Mr. Mandell was not asked to step down for cause.

18 For the foregoing reasons, this Honorable Court should grant this Motion.

19

20 Dated: March 25, 2016

Respectfully Submitted,

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**KIESEL LAW LLP**

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By: /s/ Paul R. Kiesel

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