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

IN RE: FACEBOOK, INC. INTERNET
TRACKING LITIGATION

No. 5:12-md-02314-EJD

**PLAINTIFFS' NOTICE OF RECENT
DECISION; REQUEST FOR LEAVE**

N.D. Cal. L.R. 7-3(d)

1 On January 14, 2016, Defendant Facebook, Inc. (“Facebook”) filed a Motion to Dismiss
2 Plaintiffs’ Second Amended Consolidated Class Action Complaint (“Motion”) [Dkt. 101]. On April
3 28, 2016, this Court heard argument on the Motion and took the matter under submission [Transcript,
4 Dkt. 123]. Two days ago, subsequent to oral argument, an opinion in this District was issued that bears
5 directly on the Motion. *See Campbell v. Facebook, Inc.*, 13-cv-5996-PJH, order dated May 18, 2016
6 (N. D. Cal.), slip opinion appended as Exhibit A.

7 The *Campbell* Court granted in part and denied in part plaintiffs’ motion to certify a class of
8 Facebook users alleging that Facebook improperly intercepted URLs included in private electronic
9 messages. In the order, the Court ruled that the subject URLs are “contents” within the meaning of the
10 Electronic Communications Privacy Act and the California Invasion of Privacy Act,¹ distinguishing *In*
11 *re: Zynga Privacy Litig.*, 750 F.3d 1098 (9th Cir. 2014). *See* Ex. A, Slip Op. at 19-20. This holding
12 relates to arguments made by the parties in the above-captioned case on the same issue. *See* Motion at
13 11-12; Brief in Opposition to Motion dated Feb. 18, 2016, at 10-13; Reply Brief in Further Support of
14 Motion dated Mar. 10, 2016, at 5-6; Transcript at 8, 16-19, 27, 63-64, 72, 101-03.

15 Plaintiffs seek leave to provide this decision as supplemental authority for the Court’s
16 consideration when deciding the Motion.

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18 **[signatures on following page]**
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27 ¹ On December 23, 2014, the *Campbell* Court denied in part and granted in part Facebook’s motion to
28 dismiss but did not address at that time whether the subject URLs contained “contents” within the
meaning of the statutes. *See* Order dated Dec. 23, 2014 [*Campbell* ECF No. 43].

1 Dated: May 20, 2016

Respectfully submitted,

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3 **SILVERMAN, THOMPSON, SLUTKIN &**
4 **WHITE LLC**

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ECF ATTESTATION

I, David A. Straite, am the ECF User whose ID and password are being used to file the following: **PLAINTIFFS' NOTICE OF RECENT DECISION; REQUEST FOR LEAVE**. In compliance with General Order 45, X.B., I hereby attest that all signatories have concurred in this filing.

DATED: May 20, 2016

KAPLAN, FOX & KILSHEIMER LLP

By: /s/ David Straite
DAVID A. STRAITE

Interim Co-Class Counsel