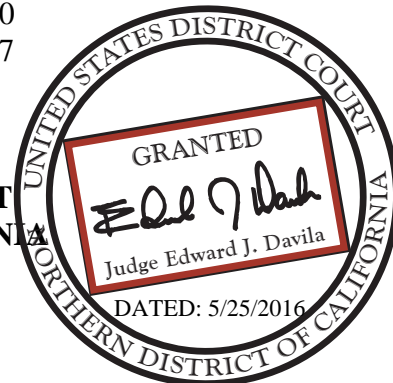


1 Stephen G. Grygiel (*admitted pro hac vice*)  
 2 **SILVERMAN THOMPSON**  
 3 **SLUTKIN WHITE LLC**  
 4 201 N. Charles Street, 26<sup>TH</sup> Floor  
 5 Baltimore, MD 21201  
 6 Tel.: (410) 385-2225  
 7 Fax: (410) 547-2432  
 8 *sgrygiel@mdattorney.com*

Frederic S. Fox (*admitted pro hac vice*)  
 David A. Straite (*admitted pro hac vice*)  
**KAPLAN FOX & KILSHEIMER LLP**  
 850 Third Avenue, 14<sup>th</sup> Floor  
 New York, NY 10022  
 Tel.: (212) 687-1980  
 Fax: (212) 687-7714  
*dstraite@kaplanfox.com*

Laurence D. King (206423)  
 Mario Choi (243409)  
**KAPLAN FOX & KILSHEIMER LLP**  
 350 Sansome Street, 4th Floor  
 San Francisco, CA 94104  
 Tel.: (415) 772-4700  
 Fax: (415) 772-4707  
*lking@kaplanfox.com*

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



16  
 17 IN RE: FACEBOOK, INC. INTERNET  
 18 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,<sup>1</sup> distinguishing *In*  
11 *re: Zynga Privacy Litig.*, 750 F.3d 1098 (9<sup>th</sup> 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.

17  
18 **[signatures on following page]**  
19  
20  
21  
22  
23  
24  
25  
26

27 <sup>1</sup> 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,

2  
3 **SILVERMAN, THOMPSON, SLUTKIN &**  
4 **WHITE LLC**

**KAPLAN, FOX & KILSHEIMER LLP**

5 By: /s/ Stephen G. Grygiel  
6 Stephen G. Grygiel (admitted *pro hac vice*)  
7 201 N. Charles St., #2600  
8 Baltimore, MD 21201  
9 Telephone (410) 385-2225  
10 Facsimile: (410) 547-2432  
11 *sgrygiel@mdattorney.com*

*Interim Co-Lead Counsel*

By: /s/ David A. Straite  
Frederic S. Fox (admitted *pro hac vice*)  
David A. Straite (admitted *pro hac vice*)  
850 Third Avenue  
New York, NY 10022  
Telephone: (212) 687-1980  
Facsimile: (212) 687-7714  
*dstraite@kaplanfox.com*

Laurence D. King (206423)  
Mario Choi (243409)  
350 Sansome Street, 4th Floor  
San Francisco, CA 94104  
Tel.: (415) 772-4700  
Fax: (415) 772-4707  
*lking@kaplanfox.com*

*Interim Co-Lead Counsel*

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*