Exhibit A

In re: Facebook Internet Tracking Litigation
5:12-md-2314-EJD-NC (N.D. Cal.)

Table 1 – Privacy Torts Recognized in 44 States and the District of Columbia

Alabama	*Phillips v. Smalley Maintenance Services*, 711 F.2d 1524 (11th Cir. 1983) (applying Alabama law); *Smith v. Doss*, 37 So. 2d 118 (1948).
Alaska	*Chizmar v. Mackie*, 896 P.2d 196 (Alaska 1995).
Arizona	*Reed v. Real Detective Pub. Co.*, 162 P.2d 133 (Ariz. 1945) ("In order to recover for an invasion of the right of privacy, it is not necessary for the plaintiff to allege or prove special damages").
Arkansas	*Olan Mills, Inc. v. Dodd*, 353 Ark. 22 (1962).
California	CAL. CONST. Art. I, Sec. I; *Hill v. NCAA*, 7 Cal. 4th 1 (1994); *Shulman v. Group W. Productions, Inc*., 18 Cal. 4th 200 (1998); *Briscoe v. Reader's Digest Ass'n*, 4 Cal. 3d 529, 483 P. 2d 34, 93 Cal. Rptr. 866, (1971); *Melvin v. Reid*, 112 Cal. App. 285 (1931).
Colorado	*Doe v. High-Tech Institute, Inc.*, 972 P.2d 1060 (Colo. 1998) (recognizing privacy tort for unauthorized testing of plaintiff's blood for HIV even without resulting pecuniary harm).
Connecticut	*Goodrich v. Waterbury Republican-Am., Inc*., 448 A.2d 1317, 1328-29 (Conn. 1982) ("In reviewing the body of privacy law today, we note that tort actions for invasion of privacy have been judicially recognized, in one form or another, in approximately three quarters of the states. . . . There is substantive support today for the conclusion that privacy is a basic right entitled to legal protection.").
Delaware	*Barbieri v. News-Journal*, 189 A.2d 773 (Del. 1963) ("The existence of this tort, though of recent origin, is now well recognized. . . . We see no reason for not recognizing it as a part of our law.").

District of Columbia	*Afro-American Publishing Co. v. Jaffe*, 366 F.2d 649 (D.C. Cir. 1966) ("A common law action for invasion of privacy is maintainable in the District of Columbia."); *Dresbach v. Doubleday & Co*., 518 F. Supp. 1285 (D.D.C. 1981) (recognizing that the tort applies to "electronic surveillance").
Florida	*Cason v. Baskin*, 155 Fla. 198 (1944) ("The very able opinion of the Georgia Supreme Court [in *Pavesich*], which was written by Justice Andrew J. Cobb, was unanimously concurred in, is recognized as the leading case on this subject in this country and has been followed in the vast majority of the decisions of our courts of last resort since that time.").
Georgia	*Pavesich v. New England Life Ins. Co*., 50 S.E. 68 (Ga. 1905).
Hawaii	HAW. CONST. art. I, § 6; *Fergerstrom v. Hawaiian Ocean View Estates*, 441 P.2d 141 (Haw. 1968).
Idaho	*Peterson v. Idaho First Nat'l Bank*, 367 P.2d 284 (Idaho 1961); *Hoskins v. Howard*, 971 P.2d 1135 (1998) ("an intrusion upon one's solitude or seclusion or private affairs may occur without a physical invasion, for example, as by eavesdropping by means of wire-tapping.").
Illinois	*Leopold v. Levin*, 259 N.E.2d 250, 254 (Ill. 1970) ("We agree that there should be recognition of a right of privacy, a right many years ago described in a limited fashion by Judge Cooley with utter simplicity as the right 'to be let alone.' Privacy is one of the sensitive and necessary human values and undeniably there are circumstances under which it should enjoy the protection of law.").
Indiana	*Doe v. Methodist Hosp.*, 690 N.E.2d 681 (Ind. 1997).
Iowa	*Howard v. Des Moines Register & Tribune*, 283 N.W.2d 289 (Iowa 1979) (en banc).

Kansas	*Froelich v. Adair*, 516 P.2d 993 (Kan. 1973) ("We are concerned here with an action for invasion of privacy by intrusion upon seclusion. The foregoing authorities recognize such an action and each lists numerous citations of supporting cases. Although Kansas has recognized other actions for invasion of privacy, an action for intrusion upon seclusion is one of first impression in this state. We are impressed by the reasoning of the cases which sanction such a right. Our research discloses the weight of authority is in favor of such a right. We conclude invasion of privacy by intrusion upon seclusion should be recognized in this state.").
Kentucky	*Rhodes v. Graham*, 37 S.W.2d 46 (Ky. 1931).
Louisiana	LA. CIV. CODE art. 2315; *Batts v. Capital City Press*, 479 So. 2d 534 (La. App. 1985), *review denied*, 503 So. 2d 482 (La.) ("Louisiana recognizes a right of privacy.").
Maine	*Estate of Berthiaume v. Pratt*, 365 A.2d 792 (Me. 1976) ("By our decision in this case we join a majority of the jurisdictions in the country in recognizing a 'right to privacy.' We also declare it to be the rule in Maine that a violation of this legally protected right is an actionable tort.").
Maryland	*Bilney v. Evening Star Newspapers*, 43 Md. App. 560, 406 A.2d 652 (1979) ("That invasion of privacy would be recognized as a separate tort in Maryland and redress provided for its commission was first suggested by the Court of Appeals in . . . 1962. Although, at that time, more than 70 years had elapsed since the American nativity of the tort in the famous article by Warren and Brandeis . . . and the tort had already been recognized throughout most of the United States, there had yet to be reached any real consensus among courts and commentators as to its precise nature. . . . In the years following, . . . a good bit of "fleshing out" and molding occurred, notably with the drafting and adoption of new sections 652A-652I of the Restatement of Torts (2d), and the tort was given a more precise and standard description. When it next dealt with the matter, the Court of Appeals recognized these later developments and, in general, blessed by adoption their product.").
Massachusetts	*Cefalu v. Globe Newspaper*, 391 N.E.2d 935 (Mass. App. 1979); *see also* MASS. GEN. L. ch. 214, § 1B ("A person shall have a right against unreasonable, substantial or serious interference with his privacy.").

Michigan	*Hawley v. Prof'l Credit Bureau, Inc.*, 76 N.W.2d 835 (Mich. 1956) ("There is no need, in this opinion, to undertake a lengthy exposition of the right of privacy, of the growth of the law from those ancient days when only a physical battery found redress in the courts, when gross and evil assaults upon the spirits and emotions of our people went without recovery. That the right of privacy exists in this jurisdiction was settled beyond doubt by the case of *Pallas v. Crowley, Milner & Co.*").
Minnesota	*Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231, 234-35 (Minn. 1998) ("Many other jurisdictions followed Georgia in recognizing the tort of invasion of privacy, citing Warren and Brandeis' article and *Pavesich*. Today, the vast majority of jurisdictions now recognize some form of the right to privacy. . . . The right to privacy is inherent in the English protections of individual property and contract rights and the 'right to be let alone' is recognized as part of the common law across this country. Thus, it is within the province of the judiciary to establish privacy torts in this jurisdiction. Today we join the majority of jurisdictions and recognize the tort of invasion of privacy. The right to privacy is an integral part of our humanity; one has a public persona, exposed and active, and a private persona, guarded and preserved. The heart of our liberty is choosing which parts of our lives shall become public and which parts we shall hold close.").
Mississippi	*Young v. Jackson*, 572 So. 2d 378 (Miss. 1990).
Missouri	*Munden v. Harris*, 134 S.W. 1076, 1078-79 (Mo. App. 1911) ("It may be admitted that the right of privacy is an intangible right; but so are numerous others which no one would think of denying to be legal rights, which would be protected by the courts. It is spoken of as a new right, when, in fact, it is an old right with a new name. Life, liberty, and the pursuit of happiness are rights of all men. The right to life includes the pursuit of happiness; for it is well said that the right to life includes the right to enjoy life. Everyone has the privilege of following that mode of life, if it will not interfere with others, which will bring to him the most contentment and happiness. He may adopt that of privacy, or, if he likes, of entire seclusion.").
Montana	*Welsh v. Pritchard*, 241 P.2d 816 (Mont. 1952).
Nebraska	No common law right to privacy. Statutory protections only. See Table 2.

Nevada	*Montesano v. Donrey Media Group*, 668 P.2d 1081 (Nev. 1983) ("This court has impliedly recognized an action for invasion of privacy in *Norman v. City of Las Vegas*, 64 Nev. 38, 177 P.2d 442 (1947).").
New Hampshire	*Hamberger v. Eastman*, 206 A.2d 239 (N.H. 1964) ("The tort of intrusion on the plaintiffs' solitude or seclusion does not require publicity and communication to third persons.").
New Jersey	*McGovern v. Van Riper*, 43 A.2d 514 (N.J. Ch. 1945), aff'd in part, 45 A.2d 842 (N.J. 1946) ("The basic concepts underlying the right of privacy have their origin in the law of ancient Greece and Rome. Although the Anglo-American courts have long recognized the existence of the right, they based their relief upon the theory that property or contract rights were involved. . . . The first clear-cut recognition of the existence of the right of privacy as an independent right is found in an article in 4 Harv. L. Rev. 193. . . . It is now well settled that the right of privacy having its origin in natural law, is immutable and absolute, and transcends the power of any authority to change or abolish it. . . . It is one of the 'natural and unalienable rights' recognized in Art. 1, par. 1, of the Constitution of this State.").
New Mexico	*Hubbard v. Journal Publishing*, 368 P.2d 147 (N.M. 1962).
New York	No common law right to privacy. Statutory protections only. See Table 2.
North Carolina	*Flake v. Greensboro News Co*., 195 S.E. 55 (N.C. 1938).
North Dakota	Status unsettled. *Hougum v. Valley Memorial Homes*, 574 N.W.2d 812 (N.D. 1998) ("This Court has not decided whether a tort action exists in North Dakota for invasion of privacy. … Claims for invasion of privacy are recognized in some form in virtually all jurisdictions. … Here, assuming without deciding a claim for intrusion upon seclusion exists in North Dakota, we conclude Hougum failed to raised disputed issues of material fact to support such a claim."). See Table 2.
Ohio	*LeCrone v. Ohio Bell Tel. Co*., 201 N.E.2d 533 (Ohio App. 1963) ("As a general proposition, eavesdropping on phone conversations of another by unauthorized mechanical means, or a so called 'tap,' is the kind of act or conduct that fits the definition of an intrusion or prying into another's private affairs. Such conduct generally would be criminal, a violation of public utility law, a clear invasion of the subscriber's right to exclusive use and, in our opinion, an affront to the sensibilities of a reasonable man.").

Oklahoma	*McCormack v. Oklahoma Publishing*, 613 P.2d 737, 740 (Okla. 1980) ("Although there was no distinctive tort of invasion of privacy in early common law, it has evolved in most jurisdictions based on common law principles sometimes compared to trespass. It is unnecessary for the Legislature to enact a law to create this tort in abrogation of the common law. The common law, followed in Oklahoma, refers not only to the ancient unwritten law of England, but also to that body of law created and preserved by decisions of courts. The common law is not static, but is a dynamic and growing thing and its rules arise from the application of reason to the changing conditions of society. Flexibility and capacity for growth and adaptation is its peculiar boast and excellence.").
Oregon	*Hinish v. Meier & Frank Co*., 113 P.2d 438, 446 (Or. 1941) ("The case presents to this court for the first time the question whether there is such a thing in this state as a legal right of privacy, for breach of which an action for damages will lie. This right, first brought forcefully to the attention of the profession in the year 1890 by an article in the Harvard Law Review . . . is said to be one that inheres in an 'inviolate personality.' . . . Where this right has been invaded . . . some of the courts of this country have thought that no legal redress could be granted, largely because the right was unknown to the common law, and to recognize it would be judicial legislation. No one, however, has had the hardihood to excuse as ethically or morally defensible practices which, becoming increasingly common and in many instances more and more offensive and injurious, under modern social conditions and through the use of modern scientific inventions, give sharper point to the demand that in such cases courts discharge the function for which they exist, of administering justice and affording redress for wrongs committed.").
Pennsylvania	*Vogel v. W.T. Grant Co.*, 327 A.2d 133, 134 (Pa. 1974) ("Since 1890 when Samuel Warren and Louis Brandeis published their famous article *The Right to Privacy*, violation of this right has been steadily accepted as an actionable tort. In Pennsylvania the development of a cause of action for invasion of privacy has been somewhat sporadic. . . . Nevertheless, the existence of the right in this Commonwealth is now firmly established.").
Rhode Island	No common law right to privacy. Statutory protections only. See Table 2.

South Carolina	*Holloman v. Life Ins. Co. of Virginia*, 7 S.E.2d 169 (S.C. 1940); *Snakenberg v. Hartford Cas. Ins. Co., Inc*., 383 S.E.2d 2 (S.C. 1989) ("The law recognizes that each person has an interest in keeping certain facets of personal life from exposure to others. This interest in "privacy" is a distinct aspect of human dignity and moral autonomy.").
South Dakota	*Truxes v. Kenco Enters., Inc*., 119 N.W.2d 914, 917 (S.D. 1963) ("Restatement, Torts, § 867, recognizes the existence of the right: 'A person who unreasonably and seriously interferes with another's interest in not having his affairs known to others or his likeness exhibited to the public is liable to the other.' Concluding that the right of privacy has a foundation in the present day common law and is supported by the weight of authority, we hold that an action in this jurisdiction may be maintained for invasion of such right.").
Tennessee	*Martin v. Senators, Inc*., 418 S.W.2d 660 (Tenn. 1967).
Texas	*Billings v. Atkinson*, 489 S.W.2d 858, 861 (Tex. 1973) ("The right of privacy is a right distinctive in itself and not incidental to some other recognized right for breach of which an action for damages will lie. A violation of the right is a tort.").
Utah	*Cox v. Hatch*, 761 P.2d 556, 563 (Utah 1988) (adopting Second Restatement of Torts).
Vermont	*Hodgdon v. Mt. Mansfield Co., Inc*., 624 A.2d 1122, 1129 (Vt. 1992) (citing Second Restatement of Torts).
Virginia	No common law right to privacy. *WJLA-TV v. Levin*, 564 S.E.2d 383 (Va. 2002) (because the Virginia General Assembly has adopted various statutory privacy protections, court rejects common law privacy tort). See Table 2.
Washington State	*Rhinehart v. Seattle Times*, 654 P.2d 673 (Wash. 1982) (en banc); *Mark v. Seattle Times*, 635 P.2d 1081 (Wash. 1981).
West Virginia	*Sutherland v. Kroger Co*., 110 S.E.2d 716 (W. Va. 1959).

Wisconsin	Wisconsin passed a privacy statute in 1977 broadly protecting privacy. *See* Wis. Stat. § 895.50. The statute "essentially codified three of the four categories of privacy actions set forth in the Restatement (Second) of Torts." *Marino v. Arandell Corp*., 1 F. Supp. 2d 947, 952 (E.D. Wis. 1998). Since then, case law has developed a unique "common law" of privacy pursuant to the statute's broad language but consistent with the common law of other states. As such, in Wisconsin at least, "the 'common law tort'/'statutory claim' distinction amounts to little more than word play." *Id*. at 953.
Wyoming	Status unsettled. See Table 2.

In re: Facebook Internet Tracking Litigation
5:12-md-2314-EJD-NC (N.D. Cal.)

Table 2 – General Privacy Torts Not Recognized in 6 States

Nebraska	No common law right to privacy. *Brunson v. Ranks Army Store*, 73 N.W.2d 803 (Neb. 1955). Neb. Rev. Stat. §§ 20-201 through 20-211 (*Brunson* statutorily repealed; various privacy rights codified) Neb. Rev. Stat. § 25-840.01 (action for publication of a libel) Neb. Rev. Stat. §§ 86-290 (Nebraska wiretap law)
New York	No common law right to privacy. *Wojtowicz v. Delacorte Press*, 58 A.D.2d 45 (1st Dep't 1977) ("In this State, the right of privacy or the right of a person to live his life quietly and to be left alone rests solely in and is limited by statute"), *order aff'd*, 43 N.Y.2d 858 (1978). New York Civil Rights Law § 50 (misappropriation of "name, portrait or picture") New York Civil Rights Law § 50-a, 50-d and 50-e (privacy of personnel records) New York Civil Rights Law § 50-b (privacy of certain information related to sex offenses and HIV) New York General Business Law § 349 (private right of action for deceptive practices); *Bose v. Interclick, Inc.*, 2011 WL 4343517, at *9 (S.D.N.Y., Aug. 17, 2011) (unauthorized "collection of personal information" can be a privacy violation that qualifies as "injuries for purposes of Section 349") New York Penal Law § 250 *et seq*. (New York wiretap law)
North Dakota	Status unsettled. *Hougum v. Valley Memorial Homes*, 574 N.W.2d 812 (N.D. 1998) ("This Court has not decided whether a tort action exists in North Dakota for invasion of privacy. . . . Claims for invasion of privacy are recognized in some form in virtually all jurisdictions. . . . Here, assuming without deciding a claim for intrusion upon seclusion exists in North Dakota, we conclude Hougum failed to raised disputed issues of material fact to support such a claim.").

Rhode Island No common law right to privacy. *Kalian v. People Acting Through Community Effort, Inc. (PACE)*, 408 A.2d 608 (R.I. 1979).

R.I. Gen. L. § 9-1-28 (right of action for unauthorized use of name, portrait or picture)

R.I. Gen. L. § 11-35-21 (Rhode Island wiretap law)

Virginia No common law right to privacy. *WJLA-TV v. Levin*, 564 S.E.2d 383 (Va. 2002) (because the Virginia General Assembly has adopted statutory privacy protections, court rejects common law privacy tort).

Virginia Code § 18.2-152.4 – §18.2-15.15 (Computer Crimes Act)

Virginia Code § 18.2-152.5 ("computer invasion of privacy")

Virginia Code § 19.2-62 *et seq.* (Virginia wiretap law)

Wyoming Status unsettled. *Jewell v. North Big Horn Hosp. Dist*., 953 P.2d 135 (Wy. 1998); *Shoshone First Bank v. Pacific Employers Ins. Co*., 2 P.3d 510 (Wy. 2000).

In re: Facebook Internet Tracking Litigation
5:12-md-2314-EJD-NC (N.D. Cal.)

Table 3 – Relevant Provisions of the Restatement (Second) of Torts (1977)

Section	Full Text
652A	(1) One who invades the right of privacy of another is subject to liability for the resulting harm to the interests of the other. (2) The right of privacy is invaded by: (a) unreasonable intrusion upon the seclusion of another, as stated in § 652B; or (b) appropriation of the other's name or likeness, as stated in § 652C; or (c) unreasonable publicity given to the other's private life, as stated in § 652D; or (d) publicity that unreasonably places the other in a false light before the public, as stated in § 652E.
652B	One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.
652C	One who appropriates to his own use or benefit the name or likeness of another is subject to liability to the other for invasion of his privacy.
652D	One who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that (a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public.
652E	One who gives publicity to a matter concerning another that places the other before the public in a false light is subject to liability to the other for invasion of his privacy, if (a) the false light in which the other was placed would be highly offensive to a reasonable person, and (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.
652H	One who has established a cause of action for invasion of his privacy is entitled to recover damages for: (a) the harm to his interest in privacy resulting from the invasion; (b) his mental distress proved to have been suffered if it is of a kind that normally results from such an invasion; and (c) special damage of which the invasion is a legal cause.