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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]. On May 20, 2016, the Court granted permission to submit supplemental briefing related to  
5 the Supreme Court decision *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016) [ECF No. 126].  
6 Supplemental *Spokeo* briefing concluded on June 10, 2016.

7 Earlier today, June 27, 2016, the Third Circuit Court of Appeals issued an opinion which is  
8 relevant to the Motion and to the supplemental *Spokeo* briefing. *See generally In re: Nickelodeon*  
9 *Consumer Privacy Litig.*, No. 15-1441, Opinion of the Court (3d Cir., Jun. 27, 2016) (hereinafter  
10 “Nickelodeon”), slip opinion attached hereto as **Exhibit A**. The *Nickelodeon* court noted that its earlier  
11 decision in *In re Google Inc. Cookie Placement Consumer Privacy Litig.*, 806 F.3d 125 (3d Cir. 2015)  
12 (hereinafter “*Google Cookie Placement*”) addressed many privacy law issues, and “[t]his case  
13 addresses still more.” Slip Op. at 7.

14 The *Nickelodeon* court discussed whether plaintiffs had Article III standing in light of *Spokeo*  
15 and whether *Google Cookie Placement’s* standing analysis remained good law. *See* Slip Op. at 20-25.  
16 The court’s discussion relates to defendant’s discussion of standing in the Motion, *see* Motion at 7-10;  
17 the plaintiffs discussion in the brief in opposition to the Motion dated February 18, 2016 at 4-9 [ECF  
18 No. 104-4]; defendant’s discussion in the reply brief dated March 10, 2016 at 2-5 [ECF No. 109];  
19 defendant’s discussion in its opening *Spokeo* brief dated May 31, 2016 at 5 [ECF No. 128]; plaintiffs’  
20 response *Spokeo* brief dated June 10, 2016 at 5 [ECF No. 132]; and defendant’s response *Spokeo* brief  
21 dated June 10, 2016 at 3 [ECF No. 131].

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

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25 **[signatures on following page]**  
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1 Dated: June 27, 2016

Respectfully submitted,

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3 **KAPLAN, FOX & KILSHEIMER LLP**

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

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15 *Interim Co-Lead Counsel*

1 **ATTESTATION OF E-FILED SIGNATURE**

2 I, David A. Straite, court-appointed interim lead counsel for the proposed Class, am the ECF  
3 User whose ID and password are being used to file the foregoing. In compliance with Civil L.R. 5-  
4 1(i)(3), I hereby attest that Stephen Grygiel has concurred in this filing.

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6 /s/ David A. Straite  
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