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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 Yesterday, June 30, 2016, the United States District Court for the District of West Virginia  
8 issued a ruling addressing *Spokeo*. See generally *Mey v. Got Warranty, Inc.*, 5:15-cv-0101-JPB, Order  
9 Denying Defendants’ Motion to Dismiss (D. W.Va., Jun. 30, 2016) (hereinafter “Mey”), slip opinion  
10 attached hereto as **Exhibit A**.

11 The *Mey* court addressed on pages 6 through 9 whether invasion of privacy (including intrusion  
12 upon seclusion) resulting from a statutory violation can be intangible concrete harm under *Spokeo*. The  
13 *Mey* court addressed on pages 9 through 12 whether an unwanted invasion of a consumer’s electronic  
14 device can be trespass to chattels and whether this invasion can be intangible concrete harm under  
15 *Spokeo*.

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

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19 **[signatures on following page]**  
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1 Dated: July 1, 2016

Respectfully submitted,

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3 **KAPLAN, FOX & KILSHEIMER LLP**

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