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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 NEW AUTHORITY;  
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 After the conclusion of briefing and oral argument, the United States Court of Appeals for the  
8 Third Circuit issued a precedential opinion addressing Article III standing and injury-in-fact in the  
9 context of data privacy litigation in light of *Spokeo*. See *In Re: Horizon Healthcare Svcs. Inc. Data*  
10 *Breach Litig.*, No. 15-2309 (3d Cir., Jan. 20, 2017), slip op. at 14-32. The parties addressed similar  
11 Article III standing issues in the initial briefing. See Motion at 7-10; Plaintiffs’ Brief in Opposition to  
12 Motion [ECF No. 104-3] at 4-9; Defendant’s Reply in Further Support of Motion [ECF No. 109] at 2-5.  
13 Article III standing was also discussed at the April 28, 2016 oral argument. See Transcript at 8-15, 53-  
14 58, and 98-100. Article III standing was also the subject of supplemental briefing on *Spokeo*. See ECF  
15 Nos. 128, 129, 131 and 132. A copy of the slip opinion in *Horizon* is attached as **Exhibit A**.

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

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19 [signatures on following page]  
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1 Dated: January 25, 2017

Respectfully submitted,

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3 **KAPLAN, FOX & KILSHEIMER LLP**

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