1 Frederic S. Fox (admitted *pro hac vice*) Stephen G. Grygiel (admitted pro hac vice) David A. Straite (admitted *pro hac vice*) SILVERMAN THOMPSON 2 KAPLAN FOX & KILSHEIMER LLP SLUTKIN WHITE LLC 201 N. Charles Street, 26<sup>TH</sup> Floor 850 Third Avenue, 14th Floor 3 New York, NY 10022 Baltimore, MD 21201 4 Tel.: (212) 687-1980 Tel.: (410) 385-2225 Fax: (212) 687-7714 Fax: (410) 547-2432 5 dstraite@kaplanfox.com sgrygiel@mdattorney.com 6 Laurence D. King (206423) 7 Mario Choi (243409) KAPLAN FOX & KILSHEIMER LLP 8 350 Sansome Street, 4th Floor 9 San Francisco, CA 94104 Tel.: (415) 772-4700 10 Fax: (415) 772-4707 lking@kaplanfox.com 11 12 13 UNITED STATES DISTRICT COURT 14 NORTHERN DISTRICT OF CALIFORNIA 15 **SAN JOSE DIVISION** 16 17 No. 5:12-md-02314-EJD-NC 18 IN RE: FACEBOOK, INC. INTERNET TRACKING LITIGATION DECLARATION OF DAVID A. STRAITE 19 PURSUANT TO LOCAL RULE 7-11 IN SUPPORT OF PLAINTIFFS' ADMINISTRATIVE MOTION 20 TO SCHEDULE SUBSEQUENT CASE MANAGEMENT CONFERENCE 21 Judge: Hon. Edward J. Davila 22 Trial Date: Not yet set 23 24 25 26 27 28 DECLARATION PURSUANT TO CIVIL L.R. 7-11 IN SUPPORT OF ADMINISTRATIVE

> MOTION TO SCHEDULE SUBSEQUENT CASE MANAGEMENT CONFERENCE No. 5:12-md-02314-EJD-NC

> > Dockets.Justia.com

I, David A. Straite, declare as follows:

- 1. I am a partner at Kaplan Fox & Kilsheimer LLP, Co-Lead counsel in the above-captioned case. I submit this declaration pursuant to Civil Local Rule 7-11 in support of plaintiffs' Administrative Motion to Schedule a Subsequent Case Management Conference. I have personal knowledge of the facts stated in this declaration and, if called a witness, I could and would testify competently to them.
- 2. Civil Local Rule 7-11(a) requires that an administrative motion be accompanied by "either a stipulation under Civil L.R. 7-12 or by a declaration that explains why a stipulation could not be obtained." On April 7, 2017, on behalf of myself and Co-Lead Counsel Stephen Grygiel, Esq., I sent an email to counsel for Facebook, Inc., including Kyle Wong, Esq., Matthew Brown, Esq. and Jeff Gutkin, Esq. In the email I informed Facebook counsel that we intended to ask the Court to schedule a Case Management Conference and asked if they would support, oppose or take no position. To date, Facebook counsel have never responded to my email.
- 3. By letter dated April 11, 2017 (ECF No. 141), plaintiffs wrote to the Court asking for the relief requested in today's administrative motion. As defendant Facebook, Inc. correctly noted in its response dated April 14, 2017 (ECF No. 142), this Court's Standing Order for Civil Cases dated January 25, 2017 provides that requests for Court action should be made by stipulation or motion rather than by letter, and plaintiffs therefore are submitting the accompanying administrative motion in place of the letter. In defendant's April 14, 2017 response, however, defendant represented that it opposes the requested relief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 18<sup>th</sup> day of April, 2017, in New York, New York.

/s/ David A. Straite	
David A. Straite	