

1 Paul R. Kiesel (SBN 119854)
2 *kiesel@kiesel-law.com*
3 **KIESEL LAW LLP**
4 8648 Wilshire Blvd.
5 Beverly Hills, CA 90211-2910
6 Telephone: (310) 854-4444
7 Facsimile: (310) 854-0812
8 *Liaison Counsel*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IN RE: FACEBOOK INTERNET
TRACKING LITIGATION

Case No.: 5:12-MD-02314-EJD

**PLAINTIFFS' LOCAL RULE 7-13 NOTICE THAT
THE PARTIES' JOINT STIPULATED
PROPOSED PROTECTIVE ORDER FOR
LITIGATION INVOLVING CONFIDENTIAL
INFORMATION AND TRADE SECRETS HAS
BEEN UNDER SUBMISSION FOR MORE THAN
120 DAYS**

Judge: The Honorable Edward J. Davila
Court Room: 4

On July 20, 2012, this Court denied defendant Facebook, Inc.'s request to stay discovery during the pendency of its motion to dismiss. *See* Transcript of Case Management Conference held June 29, 2012 at pp. 7-8 [ECF No. 48, filed July 20, 2012]. The parties have exchanged some document requests and interrogatories, served responses and objections thereto, and defendant Facebook produced approximately 360 pages of publicly available documents ("Initial Discovery"). *See* Declaration of David A. Straite in Support of Rule 7-13 Notice, ¶ 3, dated April 1, 2014 ("Straite Decl.") accompanying this Notice.

PLAINTIFFS' LOCAL RULE 7-13 NOTICE
CASE NO.: 5:12-MD-02314-EJD

1 On September 6, 2013, the parties filed a joint stipulated proposed protective order governing the
2 exchange of confidential information (“Proposed Protective Order”). That Proposed Protective Order
3 awaits Court approval [ECF No. 68].

4 While negotiating the Proposed Protective Order, the parties agreed that the exchange of
5 confidential information would not begin until five (5) business days after the Court’s approval of the
6 Proposed Protective Order. *See Straite Decl.* at ¶ 4. This understanding was not expressed in the
7 Proposed Protective Order. However, the parties agree that they each understood, in good faith, that the
8 Court’s approval of the Proposed Protective Order was a requisite to beginning production of
9 confidential information given the sensitivity of some of the documents sought by both sides. *Id.*
10 Because the Court has not yet approved the Proposed Protective Order, discovery has not progressed for
11 the several months elapsed since the Initial Discovery.

12 On March 13, 2014, Plaintiffs’ counsel contacted counsel for defendant Facebook asking to
13 discuss this delay. *Id.* at ¶ 5. Counsel conferred the next day, March 14, 2014, and Plaintiffs’ counsel
14 invited Facebook’s counsel to exchange discovery on an attorney’s-eyes-only basis while awaiting the
15 Court’s approval of the Proposed Protective Order. Alternatively, Plaintiffs’ counsel invited Facebook’s
16 counsel to make a joint submission to the Court concerning the outstanding Proposed Protective Order.
17 *Id.* at ¶ 6. On March 28, 2014, Facebook’s counsel declined both invitations. *Id.* at ¶ 7.

18 Plaintiffs’ counsel remain prepared to re-start discovery upon approval of the Proposed
19 Protective Order. Based on the representations of Facebook’s counsel described above, Plaintiffs’
20 counsel understands that Facebook’s counsel is prepared as well.

21 Plaintiffs respectfully request the Court’s approval of the Proposed Protective Order.

22 Dated: April 2, 2014

23 Respectfully Submitted,

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25 **KIESEL LAW LLP**

26 By: /s/ Paul R. Kiesel
27 Paul R. Kiesel (SBN 119854)
28 *kiesel@kiesel-law.com*
8648 Wilshire Blvd.
Beverly Hills, CA 90211-2910

Telephone: (310) 854-4444
Facsimile: (310) 854-0812

Liaison Counsel

**BARTIMUS, FRICKLETON, ROBERTSON &
GOZA, P.C.**

By: /s/ Jim Frickleton

James P. Frickleton
jimf@bflawfirm.com
11150 Overbrook Road, Suite 200
Leawood, KS 66211
Telephone: (913) 266-2300
Facsimile: (913) 266-2366

Stephen G. Grygiel
sggrygiel@yahoo.com
88 E. Bergen Place
Red Bank, NJ 07701
Telephone: (407) 505-9463
Facsimile: (732) 268-7367

Plaintiffs' Executive Committee

KAPLAN, FOX & KILSHEIMER LLP

By: /s/ David A. Straite

David A. Straite (admitted *pro hac vice*)
dstraite@kaplanfox.com
850 Third Avenue
New York, NY 10022
Telephone: (212) 687-1980
Facsimile: (212) 687-7714

Plaintiffs' Steering Committee

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on April 2, 2014, I caused the foregoing to be electronically filed
3 with the Clerk of the Court using the CM/ECF system which will send notification of such filing
4 to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I
5 caused the foregoing document or paper to be mailed via the United States Postal Service to the
6 non-CM/ECF participants indicated on the Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct. Executed on April 2, 2014.

9
10 DATED: April 2, 2014

Respectfully Submitted,

11 KAPLAN, FOX & KILSHEIMER LLP

12
13 By: /s/ David A. Straite

14 David A. Straite (admitted pro hac vice)
15 *dstraite@kaplanfox.com*
16 850 Third Avenue
17 New York, NY 10022
18 Telephone: (212) 687-1980
19 Facsimile: (212) 687-7714
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26
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