

1 COOLEY LLP
 2 MICHAEL G. RHODES (116127)
 (rhodesmg@cooley.com)
 3 MATTHEW D. BROWN (196972)
 (brownmd@cooley.com)
 4 JEFFREY M. GUTKIN (216083)
 (jgutkin@cooley.com)
 5 KYLE C. WONG (224021)
 (kwong@cooley.com)
 101 California Street, 5th Floor
 6 San Francisco, CA 94111-5800
 Telephone: (415) 693-2000
 7 Facsimile: (415) 693-2222

8 Attorneys for Defendant FACBOOK, INC.

9
 10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

14
 15 In re: Facebook Internet Tracking Litigation

Case No. 12-md-02314 EJD

16 **DECLARATION OF JEFFREY M. GUTKIN**
 17 **IN SUPPORT OF STIPULATION AND**
[PROPOSED] ORDER CONCERNING
 18 **BRIEFING SCHEDULE FOR FACEBOOK'S**
MOTION TO DISMISS

19 **JUDGE:** Edward J. Davila
 20 **COURTROOM:** 4
 21 **TRIAL DATE:** Not Yet Set

22 I, Jeffrey M. Gutkin, declare as follows:

23 1. I am an attorney licensed to practice law in the state of California and a partner of
 24 the law firm of Cooley LLP, counsel of record for defendant Facebook, Inc. ("Facebook"). I have
 25 personal knowledge of the facts below and could and would testify competently to them if called
 26 as a witness. I submit this declaration in support of the Parties' "Stipulation and [Proposed]
 27 Order Concerning Briefing Schedule for Facebook's Motion to Dismiss," filed concurrently
 28 herewith.

1 2. Plaintiffs’ counsel has informed me that they intend to file the anticipated Second
2 Amended Consolidated Class Action Complaint (“SAC”) on or before November 30, 2015.

3 3. Facebook currently intends to file a motion to dismiss the anticipated SAC (the
4 “Motion to Dismiss”).

5 4. Pursuant to Civil Local Rule 7-3, the deadline for Facebook to file its Motion to
6 Dismiss would be 14 days after Plaintiffs file the SAC, the deadline for Plaintiffs to file their
7 opposition to the Motion to Dismiss would be 14 days after Facebook files its Motion to Dismiss,
8 and the deadline for Facebook to file its reply in support of the Motion to Dismiss would be 7
9 days after Plaintiffs’ opposition is due.

10 5. The only previous time modifications, since the Court ordered consolidation of the
11 actions, were to extend the briefing schedule on Facebook’s motion to dismiss an earlier version
12 of Plaintiffs’ complaint (Dkt #39) and resetting the hearing date on Facebook’s motion to dismiss
13 (Dkt #51).

14 6. Facebook believes (and I am informed that Plaintiffs believe) that a modest
15 extension of the briefing schedule on the Motion to Dismiss is reasonable in light of the
16 upcoming December holidays and the nature of the case and the claims in the anticipated SAC,
17 and such an extension will provide the Court with more thorough and useful briefing on the
18 issues.

19 7. Altering the briefing schedule on the Motion to Dismiss will not affect the date or
20 deadline of any event or deadline already affixed by the Court.

21 I declare under penalty of perjury that the foregoing is true and correct. Executed on
22 November 20, 2015 in Oakland, California.

23
24
25
26
27
28

/s/ Jeffrey M. Gutkin
JEFFREY M. GUTKIN

124068201