

1 GIBSON, DUNN & CRUTCHER LLP  
 JOSHUA A. JESSEN, SBN 222831  
 2 JJessen@gibsondunn.com  
 JEANA BISNAR MAUTE, SBN 290573  
 3 JBisnarMaute@gibsondunn.com  
 ASHLEY M. ROGERS, SBN 286252  
 4 ARogers@gibsondunn.com  
 1881 Page Mill Road  
 5 Palo Alto, California 94304  
 Telephone: (650) 849-5300  
 6 Facsimile: (650) 849-5333

7 GIBSON, DUNN & CRUTCHER LLP  
 GAIL E. LEES, SBN 90363  
 8 GLees@gibsondunn.com  
 CHRISTOPHER CHORBA, SBN 216692  
 9 CChorba@gibsondunn.com  
 333 South Grand Avenue  
 10 Los Angeles, California 90071  
 Telephone: (213) 229-7000  
 11 Facsimile: (213) 229-7520

12 Attorneys for Defendant  
 FACEBOOK, INC.  
 13

14 UNITED STATES DISTRICT COURT  
 15 NORTHERN DISTRICT OF CALIFORNIA  
 16 OAKLAND DIVISION

17 MATTHEW CAMPBELL, MICHAEL  
 HURLEY, and DAVID SHADPOUR,

18 Plaintiffs,

19 v.

20 FACEBOOK, INC.,

21 Defendant.  
 22

Case No. C 13-05996 PJH (MEJ)

**PUTATIVE CLASS ACTION**

**DECLARATION OF CHRISTOPHER  
 CHORBA IN SUPPORT OF DEFENDANT  
 FACEBOOK, INC.'S OPPOSITION TO  
 PLAINTIFFS' MOTION TO WITHDRAW  
 PLAINTIFF DAVID SHADPOUR  
 WITHOUT PREJUDICE**

1 I, Christopher Chorba, declare as follows:

2 1. I am an attorney admitted to practice law before this Court. I am a partner in the law  
3 firm of Gibson, Dunn & Crutcher LLP, and I am one of the attorneys responsible for representing  
4 Defendant Facebook, Inc. in the above-captioned action. I submit this declaration in support of  
5 Facebook's Opposition to Plaintiffs' Motion to Withdraw Plaintiff David Shadpour Without  
6 Prejudice. Unless otherwise stated, the following facts are within my personal knowledge and, if  
7 called and sworn as a witness, I could and would testify competently to these facts.

8 2. During a lengthy meet and confer call on March 17, 2015, Plaintiffs' counsel informed  
9 me (and my co-counsel) that Plaintiff David Shadpour wished to withdraw from the action. During  
10 this conference, I explained to Plaintiffs' counsel that Facebook would evaluate the request, but it  
11 would require Mr. Shadpour to complete his document production, respond to Facebook's pending  
12 Interrogatories, and sit for a deposition.

13 3. On April 16, 2015, Facebook served draft notices of deposition for the named  
14 Plaintiffs, including Mr. Shadpour. A true and correct copy of the draft deposition notice for Mr.  
15 Shadpour is attached as **Exhibit 1**. Consistent with Civil Local Rule 30-1, Facebook asked to meet  
16 and confer with Plaintiffs' counsel regarding the scheduling of these depositions. Along with my co-  
17 counsel Joshua Jessen, I repeatedly attempted to obtain dates for Mr. Shadpour's deposition on  
18 several occasions, including separate inquiries on May 1, May 5, May 6, May 7, May 12, and  
19 May 26. Accordingly, the only reason that "[n]o date for such a deposition has been set" (Dkt. 96  
20 at 3:2-3) is because Plaintiffs' counsel has refused to provide one. Further, during these discussions,  
21 Facebook offered to take the deposition in Mr. Shadpour's hometown of Los Angeles, California, at a  
22 mutually agreeable date.<sup>1</sup>

23 4. Two weeks later, on April 30, Plaintiffs' counsel served a proposed stipulation  
24 regarding the dismissal of Mr. Shadpour. Attached as **Exhibit 2** is a true and correct copy of this  
25

26 <sup>1</sup> Even though the draft notices (Exhibit 1) specified Gibson Dunn's Palo Alto office as the location  
27 for all three depositions, the parties subsequently agreed to hold the depositions of Messrs.  
28 Campbell and Hurley at Plaintiffs' counsel's offices in San Francisco.

1 proposed stipulation. During a subsequent discussion among the parties, Facebook explained that the  
2 stipulation was unacceptable because it did not allow for the completion of Mr. Shadpour’s discovery  
3 obligations (including his deposition).

4 5. On Wednesday, May 27, at approximately 5:15 p.m., counsel for Plaintiffs (Melissa  
5 Gardner) wrote to me and my colleagues: “You requested that we let you know prior to filing papers  
6 regarding Mr. Shadpour’s withdrawal as a plaintiff and putative class representative. We will be  
7 filing those papers today.” I responded immediately, and I asked Ms. Gardner to “inform the Court  
8 that this request is opposed insofar as there are outstanding discovery requests and a deposition notice  
9 to Mr. Shadpour.” A true and correct copy of this exchange is attached hereto as **Exhibit 3**.

10 Plaintiffs did not file any motion to withdraw at this time, and, instead, raised Mr. Shadpour’s request  
11 to withdraw through the parties’ joint discovery letter brief to Magistrate Judge James.

12 6. Along with the two other named Plaintiffs, Mr. Shadpour has served substantial  
13 discovery on Facebook, including three sets of document requests (60 total requests), two sets of  
14 interrogatories, and one set of requests for admission. Mr. Shadpour (along with his co-Plaintiffs)  
15 served additional discovery requests on Facebook on May 26, 2015 (after his counsel notified  
16 Facebook that he intended to withdraw), and again on June 29, 2015 (after the parties briefed  
17 Facebook’s motion to compel his deposition and document production).

18 7. Attached as **Exhibit 4** is a true and correct copy of Mr. Shadpour’s Objections and  
19 Responses to Facebook’s First Set of Requests for Production of Documents, dated March 9, 2015.  
20 In these responses, Mr. Shadpour stated that he “will produce any responsive, non-privileged  
21 documents in his possession, custody, or control, if any” in response to *all* of Facebook’s Document  
22 Requests. To date, Mr. Shadpour has not produced any documents.

23 8. Attached as **Exhibit 5** is a true and correct copy of Mr. Shadpour’s Corrected  
24 Objections and Responses to Facebook’s First Set of Interrogatories, dated April 2, 2015. Plaintiffs  
25 designated the document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated  
26 Protective Order, and so Facebook as filed this exhibit under seal.

27 9. Attached as **Exhibit 6** is a true and correct copy of Plaintiffs’ Supplemental Initial  
28

1 Disclosures, dated April 27, 2015.

2 10. Since the filing of the initial *Shadpour* complaint, the attorneys Pomerantz, LLP have  
3 not been involved in any conferences of counsel, meetings, or hearings, nor have they authored any  
4 correspondence or otherwise been involved in the case.

5 I declare under penalty of perjury under the laws of the United States of America and the  
6 State of California that the foregoing is true and correct, and that I executed this Declaration in Los  
7 Angeles, California, on July 27, 2015.

8  
9 \_\_\_\_\_  
10 /s/  
11 Christopher Chorba  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28