

1 Michael W. Sobol (State Bar No. 194857)
msobol@lchb.com
2 David T. Rudolph (State Bar No. 233457)
drudolph@lchb.com
3 Melissa Gardner (State Bar No. 289096)
mgardner@lchb.com
4 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
5 San Francisco, CA 94111-3339
Telephone: 415.956.1000
6 Facsimile: 415.956.1008

7
8 Hank Bates (State Bar No. 167688)
hbates@cbplaw.com
Allen Carney
9 acarney@cbplaw.com
David Slade
10 dslade@cbplaw.com
CARNEY BATES & PULLIAM, PLLC
11 11311 Arcade Drive
Little Rock, AR 72212
12 Telephone: 501.312.8500
Facsimile: 501.312.8505

13 *Attorneys for Plaintiffs and the Proposed Class*

14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17
18 OAKLAND DIVISION

19 MATTHEW CAMPBELL, MICHAEL
HURLEY, and DAVID SHADPOUR, on
20 behalf of themselves and all others
similarly situated,

21 Plaintiffs,

22 v.

23 FACEBOOK, INC.,

24 Defendant.

Case No. C 13-05996 PJH (MEJ)

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF JOINT LETTER BRIEF
REGARDING FACEBOOK'S RESPONSES
TO PLAINTIFFS' THIRD SET OF
REQUESTS FOR PRODUCTION**

Judge: Honorable Maria-Elena James

1 Pursuant to Civil Local Rules 7-11 and 79-5(c) and (d), Plaintiffs respectfully request an
2 order from the Court authorizing the filing under seal of (1) portions of the parties' Joint Letter
3 Brief Regarding Facebook's Responses to Plaintiffs' Third Set of Requests for Production (the
4 "Joint Letter").

5 The portions of the Joint Letter that Plaintiffs seek to seal are identified in the redacted
6 version of the Joint Letter, which is attached as Exhibit A to the Declaration of Melissa Gardner
7 in Support of Plaintiffs' Motion to Seal ("Gardner Declaration"). The unredacted version of the
8 Joint Letter is attached as Exhibit B to the Gardner Declaration, and contains yellow highlighting
9 to indicate where redactions are proposed.

10 Plaintiffs request that the portions of the Joint Letter be filed under seal because they refer
11 to documents or information that Defendant has designated "CONFIDENTIAL" or
12 "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Amended Stipulated Protective
13 Order (Dkt. No. 93). None of the information at issue in the Joint Letter was designated as
14 confidential by Plaintiffs. Plaintiffs take no position on whether the designated portions of the
15 Joint Letter satisfy the requirements for sealing, and specifically reserve the right to challenge any
16 "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY" designation under
17 the Stipulated Protective Order as well as the sealability of these documents under Civil Local
18 Rule 79-5.

19 Rule 26(c) of the Federal Rules of Civil Procedure grants the Court broad discretion to
20 permit sealing of court documents for, *inter alia*, the protection of parties from "annoyance,
21 embarrassment, [or] oppression," as well as the protection of "a trade secret or other confidential
22 research, development, or commercial information." Fed. R. Civ. P. 26(c)(1). The Ninth Circuit
23 has "carved out an exception to the presumption of access to judicial records for a sealed
24 discovery document [attached] to a nondispositive motion," where the requesting party shows
25 good cause exists to keep the records under seal. *Navarro v. Eskanos & Adler*, No. C-06 02231,
26 2007 U.S. Dist. LEXIS 24864, at *6 (N.D. Cal. March 22, 2007) (citing *Kamakana v. City &*
27 *Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) ("[A] 'particularized showing' under the
28 'good cause' standard of Rule 26(c) will 'suffice[] to warrant preserving the secrecy of sealed

1 discovery material attached to nondispositive motions.”); *see also Pintos v. Pacific Creditors*
2 *Assoc.*, 565 F.3d 1106, 1115 (9th Cir. 2009) (“In light of the weaker public interest in
3 nondispositive materials, we apply the ‘good cause’ standard when parties wish to keep them
4 under seal.”).

5 Defendant must show good cause for sealing the documents they have placed a
6 confidentiality designation upon by submitting a declaration within four days after the lodging of
7 the designated documents. *See Civil Local Rule 79-5(e)*.

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10 Dated: September 18, 2015 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
11 By: /s/ Melissa Gardner
12 Melissa Gardner

13 Michael W. Sobol (State Bar No. 194857)
14 msobol@lchb.com
15 David T. Rudolph (State Bar No. 233457)
16 drudolph@lchb.com
17 Melissa Gardner (State Bar No. 289096)
18 mgardner@lchb.com
19 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
20 275 Battery Street, 29th Floor
21 San Francisco, CA 94111-3339
22 Telephone: 415.956.1000
23 Facsimile: 415.956.1008

24 Rachel Geman
25 rgeman@lchb.com
26 Nicholas Diamand
27 ndiamand@lchb.com
28 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
250 Hudson Street, 8th Floor
New York, NY 10013-1413
Telephone: 212.355.9500
Facsimile: 212.355.9592

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hbates@cbplaw.com
Allen Carney
acarney@cbplaw.com
David Slade
dslade@cbplaw.com
CARNEY BATES & PULLIAM, PLLC
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Little Rock, AR 72212
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