

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' INTERROGATORY NO.  
8 AND REQUEST FOR PRODUCTION NO.  
41**

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' Interrogatory No. 8 and Request For  
4 Production No. 41 (the "Joint Letter"), as well as (2) Exhibit 1 to Exhibit E to the parties' Joint  
5 Letter.

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

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

20 Additionally, Plaintiffs seek an order to seal Exhibit 1 to Exhibit E to the Joint Letter,  
21 which Plaintiffs have designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"  
22 because the document contains personally identifiable information related to private messages  
23 sent and received by the Plaintiffs and third parties. (Gardner Decl., Ex. C). This information  
24 includes, *inter alia* (1) the full name and/or Facebook ID of the sender, (2) the full name and/or  
25 Facebook ID of the recipient, (3) the date and time of the communication, (4) the URL content of  
26 the communication. (Gardner Decl., ¶ 5). Personal information of this type is entitled to  
27 protection under the law, and compelling reasons exist to keep it confidential to protect Plaintiffs'  
28 and third parties' privacy interests, and to prevent exposure to harm or identity theft. *See e.g.*,

1 *Brewer v. General Nutrition Corp.*, No. 11-3587 YGR, 2014 U.S. Dist. LEXIS 159378, \*6 (N.D.  
2 Cal. Nov. 12, 2014); *Nursing Home Pension Fund v. Oracle Corp.*, No. 01-00988, 2007 U.S.  
3 Dist. LEXIS 84000, \*9-10 (N.D. Cal. Oct. 31, 2007).

4 Rule 26(c) of the Federal Rules of Civil Procedure grants the Court broad discretion to  
5 permit sealing of court documents for, *inter alia*, the protection of parties from “annoyance,  
6 embarrassment, [or] oppression,” as well as the protection of “a trade secret or other confidential  
7 research, development, or commercial information.” Fed. R. Civ. P. 26(c)(1). The Ninth Circuit  
8 has “carved out an exception to the presumption of access to judicial records for a sealed  
9 discovery document [attached] to a nondispositive motion,” where the requesting party shows  
10 good cause exists to keep the records under seal. *Navarro v. Eskanos & Adler*, No. 06-2231,  
11 2007 U.S. Dist. LEXIS 24864, at \*6 (N.D. Cal. March 22, 2007) (citing *Kamakana v. City &*  
12 *Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (“[A] ‘particularized showing’ under the  
13 ‘good cause’ standard of Rule 26(c) will ‘suffice[] to warrant preserving the secrecy of sealed  
14 discovery material attached to nondispositive motions.”); *see also Pintos v. Pacific Creditors*  
15 *Assoc.*, 565 F.3d 1106, 1115 (9th Cir. 2009) (“In light of the weaker public interest in  
16 nondispositive materials, we apply the ‘good cause’ standard when parties wish to keep them  
17 under seal.”). As discussed above, Plaintiffs’ and third parties’ privacy interests are implicated by  
18 the personally identifiable information contained in Exhibit 1 to Exhibit E to the Joint Letter  
19 (Gardner Decl., Ex. C), and therefore have amply satisfied this “good cause” standard. *Brewer*,  
20 2014 U.S. Dist. LEXIS 159378, \*6; *Nursing Home Pension Fund*, 2007 U.S. Dist. LEXIS 84000,  
21 \*9-10.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: September 18, 2015

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

By: /s/ Melissa Gardner  
Melissa Gardner

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

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

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

*Attorneys for Plaintiffs and the Proposed Class*