

1 GIBSON, DUNN & CRUTCHER LLP  
 2 JOSHUA A. JESSEN, SBN 222831  
 3 JJessen@gibsondunn.com  
 4 JEANA BISNAR MAUTE, SBN 290573  
 5 JBisnarMaute@gibsondunn.com  
 6 PRIYANKA RAJAGOPALAN, SBN 278504  
 7 PRajagopalan@gibsondunn.com  
 8 ASHLEY M. ROGERS, SBN 286252  
 9 ARogers@gibsondunn.com  
 10 1881 Page Mill Road  
 11 Palo Alto, California 94304  
 12 Telephone: (650) 849-5300  
 13 Facsimile: (650) 849-5333

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

12 Attorneys for Defendant  
 13 FACEBOOK, INC.

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

17 MATTHEW CAMPBELL and MICHAEL  
 18 HURLEY,

19 Plaintiffs,

20 v.

21 FACEBOOK, INC.,

22 Defendant.

Case No. C 13-05996 PJH (MEJ)

**PUTATIVE CLASS ACTION**

**FACEBOOK, INC.'S ADMINISTRATIVE  
 MOTION TO ENLARGE THE PAGE  
 LIMIT FOR ITS OPPOSITION TO  
 PLAINTIFFS' MOTION FOR CLASS  
 CERTIFICATION DUE ON JANUARY 15,  
 2016**

The Honorable Phyllis J. Hamilton

1 **RELIEF SOUGHT**

2 Pursuant to Civil Local Rule 7-11, Defendant Facebook, Inc. (“Facebook”) respectfully  
3 requests an enlargement of the page limits for its Opposition to Plaintiffs’ Motion for Class  
4 Certification (Dkt. 138), which is due on January 15, 2016. Specifically, Facebook requests an  
5 additional 15 pages for its Opposition, beyond the 25 pages provided by Local Rule 7-3(a), for a total  
6 of 40 pages. Pursuant to Local Rule 7-11(a), Facebook sought Plaintiffs’ agreement to the requested  
7 relief (subject to the Court’s approval), and offered Plaintiffs a corresponding enlargement for their  
8 reply brief, but Plaintiffs would not agree. (See Declaration of Christopher Chorba ¶ 2 & Ex. A.)

9 **ARGUMENT**

10 Local Rule 7-3(a) provides that an opposition to a motion “may not exceed 25 pages of text.”  
11 Civil Local Rule 7-3(a) (rev. Sept. 15, 2015). Although Facebook will continue to strive to present  
12 its arguments in the fewest number of pages possible, after careful consideration, it requests 15  
13 additional pages for two principal reasons:

14 *First*, Plaintiffs’ Motion discusses several new practices and functionalities that were not  
15 mentioned anywhere in the operative complaint. In particular, the operative complaint challenged the  
16 alleged incrementing of the “Like Button Count” on a third party website when a URL to that website  
17 was included in a Facebook message. (Consol. Am. Compl. (Dkt. 25) ¶¶ 2, 27-39.) The complaint  
18 also alleged that Facebook had used this information for “targeted advertising,” a theory that this  
19 Court credited in allowing Plaintiffs’ claims to advance beyond the pleading stage. (Dkt. 43.)  
20 Although Plaintiffs’ Motion discusses the first of these practices (and references, but cites no  
21 evidence supporting, the second), the Motion and accompanying documents are replete with a  
22 lengthy discussion of functionalities that were never mentioned in—and certainly were not fully and  
23 fairly framed by—the complaint, including the “Recommendations Plugin,” the “Activity Plugin,”  
24 “Insights API,” and “Graph API,” among others. (See, e.g., Dkt. 138 at 5:1-8; 7:22-8:25; see also  
25 Golbeck Report [Dkt. 137-6; 137-7] ¶¶ 44-81.) Without any notice to Facebook, Plaintiffs also  
26 revised their proposed class in material ways, including changing the date range for, and definition  
27 of, the class.

28 These significant revisions to the practices Plaintiffs now challenge and the class they seek to

1 certify warrant an enlargement of Facebook’s Opposition brief. Facebook already intended to  
2 address the practices challenged in the complaint (alleged incrementing of the “Like Button Count”  
3 on third party websites when a URL to that website was included in a Facebook message). But now,  
4 it also must explain the functionality (and variability) of several new functionalities  
5 (“Recommendations Plugin,” the “Activity Plugin,” “Insights API,” “Graph API,” and others) that  
6 are not mentioned in the complaint. Plaintiffs’ new allegations (like their old ones) fundamentally  
7 misstate the operations of Facebook’s technology in several critical but complex ways, and Facebook  
8 now must address these new practices in its Opposition. Unfortunately, Facebook requires more  
9 pages to do so in a satisfactory way.<sup>1</sup>

10         Allowing adequate space to fully address each of Plaintiffs’ allegations and theories  
11 (including the new assertions) will not prejudice Plaintiffs in any way. As counsel for Facebook  
12 explained to Plaintiffs’ counsel, it does not oppose a corresponding extension of Plaintiffs’ reply  
13 brief. *See* N.D. Cal. Civ. L.R. 7-3(c) (authorizing 15 pages for reply briefs).

14         Second, Facebook also requests additional pages because it intends to move to strike the  
15 report submitted by Plaintiffs’ proposed damages expert, Fernando Torres. (*See* Dkt. 137-8; 137-9.)  
16 Civil Local Rule 7-3(a) requires that “[a]ny evidentiary and procedural objections to the motion must  
17 be contained within the [opposition] brief or memorandum.” Accordingly, Facebook intends to  
18 address its objections to Mr. Torres’ report in its Opposition brief, and it requests additional pages to  
19 do so.

20         For the foregoing reasons, Facebook respectfully requests that the Court enlarge the page  
21 limit for its Opposition to Plaintiffs’ Motion for Class Certification from 25 to 40 pages. As noted  
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23         <sup>1</sup> Facebook reserves its remaining objections to Plaintiffs’ new theories, which it never had the  
24 opportunity to address through a Rule 12 Motion. In addition, it is because of Plaintiffs’ shifting  
25 theories that Facebook ultimately refrained from filing its early Motion for Summary Judgment  
26 directed at the claims of the named Plaintiffs in this case. As a result of that decision, even if it were  
27 to grant the requested enlargement sought in this Administrative Motion, this Court will have far less  
28 briefing before it than originally contemplated by the schedule that it ordered at the March 12, 2015,  
Case Management Conference (Dkt. 62), because it is just presented with Plaintiffs’ Motion for Class  
Certification and not an early Motion for Summary Judgment directed at the claims of the named  
Plaintiffs.

1 above, Facebook will endeavor to present its arguments in as few pages as necessary.

2 Dated: January 4, 2016

Respectfully submitted,

3 GIBSON, DUNN & CRUTCHER LLP

4 By:                   /s/ Joshua A. Jessen                    
5 Joshua A. Jessen

6 Attorneys for Defendant FACEBOOK, INC.

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