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

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

21 Plaintiff,

22 v.

23 FACEBOOK, INC.,

24 Defendant.

Case No. C 13-05996 PJH (MEJ)

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL RE
PLAINTIFFS' REPLY IN SUPPORT OF
CLASS CERTIFICATION**

Judge: Honorable Phyllis J. Hamilton

1 Pursuant to Civil Local Rules 7-11 and 79-5(c) and (d), Plaintiffs respectfully request an
2 order from the Court to authorize the filing under seal of:

- 3 (1) portions, as designated herein, of Plaintiffs' Reply in support of Class
4 Certification;
- 5 (2) portions, as designated herein, of the Rebuttal Expert Report of Dr. Jennifer
6 Golbeck in support of Plaintiffs' Motion for Class Certification ("Golbeck
7 Rebuttal Report");
- 8 (3) portions, as designated herein, of excerpts from the deposition transcripts of
9 Plaintiff Matthew Campbell;
- 10 (4) portions, as designated herein, of the Supplemental Declaration of Melissa
11 Gardner in support of Plaintiffs' Motion for Class Certification;
- 12 (5) portions, as designated herein, of the Updated Expert Report of Fernando
13 Torres in support of Plaintiffs' Motion for Class Certification ("Updated
14 Torres Report"); and
- 15 (6) Exhibits 6-8, 10-12, and 14-20 to the Declaration of David Slade in support of
16 Plaintiffs' Motion for Class Certification ("Slade Declaration"), in their
17 entirety.

18 The specific material that Plaintiffs seek to seal is addressed in Sections 1-6 below.
19 Except as stated below, Plaintiffs take no position on whether the text and documents designated
20 herein satisfy the requirements for sealing, and specifically reserve the right to challenge any
21 "HIGHLY CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
22 designation under the Amended Stipulated Protective Order (Dkt. 93), as well as the sealability of
23 these documents under Civil Local Rule 79-5.

24 Pursuant to this Court's Standing Order for Cases Involving Confidential Documents,
25 Defendant must show good cause for sealing the documents upon which it has placed a
26 confidentiality designation by submitting a declaration within seven days after the lodging of the
27 designated documents. *See also* Civil Local Rule 79-5(e).

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1 **1. Plaintiffs' Reply in support of Class Certification**

2 A complete, unredacted version of Plaintiffs' Reply in support of Class Certification is
3 attached as Exhibit A to the Declaration of Melissa Gardner in Support of Plaintiffs'
4 Administrative Motion to File Under Seal ("Gardner Declaration"), and contains yellow
5 highlighting to indicate where redactions are proposed. A redacted version of the Reply is
6 attached as Exhibit B. Plaintiffs propose to redact the text highlighted in Exhibit A, (and
7 specifically identified in the [Proposed] Order submitted herewith), on the grounds that such text
8 contains information that Defendant (the designating party) has designated "HIGHLY
9 CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

10 **2. Rebuttal Report of Jennifer Golbeck**

11 A complete, unredacted version of the Golbeck Report (Exhibit 1 to the Slade
12 Declaration) is attached as Exhibit C to the Gardner Declaration, and contains yellow highlighting
13 to indicate where redactions are proposed. A redacted version of the Golbeck Report is attached
14 as Exhibit D. Plaintiffs propose to redact the text highlighted in Exhibit C, (specifically identified
15 in the [Proposed] Order submitted herewith), on the grounds that such text contains information
16 that Defendant (the designating party) has designated "HIGHLY CONFIDENTIAL" or
17 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

18 **3. Excerpts from Deposition Transcript of Matthew Campbell**

19 A complete, unredacted version of excerpts from the May 19, 2015 deposition of Matthew
20 Campbell (Exhibit 2 to the Slade Declaration) is attached as Exhibit E to the Gardner Declaration.
21 A redacted version is attached as Exhibit F. Plaintiffs propose to redact the text highlighted in
22 Exhibits E (and specifically identified in the [Proposed] Order and Gardner Declaration) on the
23 grounds that the testimony concerns the Plaintiff's private affairs not relevant to the merits of the
24 case or class certification. Under the applicable "good cause" standard, the Court may order
25 records sealed or otherwise protected "to protect a party or person from annoyance,
26 embarrassment, oppression, or undue burden or expense." *Pintos v. Pac. Creditors Ass'n*, 605
27 F.3d 665, 678 (9th Cir. 2010). Good cause exists here.

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1 **4. Supplemental Declaration of Melissa Gardner**

2 A complete, unredacted version of the Supplemental Declaration of Melissa Gardner is
3 attached as Exhibit G. A redacted version is attached as Exhibit H. Plaintiffs propose to redact
4 the text highlighted in Exhibit G (and specifically identified in the [Proposed] Order) on the
5 grounds that the testimony concerns a former party’s private affairs not relevant to the merits of
6 the case or class certification. Publishing detailed information concerning a former party’s
7 conduct and representation could expose the party to unnecessary embarrassment, annoyance, or
8 other potential harm. Under the applicable “good cause” standard, the Court may order records
9 sealed or otherwise protected “to protect a party or person from annoyance, embarrassment,
10 oppression, or undue burden or expense.” *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th
11 Cir. 2010). Good cause exists here.

12 **5. Updated Expert Report of Fernando Torres**

13 A complete, unredacted version of the updated Torres Report (Exhibit 9 to the Slade
14 Declaration) is attached as Exhibit I to the Gardner Declaration, and contains yellow highlighting
15 to indicate where redactions are proposed. A redacted version of the updated Torres Report is
16 attached as Exhibit J. Plaintiffs propose to redact the text highlighted in Exhibit I, (specifically
17 identified in the [Proposed] Order submitted herewith), on the grounds that such text contains
18 information that Defendant (the designating party) has designated “HIGHLY CONFIDENTIAL”
19 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

20 **6. Excerpts from the Deposition Transcript of the Former Plaintiff**

21 Excerpts of former Plaintiff David Shadpour’s deposition testimony are attached as
22 Exhibit K to the Gardner Declaration (Exhibit 6 to the Slade Declaration). Because Mr. Shadpour
23 is no longer a party to this litigation (Dkt. No. 123), good cause exists to seal his deposition
24 testimony in its entirety. Publishing the testimony risks exposing Mr. Shadpour to
25 embarrassment, annoyance, or other potential harm. No public interest in such publication exists,
26 because testimony from a person who is neither a Plaintiff nor entitled to recovery of damages in
27 this case is not relevant. *C.f., Roberts v. Electrolux Home Prods., Inc.*, No. 12-1644, 2013 WL
28 4239050, at *3 (C.D. Cal. Aug. 14, 2013) (declining to condition named plaintiff’s withdrawal

1 upon sitting for a deposition).

2 **7. Exhibits to the Slade Declaration Designated Confidential by Defendant**

3 Plaintiffs further propose to file under seal the following documents attached as exhibits to
4 the Slade Declaration because such documents have been designated by Defendant “HIGHLY
5 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in their
6 entirety: Exhibits 7-8, 10-12, and 14-20. These exhibits are attached to the Gardner Declaration
7 submitted in support of this Motion to Seal, as follows:

8 Exhibit L: Slade Decl. Exhibit 7

9 Exhibit M: Slade Decl. Exhibit 8

10 Exhibit N: Slade Decl. Exhibit 10

11 Exhibit O: Slade Decl. Exhibit 11

12 Exhibit P: Slade Decl. Exhibit 12

13 Exhibit Q: Slade Decl. Exhibit 14

14 Exhibit R: Slade Decl. Exhibit 15

15 Exhibit S: Slade Decl. Exhibit 16

16 Exhibit T: Slade Decl. Exhibit 17

17 Exhibit U: Slade Decl. Exhibit 18

18 Exhibit V: Slade Decl. Exhibit 19

19 Exhibit W: Slade Decl. Exhibit 20

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21
22 With the exception of Exhibits L and Q-W, which represent private communications of
23 Plaintiffs and contain personally identifiable information entitled to protection under the law,
24 Plaintiffs take no position on whether the text and documents designated herein satisfy the
25 requirements for sealing, and specifically reserve the right to challenge any “HIGHLY
26 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
27 designation, and pursuant to this Court’s Standing Order for Cases Involving Confidential
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1 Documents, Defendant must show good cause for sealing the documents upon which it has placed
2 a confidentiality designation by submitting a declaration within seven days after the lodging of
3 the designated documents. *See also* Civil Local Rule 79-5(e).

4
5 Dated: February 19, 2016

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