

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

13 *Attorneys for Plaintiffs and the Proposed Class*

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

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

20 Plaintiff,

21 v.

22 FACEBOOK, INC.,

23 Defendant.

Case No. C 13-05996 PJH (MEJ)

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

Judge: Honorable Phyllis J. Hamilton

1 I, Melissa Gardner, declare:

2 1. I am an attorney in the law firm of Lief, Cabraser, Heimann & Bernstein, LLP,
3 and a member of the State Bar of California. I am admitted to practice before this Court. I am
4 one of the counsel for Plaintiffs in this action. I make this declaration based upon my own
5 personal knowledge. If called upon to testify, I could and would testify competently to the truth
6 of the matters stated herein.

7 2. I submit this Declaration in Support of Plaintiffs' Administrative Motion to File
8 Under Seal in connection with Plaintiffs' Reply in support of Plaintiffs' Motion for Class
9 Certification.

10 3. Attached hereto as **Exhibit A** is a true and correct copy of the unredacted version
11 of Plaintiffs' Reply in support of Plaintiffs' Motion for Class Certification. Plaintiffs have
12 redacted the following highlighted text in Exhibit A on the grounds that such text contains
13 information that Defendant (the designating party) has designated "HIGHLY CONFIDENTIAL"
14 or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY":

Document	Sealable Portions
Plaintiffs' Reply in support of Motion for Class Certification	i.13 1:9-11, 1:20-21 2:4 5:24-26 6:1-7, 6:10-13, fn.. 8 at 6:28-27, fn. 10 at 6:27-28 7:4-5, 7:7-8; 7:10-11, 7:20-21, 7:25:26 8:1-4, 8:10 , 8:15, 8:17-18, 8:19, 8:20-22 9:1-3 10:10-11, 10:22 11:13-15 fn .19 at 11: 22-23, 11:23-24, fn. 20 at 11:24 12:3, 12:4-6 13:3, 13:6, 13:9 Fn. 37 at 17:26-28 18: 9-10; 18:11-12; 18:13-15

28 Additionally, Plaintiffs have redacted the following portions of Exhibit A in order to

1 protect the privacy interests of the Plaintiffs and third parties. Good cause exists to seal these
2 portions, which concern the Plaintiffs’ and /or non-parties’ private communications and affairs
3 disclosed nowhere else in public filings and not relevant to the merits of the case or class
4 certification, and/or the personally identifiable or confidential information of non-parties to the
5 case. Publishing this information would expose Plaintiffs and/or these non-parties to unnecessary
6 annoyance, embarrassment, or other significant harm, and the public has no meaningful need to
7 access it:

Document	Sealable Portions
Plaintiffs’ Reply in support of Motion for Class Certification	5:5-7, 5:8-11, 5:13-15, Fn. 46 at 20:24-27

11 4. Attached hereto as **Exhibit B** is a true and correct copy of Exhibit A with the
12 proposed redactions applied.

13 5. Attached hereto as **Exhibit C** is a true and correct copy of the unredacted version
14 of the Rebuttal Report of Jennifer Golbeck in support of Plaintiffs’ Motion for Class Certification,
15 which is attached as Exhibit 1 to the Declaration of David Slade in Support of Plaintiffs’ Motion
16 for Class Certification (“Slade Declaration”). Highlighted text in Exhibit C is text that Plaintiffs
17 propose to redact on the grounds that such text contains information that Defendant (the
18 designating party) has designated “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
19 – ATTORNEYS’ EYES ONLY”.

20 6. Attached hereto as **Exhibit D** is a true and correct copy of Exhibit C with the
21 proposed redactions applied.

22 7. Attached hereto as **Exhibit E** is a true and correct copy of excerpts from the May
23 19, 2015 deposition of Matthew Campbell, which are attached as Exhibit 2 to the Slade
24 Declaration. Good cause exists to seal the text highlighted in Exhibit E (17:17-18; 128:1-3;
25 205:6), which concerns Mr. Campbell’s private communications and affairs disclosed nowhere
26 else in public filings and not relevant to the merits of the case or class certification. Publishing
27
28

1 this information would expose Mr. Campbell and/or these non-parties to unnecessary annoyance,
2 embarrassment, or other significant harm, and the public has no meaningful need to access it

3 8. Attached hereto as **Exhibit F** is a true and correct copy of Exhibit E with the
4 proposed redactions applied.

5 9. Attached hereto as **Exhibit G** is a true and correct copy of the Supplemental
6 Declaration of Melissa Gardner in Support of Plaintiffs' Motion for Class Certification (dated
7 February 19, 2016). Good cause exists to seal the text highlighted in Exhibit G, which concerns
8 details regarding the representation and conduct of a former party to this litigation which, if made
9 public, could expose that party to unnecessary annoyance, embarrassment, or other significant
10 harm. The public has no meaningful need to access the information.

11 10. Attached hereto as **Exhibit H** is a true and correct copy of Exhibit G with
12 the proposed redactions applied.

13 11. Attached hereto as **Exhibit I** is a true and correct copy of the Updated Report of
14 Fernando Torres, which is attached as Exhibit 9 to the Slade Declaration. Highlighted text in
15 Exhibit I is text that Plaintiffs propose to redact on the grounds that such text contains
16 information that Defendant (the designating party) has designated "HIGHLY CONFIDENTIAL"
17 or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY":

18 12. Attached hereto as Exhibit **J** is a true and correct copy of Exhibit I with the
19 proposed redactions applied.

20 13. Attached hereto as **Exhibit K** is a true and correct copy of excerpts from the
21 October 1, 2015 deposition of David Shadpour, which are attached as Exhibit 6 to the Slade
22 Declaration. Good cause exists to seal the entirety of Exhibit K, because Mr. Shadpour is no
23 longer a party to this litigation (Dkt. No. 123). Publishing the testimony risks exposing Mr.
24 Shadpour to embarrassment, annoyance, or other potential harm. No public interest in such
25 publication exists, because testimony from a person who is neither a Plaintiff nor entitled to
26 recovery of damages in this case is not relevant.

27 14. Attached hereto as **Exhibit L** is a true and correct copy of the document bearing
28 Bates stamp FB000005575, which is attached as Exhibit 7 to the Slade Declaration. Defendant

1 (the designating party) has designated this document “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY”. In addition, good cause exists to seal this document insofar as it
3 contains the personally identifiable information of Plaintiffs and non-parties to this litigation.

4 15. Attached hereto as **Exhibit M** is a true and correct copy of excerpts from the
5 February 4, 2016 deposition of Alex Himel, which is attached as Exhibit 8 to the Slade
6 Declaration. Defendant (the designating party) has designated this document “HIGHLY
7 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

8 16. Attached hereto as **Exhibit N** is a true and correct copy of excerpts from the
9 December 18, 2015 deposition of Fernando Torres, which is attached as Exhibit 10 to the Slade
10 Declaration. Defendant (the designating party) has designated the entirety of this deposition
11 transcript “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

12 17. Attached hereto as **Exhibit O** is a true and correct copy of excerpts from the
13 January 26, 2016 deposition of Catherine Tucker, which is attached as Exhibit 11 to the Slade
14 Declaration. Defendant (the designating party), pending review and possible de-designation, has
15 designated the entirety of this deposition transcript “HIGHLY CONFIDENTIAL –
16 ATTORNEYS’ EYES ONLY”.

17 18. Attached hereto as **Exhibit P** is a true and correct copy of excerpts from the
18 February 2, 2016 deposition of Dr. Benjamin Goldberg, which is attached as Exhibit 12 to the
19 Slade Declaration. Defendant (the designating party), pending review and possible de-
20 designation, has designated the entirety of this deposition transcript “HIGHLY CONFIDENTIAL
21 – ATTORNEYS’ EYES ONLY”.

22 19. Attached hereto as **Exhibits Q-W** are true and correct copies of documents
23 bearing the following Bates stamps FB000005577, FB000005800, FB000005882, FB000006007,
24 FB000006088, FB000012006, and FB000012557, which were produced by Facebook in this
25 action and are attached as Exhibits 14- 20 to the Slade Declaration. Defendant (the designating
26 party), has designated these documents “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
27 ONLY”. In addition, good cause exists to seal Exhibits Q-W insofar as they contain the
28 personally identifiable information of Plaintiffs and non-parties to this litigation.

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

20. Except as stated above, Plaintiffs take no position on whether the text and exhibits designated herein for redaction satisfy the requirements for sealing. Plaintiffs specifically reserve the right to challenge any “HIGHLY CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” designation under the Stipulated Protective Order as well as the sealability of these documents under Civil Local Rule 79-5.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 19th day of February, 2016, in New York, New York.

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

By: /s/Melissa Gardner
 Melissa Gardner