

EXHIBIT L

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MATTHEW CAMPBELL, MICHAEL HURLEY,)
and DAVID SHADPOUR,)

Plaintiffs,)

vs.) Case No.
C 13-05996 PJH

FACEBOOK, INC.,)

Defendant.)

-----)

VIDEOTAPED DEPOSITION OF MATTHEW D. CAMPBELL
San Francisco, California
May 19, 2015
Volume I

Reported by:
CARLA SOARES
CSR No. 5908
Job No. 2067810
Pages 1 - 294

1 anybody else? 09:14:18

2 A Just with my wife.

3 Q Just generally, what have you discussed
4 regarding this case with your wife?

5 A The underlying basis of the suit and the 09:14:32
6 allegations against Facebook. And how I wound up
7 being in the lawsuit, I guess, was one of her first
8 questions. And that's more or less the extent of
9 it.

10 Q And how did you end up being involved in 09:14:49
11 the lawsuit?

12 A I had -- how did it work? I had a
13 conversation with Mr. Slade. He mentioned the
14 underlying facts and asked if I would be interested
15 because -- first asked if I had any sort of messages 09:15:09
16 that would have had URLs and would have, you know,
17 kind of fallen into the subject matter. And then
18 when I said I had, he asked if I would be
19 interested.

20 Q And did he reach out to you or did you 09:15:22
21 reach out to him?

22 A We -- I honestly can't remember. It came
23 up in the course of a conversation. I'm not sure
24 who broached it first.

25 Q Did you know Mr. Slade before this initial 09:15:40

1 contact? 09:15:43

2 A Yes.

3 Q How did you know him?

4 A Well, I've known him for probably three
5 years. I can't recall exactly how I met him. 09:15:53

6 Q Was he a personal acquaintance or a friend
7 or classmate?

8 A Friend.

9 Q Do you remember when you first met him?

10 A About three years ago. 09:16:09

11 Q What about the circumstances? Was it a
12 social function? Was it a professional meeting of
13 some sort?

14 A I think we had a -- still have a mutual
15 friend, and that's how we sort of encountered one 09:16:20
16 another.

17 Q And who is the mutual friend, if you
18 remember?

19 A His name is [REDACTED]

20 Q Okay. Can you just give me, 09:16:35
21 Mr. Campbell -- again, you've been through this
22 process before. So I'd just like to get a little
23 bit of your educational background. Start with high
24 school, where you went, when you graduated, college,
25 and I know you attended law school as well. 09:16:52

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1 Q Not for the Facebook page that you set up? 09:46:44

2 A Correct. That's my understanding.

3 Q And do you know who that 1 represents?

4 A I have no idea.

5 Q Do you know if there's any way to find 09:46:56
6 that out?

7 A I have no idea.

8 Q I think you mentioned you have a Facebook
9 page for the Pinnacle Law Firm.

10 A Yes. 09:47:08

11 MR. CHORBA: Let's mark this as Exhibit 2.

12 (Exhibit 2 was marked for identification
13 and is attached hereto.)

14 BY MR. CHORBA:

15 Q Mr. Campbell, please take a moment to 09:47:29
16 review the document that the court reporter has
17 handed you which we've marked as Exhibit 2.

18 And I'll represent to you that this is a
19 copy of the Pinnacle Law Firm public-facing page
20 that we found on Facebook and printed about a week 09:47:42
21 ago. Just take a moment to familiarize yourself and
22 let me know when you're ready.

23 A Okay.

24 Q Why do you have a Facebook page for the
25 Pinnacle Law Firm? 09:47:59

1 A For advertising purposes for the law firm. 09:48:01

2 Q Who would you say is your audience for the

3 advertising?

4 A Potentially any potential client in

5 Arkansas with access to Facebook. 09:48:23

6 Q Anyone else?

7 A Not that I can think of specifically, no.

8 Q You mentioned -- and we don't have to turn

9 back to it, but I think one of the areas you

10 identified was assisting with appellate advocacy in 09:48:40

11 Arkansas.

12 A Yes.

13 Q Do you ever partner with counsel and

14 assist them with the appellate process?

15 A I have to varying degrees two or three 09:48:51

16 times over the last couple of years.

17 Q Do you consider co-counsel to be your

18 clients in those situations?

19 A It depends on the arrangement between

20 myself and co-counsel. 09:49:06

21 Q Would those potential co-counsel

22 relationships be another potential audience for your

23 Facebook page?

24 A Possibly. I've never -- never gotten a

25 co-counsel arrangement from somebody that I didn't 09:49:26

1 know outside of Facebook. 09:49:29

2 Q How about I guess direct client
3 relationships? Have any of those come out of your
4 Facebook page?

5 A Possibly. I can't think of any one 09:49:48
6 specific.

7 Q When you go through the client intake
8 process, do you ask your clients or prospective
9 clients how they heard of you?

10 A Yes. 09:49:57

11 Q As part of that, do you have a list of
12 questions, a sort of set checklist that you go
13 through, or is it more just ad hoc?

14 A It's more ad hoc. I'll ask that at some
15 point during the intake process. But the only 09:50:08
16 information that I have a form for is identifying
17 information and contact information, potential
18 witnesses.

19 Q As part of that intake process, do you ask
20 the specific question, "Did you see my Facebook 09:50:24
21 page?"

22 A No.

23 Q But you said it's possible that you've
24 obtained clients through the public-facing Facebook
25 page? 09:50:33

1 A No. Two of my friends have administrator 10:09:54
2 access and help with the tech side of things.

3 Q And who are those friends?

4 A [REDACTED]
5 [REDACTED] [REDACTED] 10:10:10

6 Q And do [REDACTED] help you with the
7 running of the website?

8 A [REDACTED] does from time to time on the -- on
9 this kind of stuff, the layout and the tech side of
10 things. 10:10:28

11 Q And did you ask them to add Facebook and
12 Twitter functionality to your website?

13 A I don't know if I asked [REDACTED] or if he just
14 mentioned it and asked me if I wanted him to do it.
15 But at some point there was a conversation. 10:10:44

16 Q And you approved of having this on the
17 website?

18 A Yes.

19 Q Why did you approve of having Facebook
20 social plug-in technology on your website? 10:11:02

21 A I don't know that there was a particular
22 reason. I just didn't see a reason not to include
23 it given that it was an option.

24 Q Do you think it's beneficial to have it on
25 your website? 10:11:17

1 A Honestly, I don't know that I see any 10:11:25
2 benefit to this particular social plug-in. I think
3 there is some benefit to the website from Facebook,
4 but I don't think this plug-in is it.

5 Q What is the benefit to the website from 10:11:38
6 Facebook?

7 A Generating traffic back to the website
8 from the actual Blue Hog Report Facebook page is the
9 primary benefit that I've seen.

10 Q And how about if we turn to page 3, the 10:11:54
11 "Like" button. And again, do you recognize this as
12 a specific article --

13 A Yes.

14 Q -- page?

15 So if we turn back to page 1, if we were 10:12:03
16 to click on one of those articles, it would bring up
17 a page that looks a little bit like 3. Maybe not
18 the specific article here, but this would be the
19 general layout; is that correct?

20 A Yes. 10:12:15

21 Q If you notice at the top right it says,
22 "facebook.com/bluehogreport," and then
23 "@bluehogreport."

24 Is the second one the Twitter handle?

25 A Yes. 10:12:27

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1 active use? What types of uses are you including in 10:32:12
2 that category?

3 A Posting anything, myself posting things to
4 my timeline, posting things to the Blue Hog page or
5 the Pinnacle Law Firm page, commenting on other 10:32:27
6 people's statuses or posts.

7 Q Do you enjoy using Facebook?

8 A I guess so, most of the time.

9 Q And why?

10 A It's entertaining at times. It's 10:33:03
11 occasionally informative.

12 Q You said "most of the time." Is there a
13 time you don't enjoy using Facebook?

14 A Just in those moments of, you know,
15 somebody's wrong on the Internet and it becomes 10:33:22
16 these inane Facebook arguments between friends.

17 Q When did you first use the Facebook
18 Messenger product?

19 A I have no idea beyond just right around
20 the same time that it was added to my account. 10:33:49

21 Q And do you remember approximately when
22 that was?

23 A No. No.

24 Q And you've -- since filing this lawsuit in
25 December 2013, have you continued to use Facebook? 10:34:11

1 A Yes. 10:34:14

2 Q Why?

3 A Are you asking about the Messenger product
4 specifically or Facebook broadly?

5 Q Let's deal with each in sequence. How 10:34:32
6 about Facebook more broadly?

7 A Why have I continued to use that?

8 Q Yes.

9 A Because I had no reason to stop using it
10 simply based on filing the lawsuit. 10:34:40

11 Q That's a reason I guess not to stop. But
12 why did you continue to use it?

13 A I suppose because it's the largest social
14 media site in the world, and most of the people I
15 know are on there. 10:35:01

16 Q And how about Messages? Have you
17 continued to use Messages since filing the suit?

18 A Yes.

19 Q At any point have you -- we talked about
20 the Blue Hog page and the Pinnacle page. At any 10:35:19
21 point have you ever given access to your personal
22 Facebook account to anybody else?

23 A No.

24 Q As far as you know, has anyone ever sent
25 messages through your personal account on your 10:35:32

1 private messenger function. 10:48:31

2 Q And what was the source of the information
3 that you had?

4 A There was a conversation with David Slade.

5 MR. CARNEY: I'd caution you here not to 10:48:46
6 discuss the actual language you and Mr. Slade used
7 in any discussions you had.

8 THE WITNESS: Okay.

9 MR. CHORBA: Are you objecting, Counsel?

10 MR. CARNEY: Yes. 10:48:57

11 MR. CHORBA: On what basis?

12 MR. CARNEY: No, I'm not objecting. I'm
13 just --

14 BY MR. CHORBA:

15 Q You can answer, Mr. Campbell. 10:49:01

16 A There was a conversation with Mr. Slade in
17 reference to a 2013 Wall Street Journal article that
18 discussed the practice of scanning the private
19 messages.

20 Q And when was this conversation with 10:49:19
21 Mr. Slade?

22 A Sometime late 2013, after The Wall Street
23 Journal article came out but before the lawsuit was
24 filed.

25 Q And how did you speak with Mr. Slade? Was 10:49:33

1 it phone call, in person, or through some other 10:49:35
2 means?

3 A I believe it was a combination of Facebook
4 message and also a phone call.

5 Q How did -- did Mr. Slade contact you or 10:49:49
6 did you contact him?

7 A I don't recall. I think -- I don't
8 recall.

9 Q Did you know about the 2013 Wall Street
10 Journal article that you referenced before speaking 10:50:01
11 with Mr. Slade?

12 A I believe I did.

13 Q And how did you come to be aware of that
14 article?

15 A I think I saw that someone had posted it 10:50:24
16 on Facebook.

17 Q One of your friends?

18 A I couldn't tell you. Someone who showed
19 up in my news feed in some form or another.

20 Q You don't remember who it was? 10:50:35

21 A No.

22 Q Do you remember if it was at the time the
23 article was published or was it sometime after?

24 A I couldn't tell you. I mean, by
25 definition it was sometime after the article had 10:50:51

1 (Recess, 11:03 a.m. - 11:10 a.m.) 11:03:02

2 THE VIDEO OPERATOR: We are back on the
3 record at 11:10 a.m. This marks the beginning of
4 Volume I, Media No. 2, of the deposition of Matthew
5 Campbell. Please continue. 11:10:07

6 BY MR. CHORBA:

7 Q Welcome back, Mr. Campbell.
8 I should have asked this earlier, but you
9 understand that when we take breaks, you're still
10 under oath when you return? 11:10:14

11 A Yes.

12 Q Okay. Turning back to Exhibit No. 6, we
13 were talking about the phrase "scanning of private
14 messages in the manner alleged in the complaint."
15 Are there any practices that you 11:10:31

16 challenge, as far as you know, that are not alleged
17 in the complaint?

18 A No.

19 Q So you noted earlier you'd need to have a
20 copy of the complaint. If we consulted the 11:10:45
21 complaint and we consulted this response, it would
22 be complete, there's nothing else that wouldn't be
23 identified, either there or here?

24 A Correct.

25 Q Did you ever contemplate bringing a 11:10:56

1 lawsuit against Facebook before speaking to 11:11:06
2 Mr. Slade?
3 A No.

4 (Question not answered per instruction of counsel:)

5 Q At the time you spoke with Mr. Slade, did 11:11:17
6 he tell you that he was filing a lawsuit against
7 Facebook?

8 MR. CARNEY: Object to form. It calls for
9 attorney-client privilege. I'm going to instruct
10 the deponent not to answer that question. 11:11:31

11 BY MR. CHORBA:

12 Q Are you going to follow your counsel's
13 instruction, Mr. Campbell?

14 A Yes.

15 Q At the time you spoke with Mr. Slade, did 11:11:41
16 he ask you to serve as a plaintiff in this lawsuit?

17 A I don't know that he asked me. I wouldn't
18 go so far as to say that he asked me to be a
19 plaintiff.

20 Q Did you volunteer to serve as a plaintiff? 11:12:04

21 A After discussion with him, yes.

22 Q At any point in time during these
23 discussions with Mr. Slade in or about October or
24 November of 2013, was there discussion of a
25 potential monetary recovery from any lawsuit, yes or 11:12:22

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1 privilege log, dated October 30, 2013? 11:16:37

2 A I believe so, yes.

3 Q Again, the statement in this letter
4 dated -- or marked as Exhibit 6 is accurate?

5 A Yes. 11:16:52

6 Q So it's true you first learned of the
7 facts concerning Facebook's scanning of private
8 messages in the manner alleged in the complaint
9 through this private message from Mr. Slade on
10 October 30, 2013? 11:17:03

11 A Yes.

12 Q Mr. Campbell, when you made the decision
13 to join or serve as a plaintiff in this lawsuit
14 against Facebook, were you aware of similar class
15 action lawsuits pending against Google and Yahoo! 11:17:20
16 regarding the alleged scanning of email messages?

17 A No.

18 Q Have you since become aware of those
19 lawsuits?

20 A Only in the broadest sense that they 11:17:31
21 exist.

22 Q What do you know about those other
23 lawsuits?

24 A Literally just what you just said, that
25 there are lawsuits regarding emails. 11:17:42

1 point or another, I ran into him in person. 11:20:19

2 Q And who is your friend that works at the
3 law school?

4 A [REDACTED]

5 Q And which law school is this? 11:20:27

6 A University of Arkansas Little Rock.

7 Q And had you had other meetings with
8 Mr. Slade before October 30, 2013, or was it just
9 one meeting in person before then? Or one
10 encounter? You mentioned an encounter, not a 11:20:52
11 meeting, necessarily.

12 A I've run into him in a social setting
13 multiple times.

14 Q Do you consider him one of your friends?

15 A Yes. 11:21:02

16 Q Had he ever represented you before?

17 A No.

18 Q And was it during this post October 30,
19 2013, meeting, you know, a week give or take four
20 days after, was that when you decided to retain 11:21:16
21 Mr. Slade to represent you in your case against
22 Facebook?

23 A I believe it was actually over a telephone
24 call that I sort of made the final decision. I
25 think by the time we met in person, that had already 11:21:38

1 kind of been more or less established. 11:21:40

2 Q And this was a phone call after the
3 initial private message?

4 A Yes.

5 Q Did you ever consider using attorneys 11:21:49
6 other than Mr. Slade or his firm to bring this
7 lawsuit?

8 A No.

9 Q Why not?

10 A Because I knew David and I trusted his 11:21:59
11 understanding of the subject matter.

12 Q And at the time I guess you first met with
13 David through your mutual contact, [REDACTED]
14 what did you know to be David's practice area?
15 Mr. Slade's practice area? Excuse me. 11:22:26

16 A Other than knowing the firm that he worked
17 at, I didn't -- I hadn't actually talked to him
18 about his practice area. He only -- he's only been
19 in practice a few years, and our interactions had
20 been social, not work-related. 11:22:48

21 Q And when did he graduate, do you know?

22 A I don't know.

23 Q But recently, within the last ten years?

24 A Oh, yeah. Definitely.

25 Q Did he graduate after you graduated from 11:22:57

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1 (Recess, 11:24 a.m. - 11:34 a.m.) 11:24:56

2 THE VIDEO OPERATOR: Back on the record.

3 The time is 11:34. Please continue.

4 MR. CARNEY: Counsel, we've had the
5 opportunity to confer, and without certainly waiving 11:34:12
6 any attorney-client privilege rights we have, I'm
7 going to instruct my client to answer your last
8 question.

9 MR. CHORBA: Do you need me to repeat the
10 last question? 11:34:27

11 MR. CARNEY: Could you do that? Yeah.

12 BY MR. CHORBA:

13 Q I believe I asked you, Mr. Campbell,
14 whether it was fair to say Mr. Slade identified and
15 picked you as opposed to you selecting Mr. Slade to 11:34:36
16 bring this action. You answered no. I asked you,
17 why is that not accurate?

18 Can you answer that question now?

19 A Yes. I volunteered to be the plaintiff.

20 Q And that was after your discussions with 11:34:52
21 Mr. Slade?

22 A Yes.

23 Q And you had not reached out to Mr. Slade
24 about bringing an action against Facebook before he
25 contacted you? 11:35:06

1 A Correct. 11:35:06

2 Q So why is it -- why is my characterization
3 that he picked you, you didn't pick him, inaccurate?

4 A Because he didn't contact me to ask me to
5 be the plaintiff. 11:35:25

6 Q Why did he contact you?

7 Let me ask it in yes or no form. Did he
8 contact you because he was contemplating a lawsuit
9 against Facebook, yes or no?

10 A I can't speak to what he was 11:35:52
11 contemplating.

12 Q Do you know why he contacted you?

13 A Yes.

14 Q And why did he contact you?

15 A He contacted me as a fellow attorney, just 11:36:06
16 sort of -- just sort of discussing broadly the
17 facts.

18 Q Had he ever contacted you before regarding
19 potential litigation?

20 A No. 11:36:25

21 Q And when in this sequence did you
22 volunteer to serve as a plaintiff? We mentioned --
23 by "this sequence," I mean you have the initial
24 message by Mr. Slade, October 30. There's the
25 meeting, I guess, three to 11 days after that. 11:36:49

1 When in that sequence did you volunteer to 11:36:54
2 become a plaintiff?

3 A I believe -- I can't say for certain. I
4 believe I tossed out the idea in the message and
5 then confirmed it to him in the telephone 11:37:09
6 conversation. That's my memory of it.

7 Q And when you say you tossed out the idea
8 in the message, was that in your response to
9 Mr. Slade's Facebook message to you on October 30,
10 or was it at a later date? 11:37:28

11 A Oh, no. I see what your question is. It
12 would have been in that October 30 exchange.

13 Q So is that -- as far as you know, is that
14 the second entry on the privilege log marked as
15 Exhibit 7? It states, "October 30, 2013, Author, 11:37:42
16 Matt Campbell, Recipient, David Slade."

17 A I suppose it would have to be.

18 Q So the sequence, Mr. Slade writes to you,
19 you then respond and volunteer to serve as a
20 plaintiff? 11:38:04

21 A Again, I'm working from memory. It's
22 possible that that message a few days later on 11-3
23 was where I volunteered. I can't say for certain
24 whether it was my immediate response on 10-30 or the
25 one a few days later. 11:38:16

1 all decisions. I've had input into the factual 12:14:25
2 allegations that are made in the complaint. I've
3 provided hundreds of pages of documents in
4 discovery. I've walked through the search for -- to
5 locate those documents with Mr. Slade and my other 12:14:47
6 attorneys.

7 At every step along the way, I've had --
8 I've been kept in the loop on communication and had
9 some input.

10 Q Was there any -- ever any point in time, 12:15:06
11 yes or no, where your attorneys wanted to either
12 assert a claim or take a certain position and you
13 rejected that proposal, yes or no?

14 A No.

15 Q Were there ever any strategic decisions 12:15:26
16 where you disagreed, yes or no, with their proposed
17 course of action?

18 A No. I've deferred to them for all legal
19 strategy.

20 Q You mentioned local counsel. Is that 12:15:42
21 Mr. Carney's firm?

22 A Yeah. They've been my point of contact.

23 Q Local counsel kind of has a special
24 connotation with lawyers, as I'm sure you
25 understand. They're counsel of record in this case? 12:15:53

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1 A Right. I -- 12:15:56

2 Q I just wanted to clarify.

3 A I spoke inarticulately there. I'm sorry.

4 Q You meant they were local to you?

5 A Right. 12:16:05

6 Q Got it.

7 Have you served, or on your behalf, have
8 discovery requests been served on Facebook?

9 A To my knowledge, yes.

10 Q Do you know what types of requests? 12:16:23

11 A I do not.

12 Q Interrogatories? Do you know whether
13 there have been interrogatories served?

14 A I don't know. That's something that I've
15 deferred to the attorneys. 12:16:36

16 Q How about document requests?

17 A I don't know.

18 Q Did you participate in any way in the
19 drafting of discovery requests directed to Facebook?

20 A No. I'm not the attorney in this case. 12:16:58

21 Q But you provided discovery responses in
22 this case, correct?

23 A Yes.

24 Q Whose decision was it to bring this case
25 as a class action? 12:17:12

1 A That was a decision by one of the 12:17:18
2 attorneys involved or all of the attorneys involved.

3 Q Did you review the initial disclosures
4 served on behalf of the plaintiffs in this case?

5 A Yes. 12:17:30

6 Q Did you review the supplemental initial
7 disclosures?

8 A Yes.

9 Q Did you review the responses served on
10 your behalf to Facebook's interrogatories? 12:17:39

11 A Yes.

12 Q And did you review a set of corrected
13 responses to Facebook's interrogatories?

14 A Yes.

15 Q How about the document requests, responses 12:17:49
16 to the document requests? Did you review those
17 before they were filed?

18 A Yes.

19 Q Did you sign any of these documents?

20 A I don't recall one way or the other. 12:18:03

21 Q Do you remember reviewing all these
22 responses for accuracy?

23 A Yes.

24 Q Did you make every effort to make sure
25 they were correct? 12:18:12

1 or icon? 13:44:08

2 A Yeah, that's a fair description.

3 Q And when you've sent messages, you've seen
4 that URL preview?

5 A Yes, I've seen it. 13:44:17

6 Q Have you seen it every time you've
7 included a URL or just sometimes?

8 A I don't recall. I don't know that I've
9 seen it every time.

10 Q And how would you determine whether or not 13:44:28
11 you've seen it every time? Could you determine if
12 you've seen it every time?

13 A Retroactively, probably not. I know that
14 it wasn't a feature, to my recollection, when the
15 private messaging was first introduced. That came 13:44:46
16 along later.

17 Q Do you remember when?

18 A No.

19 Q Do you understand that Facebook has copies
20 of messages that its users send and that are stored 13:44:55
21 on its servers?

22 A Again, I can't say that I know that
23 they're stored on Facebook's servers. I understand
24 that they have copies based on my ability to
25 download these through this litigation. 13:45:10

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1 that yield a larger universe than the universe you 13:48:42
2 ultimately produced?

3 MR. CARNEY: Object to form.

4 THE WITNESS: I produced 100 percent of
5 what I downloaded and searched -- 100 percent of 13:48:52
6 what I had I produced to counsel.

7 BY MR. CHORBA:

8 Q And when you downloaded, did you download
9 messages -- only messages that contained URLs or did
10 you just download everything? 13:49:05

11 A I downloaded everything.

12 Q And do you understand that what was
13 produced was only those messages that contained
14 URLs?

15 A That seems to be what is represented, yes. 13:49:18

16 Q And do you know why it was limited in that
17 fashion?

18 MR. CARNEY: Object to form to the extent
19 it involved discussions you had with counsel. And
20 I'm instructing you not to answer. 13:49:29

21 BY MR. CHORBA:

22 Q I asked a yes or no. Do you know why it
23 was limited in that manner, yes or no?

24 A Yes.

25 Q And why was that? Can you answer that 13:49:38

1 without consulting with your attorney? 13:49:41

2 A I can -- no, I can't. That was a legal
3 decision. I deferred to them on that.

4 Q That was not your decision?

5 A No. I've deferred the actual legal 13:50:01
6 matters in this case to the attorneys who are
7 handling it.

8 Q Mr. Campbell, what is your understanding
9 of how the Facebook "Like" social plug-in works?

10 A Beyond what I testified to earlier, I 13:50:16
11 don't know that I have additional understanding.

12 Q In this lawsuit, do you object to the,
13 quote, scanning, end quote, of Facebook messages to
14 increase the "Like" count?

15 A Yes. 13:50:35

16 Q And do you object in this lawsuit to the,
17 quote, scanning of Facebook messages for the
18 purposes of developing user profiles to support and
19 deliver targeted advertising?

20 A Yes. 13:50:49

21 Q Do you object to the, quote, scanning, end
22 quote, of Facebook messages for any purpose?

23 A Yes.

24 Q Are there any exceptions to that?

25 A With respect to my messages, none that I 13:51:06

1 can think of. 13:51:08

2 Q What about scanning messages in order to
3 deliver them to the intended recipients?

4 A Scanning the content of the message to
5 deliver it to the intended recipient, yes, I would 13:51:25
6 object to that.

7 Q What about scanning messages to filter
8 messages?

9 MR. CARNEY: Object to form.

10 You can answer. 13:51:37

11 THE WITNESS: Can you be more specific in
12 terms of -- filter how?

13 BY MR. CHORBA:

14 Q What about scanning messages to store the
15 messages? 13:51:47

16 MR. CARNEY: Object to form.

17 You can answer.

18 THE WITNESS: I -- yes, I would object. I
19 don't see a purpose, why the content would need to
20 be scanned for storage purposes. 13:51:58

21 BY MR. CHORBA:

22 Q Let's carve out scanning the content. I'm
23 not asking about scanning -- scanning for any
24 purpose. Is your objection limited to scanning the
25 actual content of the message? 13:52:08

1	A	I can't --	13:52:14
2		MR. CARNEY: Object to form.	
3		You can answer.	
4		THE WITNESS: I can't see what other --	
5		I'm wondering if we're using different meanings for	13:52:24
6		"scanning" here.	
7		BY MR. CHORBA:	
8	Q	Why don't you explain what you mean by	
9		"scanning." It's a term you've used earlier and in	
10		your responses, so I'm trying to understand that.	13:52:32
11	A	I mean specifically looking at and	
12		extracting information from the content of the	
13		message itself. I don't consider looking at who	
14		it's addressed to as scanning.	
15	Q	Okay. So identifying the actual recipient	13:52:49
16		you wouldn't consider content?	
17	A	Correct. I would -- that would be the	
18		same as -- I look at that as the same as addressing	
19		a letter to somebody. You can see who it's going to	
20		without having any idea what's inside the envelope.	13:53:06
21	Q	Okay. And how about the -- I guess the	
22		date of the message?	
23		MR. CARNEY: Object to form.	
24		THE WITNESS: To the extent that that's	
25		separate from the content of the message, then I	13:53:24

1 wouldn't object to that. I'd say that's similar to 13:53:29
2 the date on a postmark.

3 BY MR. CHORBA:

4 Q So when you refer to scanning, you're
5 talking exclusively about the content, and by 13:53:39
6 "content," you mean what's in the actual message,
7 the body of the message itself?

8 A Yes.

9 Q Does that include URLs?

10 A Yes. 13:53:51

11 Q Does that include URLs to generate URL
12 previews?

13 A To the extent that it requires more than
14 just sort of an automatic -- more than an automatic
15 function of the software, yes. 13:54:13

16 Q What do you mean by "automatic function of
17 the software"? I just want to make sure I
18 understand.

19 A This is sort of getting above my pay grade
20 in terms of technology, but if that's a function 13:54:25
21 that is just coded into the software and it happens
22 automatically and that information goes no further
23 than to create that preview, which I can then choose
24 to remove, I see that as -- I would not object to it
25 in that situation. Anything beyond that, yes. 13:54:44

1 Q What about checking to make sure a URL is 13:54:46
2 a valid URL and not, for example, a URL that
3 redirects to a malicious website? If they're
4 scanning necessary to ensure that it's not
5 redirecting to a malicious website, do you have an 13:55:01
6 objection to that?

7 A On some level, yes, to the extent it gets
8 into any sort of content or any use of the
9 information contained therein.

10 Q What if the information is used solely to 13:55:22
11 protect the integrity of the site?

12 A To protect the integrity of Facebook's
13 site?

14 Q Yes.

15 A I suppose I need a more concrete example 13:55:39
16 before I can answer that.

17 Q Okay. Let's say hypothetically it
18 redirects to a site that then downloads malware,
19 either into Facebook itself or into the user's
20 computer. 13:55:52

21 Would that be an example of scanning the
22 content of a message to which you would object?

23 A Would it even be possible for a site to
24 download malware into Facebook's site?

25 Q Let's say -- let's put Facebook's site 13:56:04

1 previous example that you gave. 13:57:31

2 BY MR. CHORBA:

3 Q What about scanning of the content of
4 messages, again as you've defined, and in
5 particular, the URLs that are on lists maintained by 13:57:41
6 law enforcement as known child pornography sites?

7 A I would still object to that to the extent
8 that it got into -- if it went beyond just blocking
9 that outright.

10 If it was something where a person could 13:58:10
11 not even send it so that it wasn't actually scanning
12 content, that would be one thing. I think saying,
13 well, you can send, but we're going to keep an eye
14 on it and then do something with that information,
15 you again get back into the content and the 13:58:20
16 expectation of privacy.

17 Q Do you know of a way for -- yes or no: Do
18 you know of a way for a company to just block that
19 without scanning, in your terms, the actual URL?

20 A No. That's something that's outside my 13:58:38
21 area of knowledge.

22 Q Do you object to, in general, scanning of
23 messages to detect criminal conduct?

24 A Yes. I don't think Facebook's role --
25 that's Facebook's role. 13:58:53

1 Q What about scanning messages to render the 13:59:00
2 message in the appropriate language?

3 MR. CARNEY: Object to form.

4 You can answer.

5 THE WITNESS: That's getting a little more 13:59:21
6 technical than I'm completely familiar with. But
7 again, if it requires actual access of the content
8 rather than just sort of an automatic translation,
9 then yes, I would object.

10 BY MR. CHORBA: 13:59:37

11 Q And do you have any objection to
12 Facebook -- let's put scanning aside for a moment --
13 processing messages to render them in the
14 appropriate language?

15 A Can you define "processing"? 13:59:47

16 Q Processing in a way so that it makes sure
17 that if you're sending it to someone, it will
18 actually display in the user's language.

19 A Isn't that basically the previous
20 question? 14:00:03

21 Q I'm distinguishing your use of "scanning"
22 versus -- I'm using a more generic term,
23 "processing." In other words, rendering, making it
24 available to the user.

25 Let's put scanning -- we've asked a bunch 14:00:15

1 of questions using your definition of "scanning," 14:00:16
2 which you've related to content. Let's distinguish
3 now just general processing, delivering, you know,
4 rendering in a way that's usable to the recipient.

5 Do you have any objection to that? 14:00:32

6 A As long as that process was separate from
7 the content, no, if it was an automatic process.

8 Q So it depends on whether it's an automatic
9 process?

10 A It depends on whether the process is 14:00:40
11 separate from -- it depends on whether the
12 content -- strike that. Let me think this through
13 in my head.

14 To a certain extent, yes. It depends on
15 whether it's automatic. If it requires access to 14:00:55
16 the content rather than just an automatic function
17 of the software, I think those are two distinct
18 situations.

19 Q What if the automatic function of the
20 software necessarily involves -- it's not a person 14:01:05
21 at a computer reading the content but it necessarily
22 involves processing of the content. For example, to
23 render the URL preview. Do you have an objection to
24 that?

25 A As I said earlier, as long as it's an 14:01:26

1 automatic function of the software, I see that as 14:01:29
2 distinct from the scanning that we're discussing.

3 Q Did you at any point contact Facebook
4 before filing this lawsuit to see if you could
5 resolve the matter without litigation? 14:01:49

6 A No.

7 Q Why not?

8 A It never crossed my mind.

9 Q Have you ever contacted Facebook to
10 discuss any of its practices? 14:01:59

11 A No.

12 Q You've never written to the help center,
13 called a phone number, anything like that?

14 A No.

15 Q Going back to the Blue Hog website and 14:02:11
16 Facebook page, have you ever used the Domain
17 Insights service provided by Facebook to review the
18 activity on the Blue Hog Facebook page?

19 A If that -- I don't know that I'm sure
20 specifically what you're talking about. 14:02:36

21 Q Have you ever heard of the Domain Insights
22 service?

23 A Not phrased that way. I know there are
24 some analytic tools available on one of the tabs of
25 Blue Hog Report's Facebook page. 14:02:48

1 for its own benefit." 14:23:28

2 What do you mean when you allege here
3 that, "Facebook treated the content of plaintiffs'
4 private messages as an endorsement of the website"?

5 A Facebook used the mere fact that -- for 14:23:41

6 example, I sent a message that had a URL. They then
7 generated "Likes" from that, and regardless of
8 whether either I or the recipient had any intention

9 of liking the page, did like the page, liked it but
10 chose not to -- they used that message to create the 14:24:00

11 impression that two additional people had liked that
12 page regardless of whether either of those people
13 had that intent.

14 Q Is it your understanding that the
15 anonymous "Like" count number merely went up, or is 14:24:15

16 it your contention or your allegation that your name
17 was associated with the increased "Like" count on
18 the website?

19 A I can't say for sure how Facebook stored
20 it -- I don't -- how Facebook treated that 14:24:33

21 information.

22 Q Did you ever see a situation in which you
23 shared a URL through a message, the "Like" count was
24 increased, and that was somehow attributed to you,
25 you specifically? 14:24:52

1 A Me specifically, no, I cannot say that I 14:24:53
2 saw that.

3 Q Mr. Campbell, have you been harmed by the
4 conduct that you're challenging in this action?

5 A Yes. 14:25:06

6 Q How so?

7 A My privacy was breached, and my speech was
8 corrupted in that Facebook -- Facebook created
9 "Likes" for a page irrespective of whether that was
10 something that I would like. 14:25:26

11 Q You said your speech was corrupted. What
12 do you mean, your speech?

13 A That's what I just explained. Just as I
14 have a right to choose to go like a page, I also
15 have the right to not like the page, even if it's 14:25:41
16 something that I love. And by doing it this way,
17 Facebook went ahead and created a "Like" as if I had
18 liked it based on the mere fact that I discussed it
19 with someone.

20 Q When you say "in this way," you're talking 14:25:58
21 about the sharing of URLs through messages?

22 A Let me reread my answer.

23 MR. CARNEY: Object to form.

24 You can answer.

25 THE WITNESS: By doing it -- yes. 14:26:12

1 Q Got it. Okay. So you don't have an issue 14:27:22
2 with the fact that there is the ability to access,
3 it's the actual fact of accessing the messages?

4 A Yeah, I think that's a fair statement.

5 Q Have you suffered any monetary harm as a 14:27:36
6 result of the conduct you're challenging in this
7 case?

8 MR. CARNEY: Object to form.

9 THE WITNESS: Not that I'm aware of.

10 BY MR. CHORBA: 14:27:47

11 Q Have you lost any money as far as you
12 understand to Facebook as a result of the conduct
13 you're challenging in this case?

14 A Not that I'm aware of.

15 Q And other than having your -- you 14:27:59
16 referenced earlier having your privacy breached --
17 have you suffered any other type of harm?

18 MR. CARNEY: Object to form.

19 THE WITNESS: The corruption of speech as
20 well. 14:28:14

21 BY MR. CHORBA:

22 Q And you distinguish that from having your
23 privacy breached?

24 A It came about as a result of the breach of
25 privacy, but it is a separate thing. 14:28:23

1 explained that you've observed Facebook generating a 14:34:31
2 URL preview in a message.

3 Do you consider that -- using the phrase
4 "interception," which has, I'm sure as you know,
5 legal significance in this case given the 14:34:40
6 allegations and claims, do you consider that
7 rendering of a preview to be an interception?

8 A No, because the message hasn't been sent
9 at that point.

10 Q Do you consider that rendering of a URL 14:34:51
11 preview to be a scanning of the message?

12 A No. I always considered it to be just an
13 automatic function of the software that I can
14 override by clicking "Remove preview."

15 Q So when you use the phrase 14:35:10
16 "interception," and you're using that in the context
17 of the URL, what specifically do you mean?

18 A I'm referring to the accessing of the
19 content of my message at some point after it has
20 been -- after I've made the affirmative step to hit 14:35:27
21 "Send."

22 And the distinction I'm drawing is that
23 the preview and everything is happening before I hit
24 "Send." So whatever I type up there, even if I put
25 a URL in, if I haven't hit "Send," I see that as a 14:35:40

1 Q And by "doing that," do you mean just 14:37:57
2 intercepting generally or incrementing the "Like"
3 count through URLs shared over private message?

4 A Both.

5 Q Have you done anything to verify whether 14:38:13
6 or not Facebook is continuing to engage in the
7 conduct that you challenge in the complaint?

8 MR. CARNEY: Object to form.

9 THE WITNESS: No. I assume that -- no.

10 BY MR. CHORBA: 14:38:37

11 Q Mr. Campbell, do you have any information
12 or any basis of any kind that Facebook has targeted
13 an ad to you based on something that you put in a
14 message on Facebook?

15 A That Facebook itself has targeted an ad to 14:38:51
16 me?

17 Q Yes.

18 A Online ads or --

19 Q Any type of advertising.

20 A As I testified earlier, I don't see ads on 14:39:01
21 pretty much any website. So, no, I haven't seen
22 that.

23 Q You mentioned that some websites, they
24 sometimes sneak through. In those instances -- I'm
25 trying to figure out if you have any basis for 14:39:13

1 Facebook. I can't recall one -- I can't recall 14:40:19
2 seeing any in the last few years with the Adblock
3 software, but also I can't recall -- I cannot tell
4 you specifically that there was this ad that was
5 targeted at me. 14:40:31

6 Q So you may have -- if I can just make sure
7 I'm following you.

8 You may have seen an ad here or there on
9 Facebook, but you can't link it to anything that
10 would be targeting you based on content of your 14:40:40
11 messages?

12 A Correct.

13 Q Mr. Campbell, do you know anybody named

14 

15 A No. 14:40:56

16 Q Have you ever heard that name before?

17 A No.

18 Q Do you know whether or not you can send
19 Facebook messages to non-Facebook users?

20 A I don't know. I assumed you could not, 14:41:10
21 but I don't know that.

22 Q Did you ever send any Facebook messages to
23 non-Facebook addresses?

24 A I don't know how I would have done that.

25 Q As far as you know, did anyone ever send 14:41:25

1 181 messages, is it fair to say the majority of them 14:56:51
2 had a URL preview?

3 A I can't say for sure one way or the other
4 on that.

5 Q Do you remember -- how would you check 14:57:04
6 that, or could you check that?

7 MR. CARNEY: Object to form.

8 THE WITNESS: I don't know -- I don't know
9 how I would. I don't know that I could.

10 BY MR. CHORBA: 14:57:16

11 Q At any point in time do you remember
12 typing in a URL, a preview was generated, and then
13 clicking on the X to X out of the preview?

14 A Yes.

15 Q You've done that before? 14:57:28

16 A Yes.

17 Q Would you say you've done that, you know,
18 more than half the time, less than half the time?

19 A I can't say for sure. I don't know.

20 Q Were there specific circumstances where 14:57:42
21 you would click X on the preview?

22 A Nothing specific. I think sometimes just
23 the way the thumbnail rendered or something didn't
24 look right with the preview, so just get rid of it
25 because that was an option. 14:58:11

1 A Yes. 14:59:27

2 Q -- little box?

3 And that would be the box to X out if you
4 did not want the URL preview?

5 A Yes. 14:59:33

6 Q Based on your use of Facebook, would the
7 URL still transmit in the message if you clicked on
8 the X?

9 A Yes.

10 Q It just wouldn't have the URL preview like 14:59:40
11 this?

12 A Correct.

13 Q I believe you said this. You can't
14 estimate approximately how often the URL preview
15 would be generated during times you sent messages? 14:59:52

16 A Right.

17 Q And would looking -- I think you said
18 earlier you don't know how you would even determine
19 the answer to that question.

20 Would going through Exhibit 8 or Exhibit 1 15:00:10
21 to Exhibit 5 in any way refresh your recollection as
22 to whether or not you X'd out of the preview?

23 A No.

24 Q During the time you've used Facebook in
25 any capacity, have you used different browsers? 15:00:37

1 A Yes. 15:00:43

2 Q Which ones?

3 A Primarily Google Chrome. I guess whatever
4 the -- if we want to qualify the Facebook app as a
5 browser on a Samsung phone. 15:01:03

6 Q Okay.

7 A And then I probably accidentally used
8 Safari once or twice.

9 Q Not a fan?

10 A No. 15:01:16

11 Q And that would be -- I think you mentioned
12 earlier you have a MacBook Pro?

13 A Yes.

14 Q Have you ever used Internet Explorer?

15 A No. 15:01:25

16 Q You have very strong views there, but I
17 will not probe them as Microsoft is a very good
18 client of the firm.

19 Do you happen to know, were there specific
20 periods you'd use one browser as opposed to the
21 other? 15:01:39

22 A It's been almost exclusively Chrome for
23 the last few years for sure. Prior to that, I guess
24 I would have used Firefox at some point to assess
25 Facebook prior to switching over to Chrome. 15:01:56

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1 Q And can you pinpoint that on a -- with a 15:01:59
2 specific date?

3 A No.

4 Q And did your different browsers have
5 JavaScript enabled? 15:02:10

6 A For the most part, yeah.

7 Q But it's possible that one or more
8 browsers or at one or more points in time it may not
9 have been installed?

10 A The JavaScript, yes, especially using the 15:02:29
11 Chrome browser on my cell phone. There was a period
12 where Java didn't load at all on Chrome.

13 Q But that would be just on your smartphone?

14 A In that example, yes.

15 Q Can you think of other examples where 15:02:49
16 you're pretty certain you would not have had
17 JavaScript enabled?

18 A At one point I used a Chrome extension
19 that required you to affirmatively enable JavaScript
20 for each specific page so there could have been 15:03:00
21 periods in there where I just didn't have it enabled
22 for Facebook.

23 Q So there were certain sites where you
24 wouldn't have it enabled, JavaScript, that is?

25 A Right. Once you've installed the 15:03:16

1 extension, then you had to affirmatively re-enable 15:03:17
2 it for each site as you went there.

3 Q Have you ever affirmatively disabled it
4 for any particular sites, yes or no?

5 A Other than that example with the 15:03:29
6 extension, no.

7 Q Do you know how many of the URLs reflected
8 in either of the exhibits we're looking at, again,
9 Exhibit 1 to Exhibit 5 or Exhibit 8, do you know if
10 any of those URLs contained a Facebook "Like" button 15:03:44
11 social plug-in?

12 A I can't say for certain one way or the
13 other. The ones that included a Blue Hog Report
14 URL, any of them that were sent after the "Like"
15 button was installed there would have had one. 15:04:03

16 Q I'm sorry, Mr. Campbell. Remind me. I
17 know you testified earlier. I just don't remember
18 when that "Like" button was installed.

19 A Sometime in 2013 or possibly early 2014.
20 I want to say it was 2013 but I can't pinpoint it 15:04:23
21 more than that.

22 Q And did adding it to that website have
23 anything to do with this particular lawsuit or is it
24 just coincidental timing?

25 A To the extent there's overlap, it would be 15:04:34

1 coincidental. 15:04:36

2 Q Got it.

3 And for any of the other sites other than
4 Blue Hog, with which you're obviously familiar, and
5 perhaps the Pinnacle Law Firm website, by going 15:04:44
6 through this list, will we be able to tell whether
7 at the time the message was sent there was a
8 Facebook "Like" button on that website?

9 A Not to a degree of certainty more than
10 just sort of best guess. 15:05:02

11 Q So some of the websites may have had the
12 "Like" button while others may not; is that right?

13 A Yes.

14 Q And do you know whether your -- any time
15 you shared a URL in a Facebook message, whether that 15:05:21
16 share incremented the "Like" count on a website?
17 We'll assume it had the "Like" social plug-in. Let
18 me pause there. We'll come back to this.

19 You understand that if the website to
20 which the URL directed didn't have a "Like" counter, 15:05:38
21 that the transmission of that URL through a message
22 didn't increment a "Like" count because the "Like"
23 count didn't exist.

24 A That seems reasonable.

25 Q You don't have any basis for contending 15:05:53

1 otherwise? 15:05:55

2 A No.

3 Q And do you know whether your sharing of
4 any particular URL in a Facebook message incremented
5 the "Like" count on any particular web page? 15:06:03

6 A No, because that's not something I was
7 looking for at the time. I was unaware of the
8 practice.

9 Q But sitting here today and going back and
10 looking at either the chart or Exhibit 8, are you 15:06:15
11 able to tell whether or not any URL shared through a
12 private message to or from you incremented the
13 "Like" count for that particular page?

14 A Going through these lists, no.

15 Q Do you have any other way of determining 15:06:32
16 that?

17 A No. I don't know that it would be
18 possible to go back and find out.

19 Q So let's look again at the production
20 marked Exhibit 8. I think it's under your left arm 15:06:50
21 there.

22 And again, you can keep the chart, if you
23 would, because I think we may refer back.

24 Let's first look at -- since you have that
25 in front of you, I'll tell you it's line 27 of that, 15:07:04

1 top of page 3. And then I'll try to match this up 15:07:07
2 for you, Mr. Campbell.
3 If you go to the page marked
4 CAMPBELL000005, there's a message. It's kind of at
5 the top there, second one, from [REDACTED] to 15:07:27
6 you and [REDACTED]
7 Who is [REDACTED]
8 A A friend.
9 Q How long have you known him?
10 A Four or five years. 15:07:50
11 Q And just a friend socially, not a work
12 colleague or client or anything like that?
13 A Correct.
14 Q And we talked about [REDACTED]
15 earlier. And he's the person who works at 15:08:04
16 University of Arkansas Law School?
17 A Arkansas, Little Rock. Yes.
18 Q Little Rock. Thank you.
19 And he works as a law librarian?
20 A Yes. 15:08:17
21 Q Do you know -- this was a message again
22 from [REDACTED] to you.
23 Do you know what understanding
24 [REDACTED] had about whether or not this message
25 that he sent was scanned or intercepted by Facebook? 15:08:31

1 A I can't speak to his understanding. 15:08:37

2 Q And there are four different URLs there,
3 if you look at the next column or if you look at the
4 document. Again, it's heavily redacted, but I think
5 the URLs are retained. 15:08:48

6 Do you know if any of these URLs had any
7 URL previews in this particular message?

8 A I have no idea.

9 Q And if you had a copy of this message
10 dated May 27th, 2011, in your Facebook messages 15:09:08
11 folder, would you be able to bring it up and see
12 whether there were URL previews?

13 A Possibly. That's not something I've ever
14 looked to see if I could see after the fact.

15 Q And as far as you know, do you still have 15:09:22
16 a copy of this message?

17 A I assume so.

18 Q Do you know what kind of browser
19 [REDACTED] was using, if any, when he sent this
20 message to you and [REDACTED]? 15:09:34

21 A No idea.

22 Q Do you remember what the subject matter of
23 this discussion was generally?

24 A Yes. Generally it was related to the
25 attempt by the Arkansas Republican Party to get me 15:09:45

1 A I have no idea if he did or not. 15:13:04

2 Q Looking at the message, again, line 156,
3 that [REDACTED] sent to you, do you know what
4 understanding [REDACTED] had about whether or not
5 his message was being scanned or intercepted by 15:13:17
6 Facebook?

7 A I can't speak to his understanding.

8 Q I'm going to go back a little bit to
9 page 4 of the document production, and it's line 21
10 of the chart. Whichever is easier for you to flip 15:13:33
11 to first.

12 MR. CARNEY: Chris, I'm sorry. I was
13 daydreaming. Where are we headed?

14 MR. CHORBA: Line 21 of the chart, page 4
15 of the document production. 15:13:50

16 MR. CARNEY: Gotcha. Thank you.

17 BY MR. CHORBA:

18 Q This is a message, July 17, at 7:18 p.m.
19 It's a message, Mr. Campbell, from you to [REDACTED]
20 [REDACTED] Who is [REDACTED] 15:14:06

21 A He's a friend and former reporter for a
22 small-town newspaper.

23 Q Which newspaper?

24 A Fort Smith, The City Wire. It's an
25 online-only publication. 15:14:23

1 A I'm a friend of his on Facebook. I don't 15:15:32
2 know if that's what allowed me to send it or not.

3 Q Did [REDACTED] ever send you messages on
4 Facebook?

5 A I believe he did from time to time. 15:15:43

6 Q Do you know what understanding [REDACTED]
7 had about whether or not any of the messages shared
8 on Facebook were being scanned or intercepted by
9 Facebook?

10 A I don't know what his understanding was. 15:15:53

11 Q Let's go to page 7 of the production there
12 in front of you, and it's line 45. This is a
13 message, sir, from you to I believe [REDACTED]
14 [REDACTED] And it's a post to the Blue Hog
15 Report. 15:16:16

16 A Yes.

17 Q And this was less than a year ago,
18 August 2014.

19 [REDACTED] knew about your lawsuit at
20 that time; is that fair to say? 15:16:29

21 A Yes.

22 Q And did she understand Facebook practices
23 at the time you shared this message with her?

24 MR. CARNEY: Object to form.

25 THE WITNESS: I can't speak to what her 15:16:48

1 A Yes. 15:24:57

2 Q Have you ever spoken with Dr. Kaku?

3 A No.

4 Q But you know who he is?

5 A From television. 15:25:07

6 Q From what -- like what context? Does he

7 have a TV show?

8 A He had a show on Discovery or one of those

9 channels not too long ago.

10 Q Got it. He's not based in Arkansas or 15:25:20

11 anything, is he?

12 A No.

13 MR. CHORBA: Okay. I think we're at a

14 good spot. Why don't we take a quick five-minute

15 break. 15:25:26

16 THE VIDEO OPERATOR: Going off the record,

17 the time is 3:25.

18 (Exhibit 17 and Exhibit 18 were marked for

19 identification and are attached hereto.)

20 (Recess, 3:25 p.m. - 3:37 p.m.) 15:25:31

21 THE VIDEO OPERATOR: Back on the record.

22 The time is 3:37. Please continue.

23 BY MR. CHORBA:

24 Q Welcome back, Mr. Campbell.

25 You have the chart in front of you still 15:37:08

1 that's Exhibit 1 of Exhibit 5. If you could turn to 15:37:09
2 page 102, and specifically line 54 (sic).

3 A Line 754?

4 Q Page 102, line 754. That's a message
5 dated February 4th, 2011, and it has a website 15:37:35
6 Smiley & West.

7 Do you recognize that site?

8 A No.

9 Q I'm going to hand you a document we've
10 marked -- the reporter has premarked as Exhibit 17. 15:37:48

11 I'll represent to you that we went to
12 smileyandwest.com. And the two short abbreviated
13 Google URLs noted, and those are the three web
14 pages.

15 Have you ever seen those web pages before? 15:38:06

16 A No.

17 Q Do you know who Smiley and West are?

18 A Yes.

19 Q Who are they?

20 A Tavis Smiley and Cornel West. 15:38:20

21 Q Do they have a radio program?

22 A I don't believe they do anymore, but they
23 did at one point.

24 Q Have you ever listened to it?

25 A A few times. 15:38:32

1 Q If you look at the first page there in 15:38:35
2 Exhibit 17, I'll represent to you there's, as far as
3 we can tell, no Facebook "Like" button, at least
4 currently. We printed these out recently.

5 Then if you turn to the second page, and 15:38:52
6 this is the second link, that shortened Google link
7 referenced in line 754, you'll see there's a "Share"
8 button beneath the "Subscribe to podcast" statement
9 there with a little Facebook icon.

10 And then if you look at the last page, 15:39:17
11 which appears to be a printout from Google Maps,
12 Smiley and West station, there's a Facebook "Like"
13 button there, or Facebook icon. Excuse me.

14 Do you recognize any of these sites?

15 A No. 15:39:33

16 Q Do you remember receiving this message?

17 A No.

18 Q Do you know who [REDACTED] is?

19 A No.

20 Q Is it possible you received this message 15:39:52
21 at the time and knew what it was about and have just
22 forgotten in the last four years?

23 A I suppose that's possible.

24 Q And the number that's reflected there,
25 1158728615, is that number in any way associated 15:40:19

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1 practices? 15:50:18

2 Q Let's focus on the practices that are
3 challenged in this case.

4 A No.

5 Q But you may have discussed other practices 15:50:24
6 with him?

7 A I wasn't -- I was trying to clarify
8 whether by "practices" you meant what size pictures
9 needed to be or how the posting of -- how that
10 worked. 15:50:34

11 Q Other than that, were there any other
12 practices you discussed with him?

13 A No.

14 Q Does [REDACTED] know about this lawsuit?

15 A I can't say for sure. I haven't told him 15:50:44
16 about the lawsuit.

17 Q Have you had any discussions with him
18 about the lawsuit?

19 A No.

20 Q And have you ever accessed any other 15:51:14
21 developer guidance on Facebook's website?

22 A Not that I know of.

23 Q Who is [REDACTED]

24 A A reporter for the Arkansas Democrat
25 Gazette. 15:51:40

1 Q Have you sent Facebook messages to 15:51:45
2 [REDACTED]
3 A Yes.
4 Q Has he sent messages to you?
5 A I believe so. 15:51:50
6 Q Do you know where [REDACTED] lives?
7 A In the Little Rock area.
8 Q Do you know his specific address?
9 A No.
10 Q Do you know how we would reach him? 15:51:58
11 A Other than Facebook or email, no.
12 Q Do you know if he's aware of the lawsuit,
13 this lawsuit?
14 MR. CARNEY: Object to form.
15 THE WITNESS: I don't know if he's aware 15:52:13
16 or not. I haven't spoken about it with him.
17 BY MR. CHORBA:
18 Q Did you ever send [REDACTED] any messages
19 containing URLs?
20 A I believe so. 15:52:24
21 Q Did he ever send you messages containing
22 URLs?
23 A I can't recall off the top of my head.
24 Q Do you know if [REDACTED] ever consented to
25 the interception or scanning of messages on 15:52:37

1 Facebook? 15:52:41

2 MR. CARNEY: Object to form.

3 THE WITNESS: I can't speak to whether he

4 consented or not.

5 BY MR. CHORBA: 15:52:49

6 Q Do you know if [REDACTED] ever visited the

7 Facebook developer page that explained that URL

8 attachments to messages were included in the

9 external website "Like" count?

10 MR. CARNEY: Object to form. 15:53:06

11 THE WITNESS: I'm not familiar enough with

12 his web-using habits to know.

13 BY MR. CHORBA:

14 Q Do you know if [REDACTED] ever saw articles

15 or press coverage regarding the fact that Facebook 15:53:15

16 was, in your words, scanning messages?

17 A I can't speak to his reading habits,

18 either.

19 Q Do you know whether or not, if [REDACTED]

20 did send a message containing a URL preview, or URL, 15:53:30

21 whether he saw a URL preview before sending the

22 message?

23 A I don't know.

24 Q Who is [REDACTED]

25 A A friend of mine. 15:53:44

1 A I don't recall anything specific. That's 15:54:49
2 why I said I might have mentioned it in passing.

3 Q And why would you have mentioned it if you
4 did?

5 A Just when we were talking about current 15:54:55
6 caseloads, litigation, it might have come up that
7 way.

8 Q Did [REDACTED] ever send you any
9 messages?

10 A I believe so. 15:55:12

11 Q Did he send you messages that contained
12 URLs?

13 A I think so.

14 Q And did you send messages to

15 [REDACTED] 15:55:18

16 A Yes.

17 Q Including messages with URLs?

18 A Most likely.

19 Q Do you know if [REDACTED] consented to
20 the scanning or interceptions that you're alleging 15:55:30
21 in this case?

22 A I don't know. I don't know how anyone
23 could have consented to an unknown practice.

24 Q But I'm asking you, do you know
25 affirmatively whether or not he consented to it? 15:55:43

1 A No. 15:55:45

2 Q Do you know if [REDACTED] had viewed
3 any Facebook developer pages, Facebook disclosures,
4 or press coverage regarding the practices challenged
5 in this case? 15:55:59

6 MR. CARNEY: Object to form.

7 THE WITNESS: I don't know.

8 BY MR. CHORBA:

9 Q Do you know if [REDACTED] ever saw a
10 URL preview before he sent a Facebook message 15:56:06
11 containing a URL?

12 A I don't know.

13 Q Do you know [REDACTED]

14 A No.

15 Q How about [REDACTED] 15:56:30

16 A No.

17 Q [REDACTED]

18 A No.

19 Q We talked about [REDACTED] earlier. Do you
20 know if [REDACTED] -- and you sent [REDACTED] messages 15:56:45
21 containing URLs, correct?

22 A I believe so, yes.

23 Q And he sent you messages containing URLs?

24 A Yes.

25 Q We looked at one a moment ago that had the 15:56:54

1 Facebook developer guidance. 15:56:55

2 A Right.

3 Q Do you know whether [REDACTED] consented to
4 the scanning or interceptions that are at issue in
5 this case? 15:57:03

6 A I don't know. I don't know that he was
7 aware of it.

8 Q You don't know one way or the other?

9 A Correct.

10 Q And do you know whether he ever visited 15:57:13
11 any Facebook pages or articles or any other sources
12 that disclose the practices at issue in this case?

13 A I don't know.

14 Q Do you know whether [REDACTED] ever saw the
15 URL preview before sending a message with that URL? 15:57:28

16 A I don't know.

17 Q [REDACTED] you've sent messages to
18 him with URLs and he's sent messages to you with
19 URLs; is that right?

20 A Yes. 15:57:55

21 Q Do you know if he consented to the
22 scanning or interceptions that you're challenging in
23 this case?

24 A I don't know because I don't know if he
25 was aware of it. 15:58:05

1 Q You don't know one way or the other 15:58:06
2 whether he was aware of it?
3 A No.
4 Q He could have been, you just don't know?
5 A It's possible. 15:58:12
6 Q You don't know one way or the other,
7 though? You said it's possible, but you don't know?
8 A No.

9 MR. CARNEY: Object to form.

10 BY MR. CHORBA: 15:58:22

11 Q Do you know if [REDACTED] ever visited
12 any websites, saw any news articles that disclosed
13 the practices challenged in this case?

14 A I can't say for sure. I'd be shocked if
15 he did. 15:58:35

16 Q Why do you say that?

17 A Because he's something of a Luddite and I
18 can't imagine that he would ever willingly read a
19 Facebook privacy policy.

20 Q Are you speculating or do you know for 15:58:45
21 sure whether he's read any of this?

22 A Speculating based on what I know about
23 him.

24 Q Informed speculation?

25 And do you know whether [REDACTED] 15:58:53

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1 December 16, and December 22nd that follow this 16:10:43
2 October 30 exchange, are you able to describe the
3 general subject matter of those communications?
4 A They were all related in one way or
5 another to this lawsuit. 16:10:59
6 Q And have you reviewed these messages since
7 providing them to your counsel?
8 A Not subsequent to providing them, no.
9 Q And do you know whether or not there's any
10 non-privileged information reflected in these 16:11:11
11 messages?
12 A I have no reason to believe there is.
13 Q What are the newspapers that you read
14 regularly, Mr. Campbell?
15 A The Arkansas Democrat Gazette. I suppose 16:11:30
16 beyond that I'll need to ask you to define
17 "regularly."
18 Q That you read more than once a year.
19 A The Southwest Times Record, the Arkansas
20 Times, New York Times. That's probably it. 16:11:53
21 Q And focusing on those four publications,
22 are there any that you read on a daily and/or weekly
23 basis?
24 A The Democrat Gazette and the -- it's daily
25 or near daily, and the Arkansas Times is a weekly 16:12:16

1 publication. 16:12:22

2 Q And do you read these in paper form,

3 online, or both?

4 A Both.

5 Q Do you subscribe to any publications? 16:12:30

6 A I subscribe to the Democrat Gazette.

7 Q Any others?

8 A No. Not newspapers, no.

9 Q How about magazines?

10 A Currently, yes. 16:12:43

11 Q Which ones?

12 A Sports Illustrated and Time, I guess. My

13 wife has a subscription.

14 Q But do you read Time?

15 A Occasionally. 16:12:58

16 Q Have you ever read the Washington Post

17 online or in paper form?

18 A Ever? Yes.

19 Q How about The Los Angeles Times?

20 A Again, yes, ever. 16:13:15

21 Q Wall Street Journal?

22 A Yes.

23 Q Business Insider?

24 A No.

25 Q Chicago Tribune? 16:13:26

1 A Yes. 16:13:29

2 Q The San Francisco Chronicle?

3 A Yes.

4 Q The Philadelphia Inquirer?

5 A No. 16:13:43

6 Q New York Post?

7 A No.

8 Q New York Daily News?

9 A I don't believe so.

10 Q Financial Times? 16:13:53

11 A I visited their website.

12 Q Have you ever read any content on the

13 website?

14 A Possibly.

15 Q How about a website forbes.com? 16:14:05

16 A I have visited the website before, yes.

17 Q Have you ever read any of the content on

18 forbes.com?

19 A Probably.

20 Q How about foxnews.com? 16:14:18

21 A I assume I've wound up there by accident

22 at some point.

23 Q Have you ever knowingly read any content

24 on foxnews.com?

25 A Not that I can recall. 16:14:36

1 Q Fair enough. 16:14:37
2 How about CNN?
3 A Yes.
4 Q We're moving into perhaps more hospitable
5 territory. 16:14:42
6 Huffington Post?
7 A Yes.
8 Q How about Huffington Post tech page? Do
9 you ever read that?
10 A No. 16:14:49
11 Q Seen it?
12 A Yeah, I believe so.
13 Q Vice.com?
14 A Only the one time they had a story about
15 something Blue Hog Report did. 16:15:00
16 Q How about any of Wall Street Journal's
17 online blogs or publications?
18 A No.
19 Q How about the website Mashable?
20 A I've heard of it. I don't know that I've 16:15:15
21 ever read it.
22 Q Politico?
23 A Yes.
24 Q Wired Magazine, either online or in paper
25 form? 16:15:22

1 A Again, heard of it. I don't know that 16:15:23

2 I've read it.

3 Q Tech Radar?

4 A No.

5 Q The Daily Beast? 16:15:28

6 A I've probably read something there before.

7 Q MSNBC.com?

8 A Yes.

9 Q The Onion?

10 A Yes. 16:15:39

11 Q Gizmodo?

12 A Yes.

13 Q PC Magazine?

14 A No.

15 Q The Next Web? 16:15:46

16 A No.

17 Q Did you review any materials from Facebook
18 before deciding to register for a Facebook account?

19 A Only whatever information is part of the
20 sign-up process in 2009. 16:16:21

21 Q Do you recall anything about any of the
22 materials you read at the time?

23 A No.

24 Q But you would have read them?

25 A No, I would have glossed over them and 16:16:36

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were administered an oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a Federal Case, before completion of the proceedings, review of the transcript [X] was [] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or any party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: 05/29/2015

Carla Soares

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