

# EXHIBIT N

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

MATTHEW CAMPBELL, MICHAEL )  
HURLEY, and DAVID SHADPOUR, ) Case No.  
Plaintiffs, ) C 13-05996 PJH (MEJ)  
vs. )  
FACEBOOK, INC., )  
Defendant. )  
\_\_\_\_\_ )

VIDEOTAPED DEPOSITION OF DAVID SHADPOUR  
THURSDAY, OCTOBER 1, 2015

REPORTED BY:  
JARDENE L. PLATT,  
RPR, CSR No. 3724  
Job No. 2142485  
  
Pages 1-151

1 really have any exposure to. 08:40:15

2 Q. And with whom -- with whom did you have 08:40:18

3 exposure at Pomerantz? 08:40:20

4 A. Mr. Portnoy, Lesley Portnoy. 08:40:22

5 Q. Anybody else at that firm? 08:40:24

6 A. Not that I know of. 08:40:25

7 Q. Mr. Portnoy is not representing you today? 08:40:27

8 A. No. 08:40:31

9 Q. When did Mr. Portnoy stop representing 08:40:32  
10 you? 08:40:33

11 A. A few months. 08:40:37

12 Keith, any ideas? A month, two months? 08:40:38

13 Something like that. Does that sound right? 08:40:40

14 MR. KLEIN: I -- technically I don't -- 08:40:44

15 this is your testimony. I don't believe anyone ever 08:40:45

16 sort of stopped representing you because they didn't 08:40:48

17 withdraw as counsel so they are still counsel of 08:40:50

18 record. 08:40:52

19 THE WITNESS: That's a good question. I 08:40:53

20 don't know what technically representing is or 08:40:53

21 isn't. Did I sign a document saying to stop 08:40:54

22 representing me? No, but did I pull the plug and 08:40:56

23 say like I need to find other legal counsel? Yes. 08:40:58

24 That's why I went and found Keith. 08:41:01

25 ///

1	BY MR. CHORBA:	
2	Q. Can you explain to me why you did that?	08:41:03
3	A. Comfort. I didn't feel comfortable.	08:41:06
4	MR. PORTNOY: I would just like to	08:41:08
5	interject could we -- Mr. Shadpour, to the extent	08:41:08
6	that there's any discussion of attorney-client --	08:41:12
7	anything we have discussed in the past as your	08:41:16
8	attorney, you have the privilege to refrain from	08:41:18
9	discussing that. So I just wanted to put that on	08:41:21
10	the record.	08:41:24
11	MR. KLEIN: Actually, let's be a little	08:41:24
12	bit more clear about that. I don't believe that	08:41:26
13	question asked for privileged communications. But	08:41:29
14	it seems like one -- to be clear for purposes of the	08:41:32
15	record here, any communications with your counsel,	08:41:35
16	being me or any of your other counsel who you	08:41:38
17	perceive to be your counsel at any time, are	08:41:42
18	privileged communications. That means that you have	08:41:44
19	the right not to discuss the substance of those	08:41:46
20	communications during this deposition or elsewhere.	08:41:48
21	You also have the right to waive that privilege. So	08:41:51
22	you have the -- you get to make the choice. It's	08:41:53
23	your privilege. Okay?	08:41:56
24	But once you waive that privilege for one	08:41:56
25	purpose, you cannot pull it back and it's waived for	08:41:59

1	all purposes.	08:42:01
2	Do you understand that, David?	08:42:02
3	THE WITNESS: I do.	08:42:03
4	Chris, do you agree?	08:42:03
5	BY MR. CHORBA:	
6	Q. Again, I'm not under oath either. There's	08:42:05
7	a lot of --	08:42:08
8	Counsel, if we can limit given the time, I	08:42:08
9	appreciate both of your comments and I understand.	08:42:10
10	But I don't think my question went even close to	08:42:12
11	that.	08:42:14
12	I asked you why -- you testified a moment	08:42:16
13	ago that you believed you needed to find other	08:42:17
14	counsel. I asked you to explain why.	08:42:20
15	A. Sounds good. So I will retain the -- this	08:42:23
16	right of privilege that I have to not talk too much	08:42:26
17	about it. But I did answer it already before the	08:42:28
18	guys popped in, which was comfort, so --	08:42:30
19	Q. Why -- why were you uncomfortable -- so is	08:42:32
20	it fair to say you became uncomfortable with	08:42:33
21	Mr. Portnoy's firm?	08:42:37
22	A. Yeah. In general.	08:42:38
23	Q. Why was that?	08:42:39
24	A. Just about interests. I didn't feel our	08:42:40
25	interests were aligned and so I went and seeked	08:42:43

1	[sic] additional counsel.	08:42:44
2	Q. Why were your interests not aligned?	08:42:45
3	A. That's a good question. I think I'm going	08:42:50
4	to -- you know, with all due respect, and you guys	08:42:53
5	can just tell me when and where, it either is or	08:42:55
6	isn't appropriate, but if I have this right and	08:43:00
7	privilege not to talk too much about that	08:43:01
8	relationship, I will take advantage of that. If I	08:43:03
9	don't, then by all means, like, let's rock and roll.	08:43:06
10	Q. Well, I'm not asking for any	08:43:08
11	communications that you had with Mr. Portnoy. I am	08:43:09
12	asking -- you said that your interests weren't	08:43:13
13	aligned.	08:43:14
14	Let me break that down. Your interests	08:43:16
15	weren't aligned with whom?	08:43:19
16	A. With the legal counsel that I had at the	08:43:22
17	time. So to try to help answer your question and	08:43:23
18	move on to the next one, there's a long duration of	08:43:26
19	time that I was trying to leave the class action,	08:43:30
20	and I didn't get the sense that the attorneys found	08:43:32
21	that in their best interests and were making the	08:43:34
22	effort to get me out of the claim.	08:43:36
23	Q. When did you first ask to leave the class	08:43:38
24	action?	08:43:40
25	A. Likely, say, about eight months, six	08:43:43

1	months. Six to eight months. No, actually maybe	08:43:46
2	more. December time.	08:43:49
3	Q. December of last year?	08:43:51
4	A. December-January, yeah.	08:43:52
5	Q. December 2014 of --	08:43:54
6	A. December, January time is when I started	08:43:55
7	the conversation of I no longer want to be in this	08:43:57
8	claim.	08:44:01
9	Q. With whom did you discuss --	08:44:01
10	A. I began the conversations with Lesley.	08:44:03
11	That was more in a passive conversation, and then	08:44:03
12	with time it escalated to absolute necessary	08:44:06
13	requirement.	08:44:10
14	Q. At what point did it escalate to an	08:44:11
15	absolute necessary requirement?	08:44:13
16	A. Say likely April, May.	08:44:21
17	Q. Let's come back to that.	08:44:27
18	Did you review any documents in preparing	08:44:29
19	for today's deposition?	08:44:31
20	A. Oh, boy. I'm under oath. No, I didn't	08:44:33
21	review any documents.	08:44:36
22	Q. That's fine. All right.	08:44:37
23	Did you review any electronic materials or	08:44:39
24	anything else, maybe not a physical paper document,	08:44:43
25	but did you review anything else in preparing for	08:44:45

1 Q. These were served on your behalf. You may 08:53:00  
2 or may not know this. Interrogatories are basically 08:53:03  
3 written questions that are used. It's sort of a 08:53:05  
4 corollary to what we are doing today. I am asking 08:53:07  
5 you questions verbally. These are written questions 08:53:09  
6 that we served on your counsel to you that you were 08:53:11  
7 then required to answer pursuant to the rules. 08:53:14  
8 A. Okay. 08:53:17

9 Q. Exhibit 3 is a letter from counsel that 08:53:17  
10 relates to these. Let's start with Exhibit 2. 08:53:19  
11 And I will direct you to response No. 5 on 08:53:24  
12 Page 6. Actually, it carries over to Page 7. I'm 08:53:38  
13 sorry, Page 6, Lines 18 through 20. The question 08:53:46  
14 reads -- Interrogatory No. 5: 08:53:51  
15 "IDENTIFY all facts regarding how 08:53:53  
16 and when YOU," and as used in this 08:53:55  
17 document I will represent to you that 08:53:57  
18 refers to you, Mr. Shadpour, "first 08:53:58  
19 became aware of FACEBOOK's alleged 08:54:01  
20 conduct referenced in YOUR COMPLAINT." 08:54:04  
21 The substantive response starts on Page 18 08:54:08  
22 [sic]: 08:54:10  
23 "Plaintiff states as follows: 08:54:11  
24 Plaintiff," again, that's you in this 08:54:12  
25 context, "first became aware that 08:54:14



1 Facebook scans private messages 08:54:17  
2 containing URLs in or around December 08:54:19  
3 2013 in connection with counsel's 08:54:21  
4 investigation in this case." 08:54:25  
5 Does that refresh your recollection at all 08:54:26  
6 about when you first learned about the practice 08:54:29  
7 involved in this lawsuit? 08:54:32  
8 A. No. But this document is -- I'm going to 08:54:33  
9 assume is correct. 08:54:36  
10 Q. Do you have any reason to doubt the 08:54:37  
11 accuracy of that statement? 08:54:39  
12 A. No. 08:54:40

13 Q. Did you know anything about, quote, scans 08:54:42  
14 private messages -- excuse me. Let me start over. 08:54:45  
15 Do you know anything about, quote, 08:54:48  
16 Facebook scans private messages containing URLs, 08:54:49  
17 close quote, before December 2013? 08:54:52  
18 A. I don't know. If I knew that I would have 08:54:58  
19 told you two years. I said five years because I 08:55:00  
20 don't know. 08:55:02  
21 Q. If you turn your attention to Exhibit 3, 08:55:06  
22 again, I will represent to you that this is a letter 08:55:08  
23 that counsel served on behalf of all the plaintiffs. 08:55:11  
24 If you look at the second page number -- item marked 08:55:15  
25 number 3, Mr. Shadpour, and it reads: 08:55:20

1	A. Okay.	08:56:20
2	Q. Counsel for plaintiffs.	08:56:20
3	A. Yeah, I honestly don't know.	08:56:21
4	Q. Do you remember having any conversation	08:56:25
5	with Mr. Portnoy regarding, quote, scanning of	08:56:26
6	private messages by Facebook?	08:56:30
7	A. To help add some context, I've known	08:56:33
8	Lesley for 20 years. I probably had thousands of	08:56:36
9	conversations with Lesley over the last 12 months,	08:56:39
10	so no, I don't recall any of this stuff. It's	08:56:41
11	really, really hard for me to reference days or	08:56:43
12	times of conversations with Lesley. Lesley and I	08:56:45
13	are very, very good friends. We go bike riding	08:56:47
14	together. We hang out on Friday nights. Our kids	08:56:50
15	have been hanging out since they were born. So no,	08:56:52
16	I have absolutely no recollection of dates.	08:56:55
17	Q. I understand. To be clear, Mr. Shadpour,	08:56:57
18	I am not interested in any private conversations or	08:56:59
19	bike riding with Mr. Portnoy. However, Mr. Portnoy	08:57:01
20	on your behalf sued my client. And the reason we	08:57:05
21	are here today is I want to explore why you sued my	08:57:07
22	client, and the quicker we get through this, the	08:57:10
23	quicker we will be done and you will get out of the	08:57:11
24	case and won't have to worry about this again.	08:57:14
25	So what I am asking is, do you recall any	08:57:16

1	conversations with Mr. Portnoy about a lawsuit	08:57:17
2	against Facebook?	08:57:20
3	A. No.	08:57:23
4	Q. You mentioned earlier that you had	08:57:23
5	thousands of conversations with him just in the last	08:57:25
6	12 months.	08:57:27
7	A. Yeah.	08:57:28
8	Q. Approximately, if you can give me your	08:57:29
9	best estimate, how many of those conversations	08:57:31
10	regarded a lawsuit against Facebook?	08:57:32
11	A. I don't know. For the exception of let's	08:57:34
12	say talking to Lesley most recently about leaving	08:57:36
13	the claim, I don't actually know.	08:57:39
14	Q. And you can't -- sitting here today, you	08:57:41
15	can't remember the first time you contemplated	08:57:42
16	bringing a lawsuit against Facebook.	08:57:46
17	A. Definitely not.	08:57:48
18	Q. And you can't remember whether it was your	08:57:49
19	idea or a lawyer's idea.	08:57:51
20	A. No.	08:57:53
21	Q. Have you ever sent Facebook messages or	08:57:57
22	emails to Mr. Portnoy?	08:58:00
23	A. Yeah. Definitely.	08:58:02
24	Q. Do you remember whether or not those --	08:58:03
25	let's focus now on Facebook messages. Do you	08:58:05

1	MR. CARNEY: Object to form. Asked and	09:00:43
2	answered 16 times now.	09:00:44
3	THE WITNESS: Yeah, I even made a speech	09:00:45
4	about how I don't remember.	09:00:46
5	MR. KLEIN: We don't need -- I got your	09:00:47
6	point. I got your point. We don't need all the	09:00:49
7	commentary.	09:00:51
8	BY MR. CHORBA:	
9	Q. Did anyone else ever share any facts with	09:00:52
10	you regarding Facebook's alleged scanning of	09:00:54
11	messages?	09:00:56
12	A. Not that I know of. Aside from industry	09:00:57
13	news. Right? There's pretty much a good amount of	09:00:59
14	buzz, TechCrunch, things like that, so --	09:01:02
15	Q. What type of buzz or news had you heard	09:01:04
16	about Facebook's practices regarding messages?	09:01:08
17	A. Post class action I read some articles in	09:01:14
18	regards to the class action. That was in reference	09:01:17
19	to the scanning.	09:01:19
20	Q. You say "post class action."	09:01:20
21	A. Yeah.	09:01:22
22	Q. After this case was filed?	09:01:22
23	A. Yeah. Correct.	09:01:23
24	Q. And you remember reading them after the	09:01:24
25	case was filed, not before?	09:01:26

1 A. Yeah. Exactly. 09:01:27

2 Q. Do you remember approximately when that 09:01:30

3 was? 09:01:31

4 A. No. 09:01:32

5 Q. You said TechCrunch. Do you remember any 09:01:33

6 other publication? 09:01:35

7 A. I also don't mean specifically TechCrunch. 09:01:36

8 I just mean industry news like a TechCrunch. So 09:01:38

9 whether or not TechCrunch has an article in regards 09:01:40

10 to this, is totally going to be just an example. 09:01:42

11 Q. The -- if you turn back to Exhibit 3, the 09:01:46

12 last sentence of this paragraph refers to, quote, 09:01:49

13 Facebook scanning of private messages in the manner 09:01:55

14 alleged in the complaint, end quote. Do you know 09:01:58

15 what that phrase means, "in the manner alleged in 09:02:01

16 the complaint"? 09:02:04

17 A. Sorry, Chris, the last paragraph? 09:02:05

18 Q. Yeah. Paragraph -- this is numbered 3. 09:02:06

19 It's the last two lines. "Facebook's scanning of 09:02:08

20 private messages in the manner alleged in the 09:02:12

21 complaint." Do you know what that means, "in the 09:02:15

22 manner alleged in the complaint"? 09:02:16

23 A. My understanding is that Facebook has been 09:02:21

24 scanning private messages obtaining data on URLs 09:02:23

25 used and then reselling that data. So that's my 09:02:27

1 the claim itself. It was more about personal. 09:05:28

2 Q. How about today? 09:05:32

3 A. Today I -- yeah, I do like go on and off 09:05:34

4 in regards to -- not just about Facebook, but just 09:05:37

5 data in general. 09:05:40

6 Q. But sitting here today, what are your 09:05:41

7 thoughts on this? 09:05:42

8 A. I don't know, man. I don't have an answer 09:05:44

9 to that question. 09:05:46

10 Q. Do you believe the case is valid, sitting 09:05:49

11 here today? 09:05:51

12 A. Yeah. But again, that's not for me to 09:05:51

13 decide. It's really for the courts and -- 09:05:54

14 Q. What did you hope to accomplish by 09:05:56

15 bringing this lawsuit? 09:05:57

16 A. Awareness, transparency, privacy rights. 09:06:01

17 Q. Did you seek specific relief? 09:06:08

18 A. Specific relief to myself? No, not 09:06:11

19 necessarily. 09:06:14

20 Q. How about on behalf of others? 09:06:15

21 A. Yeah, definitely. 09:06:16

22 Q. Did you intend to seek money? 09:06:17

23 A. No, I didn't. I don't have any real 09:06:19

24 interest in capital. 09:06:23

25 Q. Has Facebook ever taken any money from 09:06:24

1 you? 09:06:25

2 A. Not that I know of. Let me know if you 09:06:26

3 can answer that question. 09:06:34

4 Q. I can't hear you. What? 09:06:35

5 A. I don't know if you get an answer to that 09:06:36

6 question. 09:06:37

7 Q. If you what? Get what? 09:06:38

8 A. If you get an answer, you know. You 09:06:39

9 charge on your credit card from time to time. You 09:06:41

10 never know. 09:06:43

11 Q. No. It's a free service. It's -- 09:06:44

12 THE REPORTER: I'm sorry? 09:06:46

13 THE WITNESS: I was just kidding. 09:06:48

14 BY MR. CHORBA:

15 Q. When you made the decision to file the 09:06:49

16 lawsuit, were you aware of similar class action 09:06:51

17 lawsuits pending against Google alleging scanning of 09:06:53

18 Gmail messages? 09:06:57

19 A. You know, I think so. I know I'm aware of 09:06:59

20 it today. Was I aware of it at the time? I'm not 09:07:02

21 sure. But maybe. 09:07:04

22 Q. How about a similar lawsuit against Yahoo 09:07:05

23 involving its Yahoo mail email product? 09:07:07

24 A. Oh, no. I should check that out. I'm 09:07:10

25 aware of that now. 09:07:11

1           A. I honestly don't know. I have met with           09:08:57  
2   Lesley so many times, and was the calendar invite           09:08:59  
3   defined as this lawsuit? Not necessarily.           09:09:02  
4           Q. About how many meetings did you have with           09:09:04  
5   him that touched on this lawsuit? If you know.           09:09:06  
6           A. I don't know.           09:09:08  
7           Q. But you did meet with him and discuss this           09:09:10  
8   lawsuit at various points.           09:09:12  
9           A. Yeah.           09:09:15  
10          Q. And you can't estimate how many meetings           09:09:19  
11   you had.           09:09:20  
12          A. No.           09:09:21

13          Q. How about phone calls?           09:09:22  
14          A. I had a pretty significant amount of phone           09:09:24  
15   calls over the last X number of months regarding           09:09:27  
16   leaving the lawsuit. That's probably the most           09:09:29  
17   active I have been.           09:09:31  
18          Q. Approximately how many of those phone           09:09:33  
19   calls have you had?           09:09:35  
20          A. I don't know. Dozen, 10.           09:09:36  
21          Q. And those started in -- your estimate           09:09:40  
22   earlier was December of 2014, January 2015?           09:09:43  
23          A. Yeah. More -- more actively in around           09:09:47  
24   April-May time.           09:09:53

25          Q. What did you say when you spoke to           09:09:57



1	Q. But were you ever nonresponsive to their	09:24:46
2	inquiries?	09:24:49
3	A. As a general rule I'm pretty responsive.	09:24:51
4	Do I recall a specific incident that I was	09:24:56
5	nonresponsive? Not that I know of.	09:24:59
6	Q. Do you recall any instance in which	09:25:01
7	plaintiffs' counsel, any of the people that we	09:25:03
8	talked about and for now I am going to include	09:25:04
9	Mr. Portnoy, including everybody when I say	09:25:06
10	plaintiffs' counsel, do you know if at any point in	09:25:08
11	time plaintiffs' counsel tried to reach you and they	09:25:10
12	couldn't reach you?	09:25:13
13	A. That's very possible.	09:25:14
14	Q. Were you aware that plaintiffs' counsel	09:25:18
15	told counsel for Facebook that they had lost contact	09:25:20
16	with you?	09:25:23
17	A. Yeah. I am aware of that.	09:25:24
18	Q. Do you know why plaintiffs' counsel would	09:25:26
19	say that to us?	09:25:28
20	MR. CARNEY: Object to form.	09:25:30
21	THE WITNESS: No. No. I don't.	09:25:30
22	BY MR. CHORBA:	
23	Q. Is that true?	09:25:32
24	A. I don't think so.	09:25:33
25	Q. Why do you think it's not true?	09:25:35

1 A. I just don't think it's true. They 09:25:41  
2 contact me, it may take time to reach me but I don't 09:25:43  
3 think it's true. 09:25:45

4 Q. At any point in time did you fail to 09:25:48  
5 respond to messages from plaintiffs' counsel? 09:25:51

6 A. That's possible. 09:25:53

7 Q. At any point in time did you fail to 09:25:53  
8 respond to messages at all? In other words, let's 09:25:55  
9 exclude it takes you a day or two. Have you just 09:25:58  
10 not responded at all? 09:26:01

11 A. Not that I know of. I will tell you, 09:26:03  
12 though, it's a bit of a difficult question because 09:26:05  
13 what happens is, you got an email. Let's assume you 09:26:06  
14 haven't responded in 24 hours. Then you get 09:26:09  
15 bombarded with phone calls. Then you get bombarded, 09:26:11  
16 and so at some point you are always on -- I think 09:26:12  
17 there was some -- some challenges there which 09:26:16  
18 explains why I went and seeked additional legal 09:26:19  
19 counsel. 09:26:21

20 Q. Can you help me understand that? Were 09:26:22  
21 there periods of time where you were getting emails 09:26:24  
22 and then bombarded with phone calls from plaintiffs' 09:26:26  
23 counsel in this case? 09:26:28

24 A. Yeah. 09:26:30

25 Q. When was that? 09:26:30

1	Q. Do you remember seeing it on or about that	09:31:14
2	date?	09:31:15
3	A. Sounds right.	09:31:16
4	Q. If you look at Page --	09:31:17
5	A. Oh, actually, you know what? I want to	09:31:18
6	clarify. I don't -- I'm not a hundred percent sure	09:31:20
7	I saw it on that day. I may have seen it but after.	09:31:23
8	Q. On or about that date.	09:31:26
9	A. Yeah.	09:31:27
10	Q. If you look at the last paragraph on	09:31:28
11	Page 2, starting at Line 22 --	09:31:30
12	A. Yeah.	09:31:33
13	Q. -- on Page 2. It states:	09:31:33
14	"On March 17, 2015, plaintiffs'	09:31:36
15	counsel informed Facebook's counsel that	09:31:39
16	Mr. Shadpour intended to withdraw from	09:31:41
17	the litigation and asked if Facebook	09:31:44
18	would stipulate to his dismissal."	09:31:46
19	A. Okay.	09:31:48
20	Q. Your testimony earlier was that you had	09:31:51
21	first asked in December or January. Do you know why	09:31:53
22	plaintiffs' counsel waited until March 17 to make	09:31:57
23	that request on Facebook?	09:32:00
24	A. No.	09:32:02
25	Q. And if -- do you recall, sir, whether you	09:32:04

1	times since April, so --	09:40:26
2	Q. Between April and today?	09:40:28
3	A. Yeah. Dozen times.	09:40:29
4	Q. Have any of the plaintiffs' lawyers in	09:40:30
5	this case ever told you that they were going to do	09:40:38
6	something and then they didn't do it?	09:40:40
7	MR. CARNEY: Object to form.	09:40:43
8	THE WITNESS: I prefer not to answer that	09:40:48
9	question.	09:40:49
10	BY MR. CHORBA:	
11	Q. It's a yes-or-no question. I'm not asking	09:40:50
12	for any privileged information. Respectfully, you	09:40:52
13	have to answer it. Truthfully, answer it	09:40:57
14	truthfully.	09:40:58
15	A. My challenge in answering the question, so	09:41:00
16	you can hopefully clarify, is opinion versus fact.	09:41:02
17	So if -- if it's about my opinion and frustrations,	09:41:05
18	it would be different than factually. I don't know.	09:41:07
19	Q. Well, fair enough. But all I can do is	09:41:10
20	ask you the questions so you can answer truthfully	09:41:12
21	as you are able.	09:41:15
22	A. Yeah. I believe in terms of opinion,	09:41:16
23	yeah, I didn't get the sense that what I needed to	09:41:19
24	get done was getting done and --	09:41:23
25	Q. Regarding your dismissal?	09:41:29

1	A. Yeah.	09:41:31
2	Q. Were there any other instances when any of	09:41:31
3	the plaintiffs' lawyers told you they were going to	09:41:33
4	do something and they didn't?	09:41:35
5	A. Yeah. I was -- I got the feeling that	09:41:36
6	they -- our interests were not aligned and that they	09:41:38
7	weren't helping me leave the claim, which is why I	09:41:40
8	sought outside counsel.	09:41:43
9	Q. Other than the withdrawal, I am trying to	09:41:45
10	put that aside. Are there any other instances or	09:41:46
11	examples where you felt your interests weren't	09:41:49
12	aligned with the plaintiffs' counsel?	09:41:50
13	MR. CARNEY: Object to form.	09:41:53
14	THE WITNESS: I wish I knew what you	09:41:56
15	meant. Aside from what? The only thing I know is	09:41:57
16	the withdrawal from the claim.	09:42:00
17	BY MR. CHORBA:	
18	Q. But you mentioned that your interests were	09:42:02
19	not aligned. When you say that you are referring to	09:42:03
20	your request to withdraw?	09:42:05
21	A. Yeah.	09:42:06
22	Q. Nothing else?	09:42:06
23	A. No.	09:42:07
24	Q. Do you know whether the -- and this is	09:42:10
25	again whether you know, have any of the plaintiffs'	09:42:12

1	lawyers provided information on your behalf to	09:42:14
2	Facebook or the court without your permission?	09:42:18
3	A. I -- yeah, I believe so.	09:42:20
4	Q. What was that?	09:42:22
5	A. Almost everything. I don't think I have	09:42:23
6	signed off on anything I've seen that's been passed	09:42:25
7	to Facebook. That's another area of frustration. I	09:42:27
8	get a lot of the post facto, not the pre.	09:42:29
9	Q. Do you know whether the plaintiffs'	09:42:36
10	lawyers have ever provided any information on your	09:42:36
11	behalf to Facebook or the court that is inaccurate?	09:42:39
12	A. Not that I know of.	09:42:42
13	Q. Have the plaintiffs -- any of the	09:42:45
14	plaintiffs' lawyers in this case ever failed to	09:42:46
15	respond to your inquiries?	09:42:48
16	A. Not that I know of.	09:42:52
17	Q. Have any of the plaintiffs' lawyers in	09:42:54
18	this case acted in a way that you believe was	09:42:55
19	dishonest?	09:42:58
20	A. No.	09:43:01
21	Q. Have any of the plaintiffs' lawyers in	09:43:04
22	this case ever pressured you in any way?	09:43:06
23	MR. CARNEY: Object to form.	09:43:10
24	BY MR. CHORBA:	
25	Q. You can answer.	09:43:16

1 the question is formulated, he waives that 09:43:58  
2 objection. So he's just trying to preserve his 09:44:00  
3 objections here. 09:44:02  
4 A. Okay. 09:44:03  
5 Q. So you shouldn't let that impact you. 09:44:03  
6 Again, your counsel will let you know if you can't 09:44:04  
7 answer something. 09:44:07  
8 A. Got it. 09:44:08

9 Q. So let me -- let me repeat. Have any of 09:44:08  
10 the plaintiffs' lawyers in this case pressured you 09:44:12  
11 in any way? 09:44:14

12 MR. CARNEY: Object to form. 09:44:16

13 THE WITNESS: I want to clarify the word 09:44:39  
14 "pressure" a bit. So I do think that I provided 09:45:36  
15 information that I didn't feel comfortable 09:45:41  
16 providing. Like, for example, the -- the requests 09:45:43  
17 that Facebook, like providing messages and links and 09:45:47  
18 things like that that I was unaware that I had to 09:45:49  
19 provide upon initially participating. And I don't 09:45:52  
20 know the if word "pressure" is the right word, but I 09:45:54  
21 do know that there's a significant amount of 09:45:58  
22 reluctance and participation on my end. 09:46:01

23 BY MR. CHORBA:

24 Q. Have any of the plaintiffs' lawyers in 09:46:04  
25 this case told you that you should avoid sitting for 09:46:05

1	deposition?	09:46:08
2	A. No.	09:46:08
3	Q. Have any of the plaintiffs' lawyers in	09:46:10
4	this case tried to prevent you from sitting for	09:46:11
5	deposition?	09:46:13
6	A. No.	09:46:14
7	Q. Have any of the plaintiffs' lawyers in	09:46:16
8	this case told you that you should not submit	09:46:17
9	discovery responses?	09:46:19
10	A. No.	09:46:20
11	Q. Have any of the plaintiffs' lawyers in	09:46:23
12	this case told you that you should withdraw from the	09:46:24
13	case as a named plaintiff?	09:46:26
14	A. No.	09:46:28
15	Q. Have any of the plaintiffs' lawyers lied	09:46:28
16	to you?	09:46:30
17	A. Not that I know of.	09:46:31
18	Q. Have any of the plaintiffs' lawyers	09:46:33
19	withheld information from you?	09:46:34
20	A. I do think a lot of these documents that	09:46:36
21	you presented I got post facto, not pre.	09:46:37
22	Q. Did you know that the law firms of Lief	09:46:42
23	Cabraser, Carney, Bates & Pulliam and Pomerantz --	09:46:44
24	let me just reorient you. The Lief Cabraser firm	09:46:47
25	is Mr. Rudolph's firm, Ms. Gardner's firm,	09:46:51



1	the platform?	10:07:00
2	A. Historically I derive pleasure from things	10:07:00
3	like food, family, activities. Not necessarily from	10:07:02
4	technological advancements.	10:07:07
5	Q. Do you benefit at all from using Facebook?	10:07:09
6	A. I do in terms of efficient communication.	10:07:11
7	Q. Do you remember when you first used the	10:07:14
8	Facebook messages product?	10:07:17
9	A. Potentially upon opening my account, which	10:07:19
10	I don't necessarily know the date of.	10:07:22
11	Q. And you used -- do you remember	10:07:25
12	approximately when you signed up for Facebook?	10:07:27
13	A. Early 2000s.	10:07:28
14	Q. Okay. Was it when the product was first	10:07:30
15	launched to the public?	10:07:33
16	A. I held out for a little while.	10:07:34
17	Q. Was it -- if I say 2006, does that ring a	10:07:36
18	bell?	10:07:39
19	A. It's possible, yeah.	10:07:39
20	Q. Okay. You have used Facebook since you	10:07:40
21	filed this lawsuit. Correct?	10:07:44
22	A. I have.	10:07:46
23	Q. Have you used the Facebook messages	10:07:47
24	product since filing this suit?	10:07:49
25	A. I have.	10:07:51

1	Q. Do you remember when the last time was	10:07:53
2	that you sent a Facebook message that contained a	10:07:54
3	URL in the message?	10:07:57
4	A. I do not.	10:07:58
5	Q. Do you remember whether or not you sent a	10:08:01
6	Facebook message containing a URL since this lawsuit	10:08:03
7	was filed in 2014? Excuse me, 2013.	10:08:05
8	A. I do not, but it is very likely that I	10:08:11
9	have.	10:08:14
10	Q. At any point in time, did any of your	10:08:17
11	lawyers ever tell you to stop using Facebook and/or	10:08:19
12	Facebook's messages product?	10:08:22
13	A. No.	10:08:23
14	Q. Earlier when I asked you about this	10:08:31
15	lawsuit, you mentioned privacy.	10:08:33
16	A. Yeah.	10:08:36
17	Q. What does "privacy" mean to you?	10:08:36
18	A. Disclosure of personal information.	10:08:45
19	Q. How about in the context of a messages or	10:08:47
20	email product?	10:08:53
21	A. I define that as personal information.	10:08:54
22	Private messaging. Hence, privacy.	10:08:57
23	Q. Is it your claim or was it your claim in	10:09:02
24	this case that Facebook scanned messages?	10:09:04
25	A. It's my understanding that they do.	10:09:08

1	criminal conduct?	10:11:31
2	MR. CARNEY: Object to form.	10:11:33
3	THE WITNESS: I wasn't aware.	10:11:35
4	BY MR. CHORBA:	
5	Q. I didn't --	10:11:38
6	A. I wasn't aware.	10:11:39
7	Q. Do you understand that Facebook has	10:11:39
8	processes in place to help detect sexual predators?	10:11:40
9	MR. CARNEY: Object to form.	10:11:44
10	THE WITNESS: I wasn't aware.	10:11:45
11	BY MR. CHORBA:	
12	Q. Do you understand that Facebook has	10:11:47
13	electronic processes in place to help generate URL	10:11:49
14	previews for a Facebook message?	10:11:53
15	A. Yes.	10:11:54
16	Q. Do you object to any of the electronic	10:11:58
17	processes that I just identified?	10:11:59
18	MR. CARNEY: Object to form.	10:12:06
19	THE WITNESS: I don't know. Not that I	10:12:09
20	know of.	10:12:11
21	BY MR. CHORBA:	
22	Q. Do you object to the, quote, scanning, end	10:12:13
23	quote, of Facebook messages to increase the like	10:12:15
24	count?	10:12:19
25	A. Yes.	10:12:20

1	Q. Why?	10:12:21
2	A. What is the like count? Sorry, you mean	10:12:21
3	like count for advertisers?	10:12:23
4	Q. Well, the like count that's displayed	10:12:24
5	either on Facebook pages themselves or on external	10:12:26
6	websites.	10:12:30
7	A. Yeah. Yes, I do.	10:12:31
8	Q. Why?	10:12:32
9	A. Because it's the selling of private data	10:12:33
10	in order to -- benefit of third parties.	10:12:34
11	Q. What if that -- if there's no selling of	10:12:37
12	data or advertising in connection with that	10:12:40
13	practice?	10:12:42
14	A. Assuming that there is no value exchanged,	10:12:42
15	which is impossible, somebody is benefiting from	10:12:44
16	this data, then yes, sure, I would be okay with it.	10:12:46
17	But assuming there's a value exchanged, whether or	10:12:48
18	not it includes capital, I think is definitely	10:12:50
19	not --	10:12:52
20	Q. What -- what type of value other than	10:12:53
21	capital do you have in mind when you gave that	10:12:56
22	answer?	10:12:58
23	A. It could be anything. It could be barter.	10:12:59
24	It could be a hug. As long as there's a benefit and	10:13:00
25	not disclosed to the individual who is creating that	10:13:03

1 content, there's a privacy concern there. 10:13:05

2 Q. If it were disclosed, you wouldn't have an 10:13:07

3 objection? 10:13:09

4 A. I think if it was disclosed, then it would 10:13:10

5 be hard to have an objection. 10:13:13

6 Q. But would you still have an objection? 10:13:15

7 A. Not that I know of. I think at that point 10:13:16

8 if it's disclosed, you can choose not to use the 10:13:19

9 platform. As long as there's transparency, it's 10:13:21

10 harder to make a case. 10:13:23

11 Q. What if the like count -- let's focus on 10:13:25

12 external websites, if that like count were 10:13:27

13 anonymized, it was just a number, would you still 10:13:29

14 have an objection? 10:13:31

15 A. I do. 10:13:32

16 MR. CARNEY: Object to form. 10:13:34

17 THE WITNESS: Yes, I do. 10:13:34

18 BY MR. CHORBA:

19 Q. Why? 10:13:35

20 A. It has nothing to do with transparency of 10:13:35

21 the individual per se. It has to do with the 10:13:38

22 monetization of benefits of the data created. The 10:13:40

23 content created, sorry. 10:13:42

24 Q. Do you -- do you believe that there's 10:13:43

25 monetization of that data? 10:13:45

1 A. I do. 10:13:47

2 Q. How do you know that? 10:13:48

3 A. I don't. 10:13:48

4 Q. You just think there is? 10:13:49

5 A. I think that there's a world of 10:13:51

6 monetization around data, period. 10:13:53

7 Q. But how about specific to Facebook? 10:13:56

8 A. Whether or not this data is currently 10:14:00

9 being monetized is secondary to the fact that it can 10:14:02

10 or will be monetized. 10:14:04

11 Q. And you know this for a fact or you just 10:14:06

12 believe it will? 10:14:08

13 A. My understanding is that data can be 10:14:09

14 monetized at any point, whether it's today or in the 10:14:10

15 future. 10:14:12

16 Q. Has any of your data ever been monetized? 10:14:12

17 MR. CARNEY: Object to form. 10:14:15

18 THE WITNESS: Very possible. 10:14:15

19 BY MR. CHORBA:

20 Q. But you don't know for sure? 10:14:16

21 A. Actually, yes, I do. My data has had been 10:14:18

22 monetized more than once. Facebook has retargeted 10:14:20

23 me with advertising campaigns from when I surf the 10:14:21

24 web. That's monetization of data. There's no 10:14:24

25 question about that. 10:14:26

1	Q. Is that through surfing the web or through	10:14:27
2	use of Facebook itself?	10:14:28
3	A. That's a good question. I don't	10:14:29
4	necessarily know the answer. I don't work at	10:14:31
5	Facebook.	10:14:32
6	Q. Okay. Do you object to targeted	10:14:33
7	advertising in all circumstances?	10:14:35
8	A. As a general rule, as long as there's no	10:14:37
9	transparency, yes. So as an example, in the U.K.	10:14:44
10	there's transparency around cookie targeting. In	10:14:46
11	the United States there isn't yet. So that would be	10:14:48
12	an example of lack of transparency.	10:14:50
13	Q. So you object to advertising that's based	10:14:52
14	off of cookie transmission?	10:14:55
15	A. Potentially.	10:14:56
16	MR. CARNEY: Object to form.	10:14:58
17	THE WITNESS: Potentially.	10:14:58
18	BY MR. CHORBA:	
19	Q. So you object to the, quote, scanning, end	10:15:04
20	quote, of Facebook messages for the purposes of	10:15:07
21	delivering targeted advertising?	10:15:11
22	A. I say that I object to the lack of	10:15:12
23	transparency. So assuming that there is	10:15:14
24	transparency, then --	10:15:15
25	Q. When you brought this suit, were you aware	10:15:22

1 or did you believe that there was a lack of 10:15:24  
2 transparency? 10:15:29  
3 MR. CARNEY: Object to form. 10:15:29  
4 THE WITNESS: Yes, I was unaware that 10:15:31  
5 there was transparency. 10:15:32  
6 BY MR. CHORBA:  
7 Q. Sitting here today, do you think there is 10:15:34  
8 a lack of transparency? 10:15:35  
9 A. As far as I'm aware, for the exception of 10:15:36  
10 what you told me about 2012. 10:15:38  
11 Q. Okay. Do you -- have you -- you 10:15:41  
12 referenced earlier some Tech Bridge or other 10:15:42  
13 articles that you may have read regarding the 10:15:46  
14 practices. 10:15:48  
15 A. Yeah. 10:15:48  
16 Q. Did those publications disclose any of 10:15:50  
17 these practices? 10:15:53  
18 A. Not that I recall. I think this is the 10:15:54  
19 first that I'm hearing about the transparency in 10:15:55  
20 2012. Or no, you didn't mention transparency. You 10:15:58  
21 mentioned -- 10:16:00  
22 Q. The content. 10:16:02  
23 A. -- stopping -- yeah. 10:16:03  
24 Q. Other than for purposes of targeted 10:16:10  
25 advertising, do you develop -- do you object to the 10:16:12



1	processing of Facebook messages for any other	10:16:15
2	purpose?	10:16:17
3	MR. CARNEY: Object to form.	10:16:18
4	THE WITNESS: Sorry, can you --	10:16:20
5	BY MR. CHORBA:	
6	Q. Other than -- let's put aside targeted	10:16:21
7	advertising. Do you object to the processing of	10:16:23
8	Facebook messages for any other purpose?	10:16:26
9	MR. CARNEY: Same objection.	10:16:28
10	THE WITNESS: Same objections one is I	10:16:29
11	don't have an issue with targeted advertising, to	10:16:29
12	clarify. Just has to do with transparency around	10:16:31
13	mining and selling data.	10:16:34
14	BY MR. CHORBA:	
15	Q. Okay. Let me -- let me -- fair point.	10:16:35
16	Other than the lack of transparency surrounding	10:16:38
17	targeted advertising, whether or not there is a lack	10:16:41
18	of transparency, we contend it is transparent,	10:16:44
19	plaintiffs disagree with us, but let's put that	10:16:47
20	aside. Other than that issue, do you object to the	10:16:49
21	processing of Facebook messages for any other	10:16:51
22	purpose?	10:16:54
23	MR. CARNEY: Object to form.	10:16:55
24	THE WITNESS: Includes wrongful enrichment	10:16:56
25	without transparency, yes. As long as there's	10:16:58

1 transparency, I have no absolutely no issue with it. 10:17:00

2 BY MR. CHORBA:

3 Q. Okay. I'm going to go through some of the 10:17:02

4 processes that we discussed earlier. 10:17:05

5 What about Facebook processing messages to 10:17:08

6 deliver messages to the intended recipients? 10:17:11

7 MR. CARNEY: Object to form. 10:17:15

8 BY MR. CHORBA:

9 Q. Do you object to that? 10:17:17

10 A. No. 10:17:17

11 Q. What about Facebook processing Facebook 10:17:19

12 messages to filter messages? 10:17:22

13 MR. CARNEY: Object to form. 10:17:24

14 THE WITNESS: What does that mean? 10:17:25

15 BY MR. CHORBA:

16 Q. To filter to make sure they are addressed 10:17:27

17 to the intended recipient. 10:17:30

18 A. Sounds good. 10:17:31

19 MR. CARNEY: Same objection. 10:17:32

20 THE WITNESS: Sounds good. 10:17:34

21 BY MR. CHORBA:

22 Q. Okay. No objection. 10:17:35

23 A. No objection. 10:17:36

24 Q. What about processing messages to store 10:17:36

25 the messages? 10:17:39

1 A. No objection. 10:17:39

2 MR. CARNEY: Object to form. 10:17:40

3 BY MR. CHORBA:

4 Q. Do you have any confusion? I'm using the 10:17:41

5 term "process" and "electronic process." Do you 10:17:43

6 understand what I mean by that? 10:17:46

7 A. Not necessarily. But -- 10:17:47

8 Q. How do you interpret those terms? 10:17:49

9 A. Face value process, there's a process in 10:17:50

10 place in order to reach the end goal, whether it's 10:17:53

11 communicating that content to the other user or not. 10:17:55

12 Q. Okay. Do you use any in your business, 10:17:58

13 are there any electronic processes used? 10:18:00

14 A. I use Slack. 10:18:03

15 Q. What is that? 10:18:04

16 A. Communication platform. 10:18:04

17 Q. Okay. Is there -- are there electronic 10:18:06

18 processes in order for Slack to have its intended 10:18:09

19 purpose? 10:18:12

20 A. Yeah. There's processes in place for 10:18:12

21 communications. 10:18:14

22 Q. So you are not confused when I use -- when 10:18:15

23 I'm using the term "process" or "electronic 10:18:17

24 process," you understand what I'm talking about? 10:18:19

25 A. I do, yes. 10:18:20

1 Q. Again, I'm going through and trying to 10:18:25  
2 identify where you object, other than what you 10:18:27  
3 discussed, the lack of transparency surrounding 10:18:29  
4 targeted advertising. 10:18:32

5 A. Lack of transparency around privacy -- 10:18:34  
6 just to really, really clarify, I have absolutely no 10:18:38  
7 issue with targeted advertising whatsoever. I have 10:18:40  
8 absolutely no issue with advertising whatsoever. My 10:18:43  
9 only challenge is, anything that's earmarked as 10:18:46  
10 private, is not transparency. There's no 10:18:49  
11 transparency around the fact that that data is being 10:18:52  
12 mined and sold. So if it's not private, then I have 10:18:54  
13 no issue with that. If it is private, and it's not 10:18:57  
14 being monetized or -- I have no issue with that. 10:19:00

15 Q. What do you classify as something being 10:19:03  
16 private versus not private? 10:19:06

17 A. Something that's labeled private message 10:19:07  
18 in my book is private. 10:19:09

19 Q. Okay. And if there's disclosures in the 10:19:11  
20 user agreements to which you have to agree before 10:19:13  
21 you sign up for Facebook, you would still consider 10:19:15  
22 it private? 10:19:18

23 MR. CARNEY: Object to form. 10:19:19

24 THE WITNESS: No. I think if there's 10:19:21  
25 transparency upon signing up initially, then I don't 10:19:22

1	see that being an issue.	10:19:24
2	BY MR. CHORBA:	
3	Q. Okay. Do you object to Facebook	10:19:27
4	processing its messages to block malware viruses or	10:19:31
5	spam?	10:19:36
6	A. No.	10:19:36
7	Q. Do you object to Facebook processing its	10:19:38
8	messages to prevent the sharing of child	10:19:40
9	exploitation images?	10:19:43
10	A. No.	10:19:45
11	Q. Do you object to Facebook processing its	10:19:47
12	messages to detect criminal conduct?	10:19:49
13	A. No.	10:19:52
14	Q. Do you object to Facebook processing its	10:19:54
15	messages in order to ensure that the message is	10:19:56
16	rendered to the recipient in the appropriate	10:19:58
17	language?	10:20:01
18	A. Not that I know of.	10:20:08
19	Q. Let me give you an example because you	10:20:09
20	look confused. If someone sends using a non-English	10:20:10
21	language with non-English characters --	10:20:13
22	A. Yeah.	10:20:16
23	Q. -- do you understand that Facebook or any	10:20:16
24	provider, email provider would have to process the	10:20:18
25	message in order to deliver it in the correct	10:20:22

1	language?	10:20:24
2	MR. CARNEY: Object to form.	10:20:25
3	THE WITNESS: I don't necessarily	10:20:27
4	understand that. I would assume that they process	10:20:27
5	it to deliver it in that same language. Is that	10:20:29
6	what you are saying?	10:20:30
7	BY MR. CHORBA:	
8	Q. Yes.	10:20:31
9	A. Yeah, that's fine.	10:20:31
10	Q. You. So no objections to that.	10:20:33
11	A. Yeah, no objections to that.	10:20:34
12	Q. What about Facebook, do you have	10:20:36
13	objections to Facebook processing its messages to	10:20:38
14	properly format the message?	10:20:41
15	A. No. No. No objection.	10:20:42
16	Q. Do you have any objections to Facebook	10:20:45
17	processing its messages to generate URL previews?	10:20:47
18	A. No objection.	10:20:52
19	Q. You understand what a URL preview is?	10:20:52
20	A. Yeah.	10:20:54
21	Q. And we will get to them in a moment, but	10:20:55
22	your counsel collected certain messages that we had	10:20:58
23	requested in discovery with URLs. Do you recall	10:21:01
24	seeing URL previews?	10:21:03
25	A. I do.	10:21:05

1	Q. Okay. Do you have any information of any	10:21:05
2	kind that Facebook has targeted an advertisement to	10:21:10
3	you based on something that you put in a Facebook	10:21:13
4	message?	10:21:15
5	A. No.	10:21:18
6	Q. Do you have any information of any kind	10:21:19
7	that Facebook has targeted an advertisement to you	10:21:20
8	based on something that you put in a URL in a	10:21:23
9	message?	10:21:26
10	A. No.	10:21:26

11	Q. Okay. Now I'm ready for Exhibit 20,	10:21:29
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12	Mr. Shadpour.	10:21:31
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13	If you could take a quick look at this. I	10:21:33
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14	will represent to you this is the original complaint	10:21:35
----	--	----------

15	filed on your behalf. It's captioned, "David	10:21:37
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16	Shadpour, Individually, on Behalf -- and on Behalf	10:21:40
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17	of All Others Similarly Situated versus Facebook."	10:21:43
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18	It's titled, "Class Action Complaint." And it -- I	10:21:47
----	--	----------

19	will represent to you, as it's stamped on the top,	10:21:51
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20	it was filed on or about January 21, 2014.	10:21:53
----	--	----------

21	A. Yep.	10:21:57
----	---------	----------

22	Q. Do you recognize this document? Take your	10:21:58
----	--	----------

23	time, sir, if you need to review it.	10:22:03
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24	A. I mean -- am I aware of what this document	10:22:06
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25	is? Yes.	10:22:08
----	----------	----------

1	Q. What is it?	10:22:09
2	A. The actual complaint.	10:22:09
3	Q. That you are -- what was filed on your	10:22:12
4	behalf against Facebook.	10:22:14
5	A. That's correct.	10:22:16
6	Q. Have you ever seen this before?	10:22:17
7	A. I may have seen this at some point, yes.	10:22:19
8	Q. Do you recall whether or not you reviewed	10:22:22
9	this complaint before it was filed?	10:22:23
10	A. I don't believe that I reviewed this	10:22:26
11	complaint before it was filed.	10:22:27
12	Q. Did you authorize the filing of this	10:22:29
13	complaint?	10:22:30
14	A. I don't know if that's documented. Did I	10:22:30
15	or didn't I? It's very possible. Is it documented?	10:22:32
16	I can't tell you that the answer is yes.	10:22:35
17	Q. I don't know. And I haven't seen it	10:22:37
18	documented, nor would I. But do you have any reason	10:22:39
19	to believe that you did not authorize the filing of	10:22:41
20	this?	10:22:43
21	A. No.	10:22:43
22	Q. Did you undertake any investigation before	10:22:46
23	filing this complaint?	10:22:48
24	A. No.	10:22:49
25	Q. Do you remember whether or not you	10:22:53



1	reviewed the complaint for accuracy before it was	10:22:54
2	filed?	10:22:56
3	A. I did not.	10:22:56
4	Q. If you can turn to paragraph numbered 6.	10:23:17
5	It's on Page 3.	10:23:20
6	A. Yep.	10:23:22
7	Q. We won't have to read it aloud. But	10:23:23
8	just -- if you could read that paragraph and let me	10:23:26
9	know when you are finished.	10:23:28
10	A. Okay. I'm with you.	10:23:32
11	Q. Have you ever seen that particular	10:23:34
12	paragraph before?	10:23:36
13	A. Not that I know of. Possibly.	10:23:37
14	Q. Let me just read one sentence and ask	10:23:51
15	you -- probably cut through a lot of my questions	10:23:52
16	here. "Contemporary" -- it says:	10:23:55
17	"Contrary to its representations	10:23:56
18	however, 'private' Facebook messages are	10:23:58
19	in fact scanned by the Company in an	10:24:01
20	effort to glean, store and capitalize on	10:24:03
21	the contents of its user's	10:24:06
22	communications."	10:24:08
23	Did you write that sentence?	10:24:09
24	A. No. I mean, maybe. Not that I know of.	10:24:11
25	Q. Does that sentence capture what your	10:24:13

1 Q. Sorry. So let's look at Paragraph -- 10:25:25  
2 Exhibit 21. This is captioned, "Consolidated 10:25:29  
3 Amended Class Action Complaint." It's dated 10:25:35  
4 April 25, 2014. So approximately three months after 10:25:39  
5 the previous exhibit. 10:25:42  
6 A. Yep. 10:25:44

7 Q. And again, this is -- I will represent to 10:25:45  
8 you this was the complaint filed after there were 10:25:48  
9 two lawsuits filed, your lawsuit and another 10:25:50  
10 lawsuit. And they were consolidated and the 10:25:53  
11 plaintiffs got together and put together a 10:25:55  
12 consolidated complaint. 10:25:57

13 Do you recognize this document? 10:26:00

14 A. I do. 10:26:01

15 Q. Have you seen this before? 10:26:02

16 A. I have. 10:26:03

17 Q. When was that? 10:26:04

18 A. I don't recall. 10:26:05

19 Q. Do you know whether or not you reviewed 10:26:06  
20 this document before it was filed? 10:26:08

21 A. No. I did not. 10:26:09

22 Q. You did not review it? 10:26:11

23 A. I did not. 10:26:12

24 Q. Did you authorize the filing of this 10:26:13  
25 complaint? 10:26:15

1	A. Potentially.	10:26:15
2	Q. Do you recall one way or the other?	10:26:19
3	A. No.	10:26:19
4	Q. Do you know -- it's captioned, "Amended	10:26:23
5	Complaint." At any point in time, do you remember	10:26:25
6	discussing what amendments or changes would be made	10:26:28
7	to your allegations?	10:26:31
8	A. No.	10:26:31
9	Q. Do you know whether the intent from your	10:26:34
10	perspective was to narrow the claims?	10:26:36
11	A. No.	10:26:38
12	Q. You just -- do you know one way or the	10:26:41
13	other?	10:26:42
14	A. No. I was just informed that this was	10:26:42
15	happening. I don't actually know it.	10:26:44
16	Q. Informed by whom?	10:26:46
17	A. Lesley Portnoy.	10:26:47
18	Q. And I think I know the answer but I have	10:26:50
19	to ask. Did you review the facts in this amended	10:26:51
20	complaint for accuracy?	10:26:54
21	A. No.	10:26:55
22	Q. Did you have any basis for the allegations	10:26:59
23	in this other than what your lawyers told you?	10:27:01
24	A. I wouldn't know. I haven't read it.	10:27:04
25	Q. Ever?	10:27:07

1	A. No, sir.	10:27:07
2	Q. Do you know Mr. Matthew Campbell or	10:27:21
3	Mr. Michael Hurley?	10:27:23
4	A. Not that I know of.	10:27:25
5	Q. You have never met them?	10:27:28
6	A. No, sir.	10:27:29
7	Q. You know that they are the other named	10:27:30
8	plaintiffs in this case?	10:27:33
9	A. I do.	10:27:34
10	Q. Do you believe that Mr. Campbell will	10:27:45
11	fairly and adequately represent the class in this	10:27:47
12	case if you withdraw?	10:27:50
13	MR. CARNEY: Object to form.	10:27:52
14	THE WITNESS: I wouldn't know.	10:27:57
15	BY MR. CHORBA:	
16	Q. Same question for Mr. Hurley.	10:27:59
17	A. I wouldn't know.	10:28:01
18	MR. CARNEY: Same objection.	10:28:02
19	BY MR. CHORBA:	
20	Q. Besides any of your attorneys or any of	10:28:04
21	the attorneys involved in this case, have you ever	10:28:06
22	discussed this lawsuit with anyone else at any point	10:28:08
23	in time?	10:28:10
24	A. No. Keith Klein, my wife. Yeah.	10:28:16
25	Q. Have you ever received any inquiries from	10:28:20

1	BY MR. CHORBA:	
2	Q. You can't estimate if it was more than one	10:30:19
3	or less than a hundred?	10:30:21
4	MR. CARNEY: Object to form.	10:30:23
5	THE WITNESS: Less than a hundred.	10:30:24
6	BY MR. CHORBA:	
7	Q. But more than one?	10:30:25
8	A. More than one.	10:30:26
9	Q. How about more than 50?	10:30:28
10	A. I don't know.	10:30:29
11	Q. Okay. So nowhere within that range you	10:30:30
12	can estimate.	10:30:32
13	A. That's correct.	10:30:33
14	Q. Before you sought dismissal, were you	10:30:38
15	actively involved in the strategy and decision	10:30:40
16	making in this case?	10:30:42
17	A. No.	10:30:43
18	Q. Is it fair to say that your lawyers	10:30:45
19	handled the strategy and decision making in the case	10:30:46
20	for you?	10:30:48
21	A. It is.	10:30:49
22	Q. Would it be fair to say that they, and not	10:30:49
23	you, were directing the course of the litigation?	10:30:52
24	MR. CARNEY: Object to form.	10:30:55
25	THE WITNESS: It is.	10:30:55

1	A. The question again?	10:31:42
2	Q. At any -- so you understand?	10:31:44
3	A. Yeah.	10:31:45
4	Q. At any point in time, have you served	10:31:45
5	discovery requests on Facebook in this case?	10:31:48
6	A. Have I requested of Facebook? Not that I	10:31:51
7	know of.	10:31:54
8	Q. Do you know if discovery requests were	10:31:54
9	served on your behalf on to Facebook in this case?	10:31:56
10	A. I wouldn't know.	10:31:59
11	Q. Do you ever remember reviewing any	10:32:00
12	discovery requests that were to be served on	10:32:03
13	Facebook?	10:32:05
14	A. I don't recall.	10:32:08
15	Q. Do you remember ever saying to your	10:32:11
16	lawyer, "Let's make sure we ask for this"?	10:32:12
17	MR. CARNEY: Object to form.	10:32:16
18	THE WITNESS: No.	10:32:18
19	BY MR. CHORBA:	
20	Q. Did you provide discovery responses in	10:32:21
21	this case to Facebook's discovery requests?	10:32:23
22	A. I did.	10:32:26
23	Q. Did you review those responses before they	10:32:30
24	were provided?	10:32:32
25	A. I made them in collaboration with Lesley	10:32:40

1 continuing to use the platform. 10:34:06

2 Q. Okay. I don't want to explore personal 10:34:07

3 reasons. But it had nothing to do with this 10:34:09

4 lawsuit? 10:34:10

5 A. Nothing to do with the lawsuit. 10:34:10

6 Q. Can we go back to Exhibit 2, sir. It's 10:34:14

7 going to be on the bottom of that stack. 10:34:18

8 MR. CARNEY: Chris, we lost count down 10:34:20

9 here. We have a big pile. Can you just identify 10:34:20

10 them? 10:34:23

11 MR. CHORBA: Sorry. Yeah, it's plaintiff 10:34:24

12 Shadpour's corrected responses to Facebook's first 10:34:26

13 set of interrogatories. 10:34:28

14 THE WITNESS: Okay. I'm here. 10:34:30

15 BY MR. CHORBA:

16 Q. Okay. If you could just briefly review 10:34:31

17 that document. Do you recall ever seeing this 10:34:34

18 before? 10:34:37

19 A. It's very likely I saw it after the fact. 10:34:39

20 Part of my challenge was that everything I have seen 10:34:42

21 has been after, not prior. 10:34:46

22 Q. If you can turn to -- I think, 10:34:49

23 Mr. Shadpour, it's the very last two pages in the 10:34:51

24 document. 10:34:54

25 A. Yep. 10:34:55

1	Do you remember signing any documents in	10:35:39
2	this case?	10:35:41
3	A. No.	10:35:41
4	Q. You are very emphatic about that.	10:35:43
5	A. Yeah, I am.	10:35:46
6	Q. You never signed any documents?	10:35:46
7	A. Not that I know of. Nor was I privileged	10:35:48
8	to see this information prior to it being shared.	10:35:52
9	Q. Make sure what, make sure it was accurate?	10:35:57
10	A. Yeah. Review of legal documents that had	10:35:59
11	my name on it.	10:36:01
12	Q. And did that frustrate you?	10:36:03
13	A. It does, yeah.	10:36:05
14	Q. Still frustrates you now.	10:36:06
15	A. It does.	10:36:08

16	Q. Do you remember working with any of your	10:36:12
17	attorneys to locate documents and responsive	10:36:14
18	materials for this case?	10:36:18
19	A. Yes. I reached out to -- I hate to be on	10:36:19
20	the record and say, but I do believe I reached out	10:36:26
21	to -- where is that law firm with the four names on	10:36:29
22	it?	10:36:32
23	Q. Lief Cabraser?	10:36:32
24	A. Yeah. Lief Cabraser, asking for	10:36:33
25	documentation or reaching out to Lesley and asking	10:36:35



1	for documentation, requesting documentation proving	10:36:37
2	that they did in fact reach out to Facebook to	10:36:39
3	request a dismissal. I started questioning whether	10:36:42
4	or not action was being taken.	10:36:46
5	Q. When was that approximately?	10:36:48
6	A. I don't know. I have to look it up.	10:36:48
7	Summertime.	10:36:50
8	Q. This year.	10:36:50
9	A. Yeah.	10:36:52
10	Q. Did you ever receive that documentation?	10:36:52
11	A. I don't believe I did.	10:36:53
12	Q. Was it some of the documents we looked at	10:36:55
13	earlier?	10:36:57
14	A. Yeah. Exactly.	10:36:57
15	Q. Looking back at the -- I'm sorry, I should	10:37:01
16	have told you it's Exhibit 2. It's in front of you.	10:37:05
17	But keep the chart in front of you, if you would,	10:37:06
18	sir, because we may have a few more questions on	10:37:08
19	this.	10:37:10
20	A. Shoot.	10:37:11
21	Q. Looking at this now, do you have any	10:37:13
22	reason to believe this is inaccurate?	10:37:15
23	A. Not necessarily. You mean like incorrect	10:37:18
24	dates or incorrect links? What do you mean?	10:37:21
25	Q. Incorrect in any way.	10:37:24
		Page 122

1	as URL previews?	10:41:54
2	A. Yep.	10:41:56
3	MR. CARNEY: I'm sorry. I can't see down	10:41:58
4	there which -- okay. The last exhibit. Great.	10:41:59
5	Thank you.	10:42:02
6	MR. CHORBA: Exhibit 22.	10:42:02
7	Q. Do you recall seeing these previews when	10:42:06
8	you sent the message?	10:42:08
9	A. No.	10:42:10
10	Q. Do you recall seeing these messages when	10:42:13
11	you received a message?	10:42:15
12	A. No.	10:42:16
13	Q. Do you have any reason to doubt that these	10:42:18
14	previews existed when you sent or received messages?	10:42:20
15	MR. CARNEY: Object to form.	10:42:24
16	THE WITNESS: No.	10:42:28
17	BY MR. CHORBA:	
18	Q. And when you open up your messages today	10:42:30
19	and look at them, do these URL previews exist in	10:42:33
20	those messages?	10:42:35
21	A. They do.	10:42:37
22	Q. Do you remember the first time you saw a	10:42:39
23	URL preview when composing a Facebook --	10:42:41
24	A. I don't.	10:42:44
25	Q. -- message?	10:42:44

1	Did you ever see a URL preview and X out	10:42:48
2	of it or delete it?	10:42:51
3	A. Not that I know of.	10:42:52
4	Q. In those instances where you may have seen	10:42:53
5	a preview, do you have any idea how it was	10:43:02
6	generated?	10:43:05
7	A. Nope.	10:43:06
8	Q. How many different browsers have you used	10:43:11
9	over the years when you've used Facebook?	10:43:13
10	A. Potentially three.	10:43:15
11	Q. Which ones?	10:43:17
12	A. Chrome, Safari, Internet Explorer.	10:43:17
13	Q. Do you have a preferred browser?	10:43:22
14	A. Chrome.	10:43:23
15	Q. Did you ever have JavaScript enabled?	10:43:28
16	A. Not that -- I don't know.	10:43:31
17	Q. Were there times you used Facebook where	10:43:35
18	JavaScript was not enabled?	10:43:37
19	A. I don't know.	10:43:39
20	MR. CARNEY: Object to form.	10:43:39
21	BY MR. CHORBA:	
22	Q. But it's possible?	10:43:40
23	A. I don't know.	10:43:41
24	Q. Do you know what JavaScript is?	10:43:43
25	A. I do.	10:43:45

1	Q. Norton AntiVirus?	10:44:33
2	A. No.	10:44:34
3	Q. McAfee?	10:44:35
4	A. Not that I know of.	10:44:36
5	Q. Malware Bytes, anything like that?	10:44:37
6	A. Not that I know of.	10:44:41
7	Q. I have to ask, sir.	10:44:44
8	A. No worries. Ask me, I will answer.	10:44:45
9	Q. Looking at the chart again, numbers 1	10:44:48
10	through 23, how many of those websites have Facebook	10:44:51
11	social plug-ins --	10:44:56
12	A. I have no idea.	10:44:58
13	Q. Do you know how many had Facebook social	10:45:00
14	plug-ins on the particular date when a URL was sent	10:45:02
15	via message?	10:45:06
16	A. I have no idea.	10:45:07
17	Q. Do you know whether the sharing of any of	10:45:11
18	these URLs via Facebook message incremented any like	10:45:12
19	counter on those destination websites?	10:45:17
20	A. No, I do not know.	10:45:19
21	Q. Do you know whether or not either you or	10:45:22
22	any of the other senders or recipients identified in	10:45:24
23	Exhibit 1 received targeted advertisements as a	10:45:28
24	result of these messages or the content of these	10:45:30
25	messages?	10:45:34

1	MR. CARNEY: Object to form.	10:45:34
2	THE WITNESS: I do not know.	10:45:35
3	BY MR. CHORBA:	
4	Q. Let's look at line item No. 11.	10:45:45
5	A. Okay.	10:45:48
6	Q. So line 11, again, summary of a message	10:45:53
7	from -- excuse me, from you to [REDACTED] Who is	10:45:56
8	[REDACTED]	10:46:00
9	A. A friend.	10:46:01
10	Q. Do you know where -- it is a man, I	10:46:02
11	assume?	10:46:07
12	A. Correct.	10:46:07
13	Q. Do you know where he lives?	10:46:08
14	A. Today? No.	10:46:11
15	Q. In California?	10:46:12
16	A. Yes.	10:46:13
17	Q. In June 2012 did he live in California?	10:46:14
18	A. I believe so, but I would not testify that	10:46:16
19	the answer is yes.	10:46:20
20	Q. Do you know if [REDACTED] is aware of this	10:46:26
21	lawsuit?	10:46:27
22	A. I do not know.	10:46:29
23	MR. CARNEY: Object to form.	10:46:30
24	BY MR. CHORBA:	
25	Q. You have never discussed it with him?	10:46:33

1 BY MR. CHORBA:

2 Q. You don't know one way or the other? 11:08:08

3 A. No, I don't know. 11:08:08

4 Q. Do you remember the subject matter of this 11:08:10  
5 or the content of this message? 11:08:12

6 A. No. 11:08:14

7 Q. Mr. Shadpour, do you recall reviewing any 11:08:22  
8 disclosures or statements by Facebook when you 11:08:25  
9 signed up for Facebook? 11:08:30

10 MR. CARNEY: Object to form. 11:08:35

11 THE WITNESS: No. 11:08:41

12 BY MR. CHORBA:

13 Q. Do you remember alleging in your complaint 11:08:42  
14 that you reviewed the disclosures and statements 11:08:46  
15 made by Facebook regarding how information is to be 11:08:52  
16 treated on Facebook? 11:08:55

17 A. No. 11:08:57

18 MR. CARNEY: Object to form. 11:08:58

19 BY MR. CHORBA:

20 Q. Is that statement true as far as you know? 11:09:03

21 A. Not that I know of. 11:09:04

22 Q. Give me one second. We don't have to go 11:09:11  
23 off. 11:09:13

24 Have you ever reviewed any Facebook 11:09:23  
25 developer guidance on the Facebook website? 11:09:24

1	A. Not that I know of.	11:09:28
2	Q. Is it possible?	11:09:30
3	A. Not --	11:09:31
4	MR. CARNEY: Object to form.	11:09:32
5	THE WITNESS: -- necessarily.	11:09:32
6	BY MR. CHORBA:	
7	Q. You just don't know one way or the other?	11:09:36
8	A. Correct.	11:09:38
9	Q. We went through messages and I asked what	11:09:39
10	you knew about [REDACTED]	11:09:41
11	knowledge regarding Facebook practices. Do you know	11:09:47
12	what disclosures they ever read on Facebook?	11:09:51
13	A. I have no idea.	11:09:54
14	MR. CARNEY: Object to form.	11:09:55
15	BY MR. CHORBA:	
16	Q. Are you aware of what news articles they	11:09:56
17	may have read?	11:09:58
18	A. No.	11:09:58
19	MR. CARNEY: Object to form.	11:09:59
20	THE WITNESS: Maybe -- no, I'm not aware.	11:10:01
21	BY MR. CHORBA:	
22	Q. So you don't know what they knew about	11:10:04
23	Facebook practices when they received or sent	11:10:07
24	messages to or from you?	11:10:09
25	A. That's correct. I can't say that I do or	11:10:10

1	don't.	11:10:12
2	MR. CHORBA: Can we take a quick break? I	11:10:21
3	may be finished.	11:10:23
4	THE WITNESS: Cool, man.	11:10:24
5	THE VIDEOGRAPHER: Off the record. 11:10.	11:10:25
6	(Recess taken.)	
7	THE VIDEOGRAPHER: We are on the record at	11:15:21
8	11:15.	11:15:22
9	MR. CHORBA: Mr. Shadpour, I want to thank	11:15:24
10	you very much for your time in answering my	11:15:25
11	questions. I don't have any further questions for	11:15:27
12	you.	11:15:29
13	MR. CARNEY: No questions from us.	11:15:30
14	MR. CHORBA: Counsel, what are the	11:15:33
15	arrangements with -- in terms of the transcript?	11:15:34
16	Regarding our case deadlines, if he needs 30 days or	11:15:37
17	even a little bit more, we are fine.	11:15:40
18	MR. KLEIN: Regular is fine.	11:15:43
19	MR. CHORBA: Regular. So 30 days.	11:15:43
20	Delivered to Mr. Klein, I assume here. Witness will	11:15:44
21	have the opportunity to review and then once	11:15:51
22	finalized let us know.	11:15:54
23	That's it. Thank you.	11:15:56
24	THE VIDEOGRAPHER: This will conclude	11:16:00
25	today's testimony given by David Shadpour. The	11:16:01



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I, JARDENE L. PLATT, RPR, CSR No. 3724 in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify as to the truth, the whole truth, and nothing but the truth.

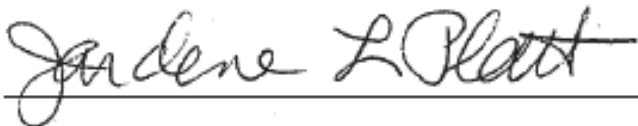
That said deposition was taken before me at the time and place therein set forth and was taken down by me stenographically and thereafter transcribed via computer-aided transcription under my direction and is a true record of the testimony.

Before completion of the deposition, review of the transcript [XX] was [ ] was not requested.

I further certify that I am neither counsel for, nor related to, any party to said action, nor interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name.

Dated: October 14, 2015



JARDENE L. PLATT, RPR, CSR No. 3724