

# EXHIBIT 2

1 Michael W. Sobol (State Bar No. 194857)  
msobol@lchb.com  
2 David T. Rudolph (State Bar No. 233457)  
drudolph@lchb.com  
3 Melissa Gardner (State Bar No. 289096)  
mgardner@lchb.com  
4 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
275 Battery Street, 29th Floor  
5 San Francisco, CA 94111-3339  
Telephone: 415.956.1000  
6 Facsimile: 415.956.1008

7 Hank Bates (State Bar No. 167688)  
hbates@cbplaw.com  
8 Allen Carney  
acarney@cbplaw.com  
9 David Slade  
dslade@cbplaw.com  
10 CARNEY BATES & PULLIAM, PLLC  
2800 Cantrell Road, Suite 510  
11 Little Rock, AR 72202  
Telephone: 501.312.8500  
12 Facsimile: 501.312.8505

13 *Attorneys for Plaintiffs and the Class*

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

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

20 Plaintiffs,

21 v.

22 FACEBOOK, INC.,

23 Defendant.

Case No. C 13-05996 PJH (SK)

**PLAINTIFFS' MOTION TO COMPEL  
PRODUCTION OF CONFIGURATION  
TABLES**

Date: Telephonic Hearing to be set  
by Court  
Time: To be Set by Court  
Judge: Hon. Phyllis J. Hamilton  
Place: Courtroom 3, 3rd Floor

24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NOTICE OF MOTION AND MOTION**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that pursuant to this Court’s Order dated June 30, 2016 (Dkt. 203), the undersigned Plaintiffs will and hereby do move the Court for an order granting Plaintiffs’ Motion to Compel Production of Configuration Tables. This motion is based upon this Notice of Motion; the accompanying Memorandum of Points and Authorities; the Declarations of David T. Rudolph and Dr. Jennifer Golbeck filed herewith; the argument of counsel, if requested; and such other matters as the Court may consider.

**STATEMENT OF ISSUES TO BE DECIDED**

Whether, consistent with the requirements of Federal Rule of Civil Procedure 26(b), Defendant Facebook, Inc. should be compelled to produce configuration tables that are a part of, and integral to, Facebook’s processes and system architecture for scanning, acquiring, and using Private Message URL content.

1 **I. INTRODUCTION**

2 Plaintiffs have requested that Facebook produce “configuration tables” for Facebook’s  
3 databases that are a part of, and integral to, Facebook’s processes and system architecture for  
4 scanning, acquiring, and using Private Message content, and which are therefore the subjects of  
5 Request for Production Nos. 4-14, 18-19, and 21 (“Requests”<sup>1</sup>). Plaintiffs do not seek production  
6 of the user data in the databases themselves, but rather narrowly seek the *configuration* data that  
7 show how the URL content extracted from Private Messages is organized and used. Pursuant to  
8 this Court’s order (Dkt. 203), Plaintiffs respectfully request that the Court compel Facebook to  
9 produce relevant configuration tables for the entire class period.

10 Plaintiffs seek only those configuration tables that relate to Plaintiffs’ claims as defined by  
11 the Court’s class certification ruling (Dkt. 192, “Cert. Order”) and Plaintiffs’ Second Amended  
12 Complaint (Dkt. 196, “SAC”), filed in compliance with the Court’s Order, and thus Plaintiffs’  
13 request is proportional to the needs of the case pursuant to Fed. R. Civ. P. 26(b)(1). **First**, Plaintiffs  
14 seek the production of configuration tables related to Facebook’s [REDACTED]  
15 [REDACTED] databases, which contain data extracted from Private Messages. This data was then  
16 used for two practices specifically challenged by Plaintiffs in the SAC: (1) the use of Private  
17 Message data for targeted advertising, including recommendations of content to Facebook to users,  
18 and (2) to provide data to third parties about Private Message content. **Second**, Plaintiffs seek the  
19 configuration tables for Facebook’s [REDACTED] database, which will reveal how Facebook’s source  
20 code and databases process and use the “EntShare” and “EntGlobalShare” objects that Facebook  
21 creates when it intercepts Private Message content, as described in the SAC and the Cert. Order.  
22 **Third**, Plaintiffs seek configuration tables for Facebook’s [REDACTED] database,  
23 which relates to Facebook’s affirmative defense that its interception and use of Private Message  
24 content for purposes unrelated to message delivery somehow falls within the “ordinary course of  
25 business” exception to the Electronic Communications Privacy Act and California Invasion of  
26 Privacy Act. As described in the accompanying declaration of Plaintiffs’ technical expert, Dr.

27 <sup>1</sup> The Requests, and Defendant’s responses, are attached as Exs. 3-4 to the Declaration of David  
28 Rudolph, filed herewith. Unless otherwise specified, all Exhibits cited herein are to the Rudolph  
Declaration.

1 Golbeck (“Golbeck Decl.”), these configuration tables are necessary to understand the operation of  
2 Facebook’s internal systems with respect to the challenged conduct.

3 Facebook has steadfastly refused to produce the requested configuration tables, contending  
4 that (1) the configuration tables identified by Plaintiffs are not relevant to Plaintiffs’ claims, and  
5 (2) their production would be overbroad, unduly burdensome, and not proportional, given their size.  
6 However, the configuration tables are central to this case. The Private Message source code reveals  
7 aspects of how URL content is intercepted and redirected to certain databases; however, it does not  
8 reveal the organization and use of that content once redirected. The configuration tables are key to  
9 understanding how the intercepted content is stored and utilized post-redirection, and such  
10 understanding is critical to demonstrating liability, to rebutting Facebook’s affirmative defense that  
11 the redirected uses are somehow within the “ordinary course of business” exception, and to  
12 fashioning appropriate injunctive relief regarding restrictions on the future use and retention of  
13 illegally intercepted and redirected content. This discovery thus clearly satisfies the proportionality  
14 requirements of Rule 26(b)(1). Moreover, as explained below, production of the configuration  
15 tables—distinct from the voluminous user data in the tables—is not overly burdensome or  
16 disproportionate, and thus satisfies the requirements of Rule 26(b)(2). The parties have met and  
17 conferred in-person on at least three occasions on this request and have reached an impasse.

## 18 **II. ARGUMENT**

### 19 **A. Facebook’s Configuration Tables Demonstrate How Facebook Uses Private** 20 **Message Data.**

21 The data Facebook mines from users’ Private Messages resides on Facebook’s databases.<sup>2</sup>  
22 Each database contains configuration tables<sup>3</sup> which show what kind of data resides on the database,  
23 how that data is organized, and how Facebook uses that data.<sup>4</sup> Facebook has produced that part of

---

24 <sup>2</sup> Golbeck Decl., ¶¶ 13-16.

25 <sup>3</sup> Facebook has repeatedly suggested that the term “configuration table” is not used internally by  
26 Facebook employees to describe the data sets Plaintiffs seek in this request. Even if true (though  
27 Facebook has never suggested any alternate terminology that its employees do use internally), this  
28 is immaterial; as explained below, Facebook has acknowledged that its databases contain “tables”  
that themselves contain “configuration data” relevant to Plaintiffs’ claims. Moreover, as Dr.  
Golbeck explains, configuration tables are well known, widely used, and quite common. *Id.*, ¶ 12.

<sup>4</sup> *Id.*, ¶¶ 5-16.

1 its source code which operates to extract the data from Private Messages, but has refused to produce  
2 the programming contained in configuration tables which reveals how Facebook uses the data after  
3 it is redirected to databases. The configuration tables Plaintiffs seek not only provide information  
4 about the structure of the databases (e.g., the names and characteristics of the data fields), but also  
5 the instructions for how that data is utilized and therefore how Facebook stores and uses data  
6 intercepted from Private Messages (the subject of the above-described Requests).<sup>5</sup> In this latter  
7 respect, configuration tables are equivalent to source code because they contain programming as to  
8 how data is redirected into databases and thereafter used by Facebook. Therefore, they should have  
9 been produced with Facebook's source code production early last year.<sup>6</sup>

10 Based on their expert's review of Facebook's currently-produced source code, Plaintiffs  
11 have been able to identify three categories of configuration tables for databases relevant to  
12 Plaintiffs' claims that should be produced:

13 **First**, the configuration tables for the [REDACTED]

14 [REDACTED]<sup>7</sup> As  
15 explained in detail in Plaintiffs' opening and reply briefing and reports in support of their motion  
16 for class certification, Facebook's logging of Private Message content is a central issue in this  
17 case.<sup>8</sup> Without access to this information it is not possible to fully determine the functionality of  
18 these logging systems with respect to logging of URLs in Private Messages, because, as Facebook  
19 concedes, configuration data demonstrates how the source code handles underlying message data.  
20 And, as explained below, the testimony of Facebook's employees has put Facebook's database  
21 configuration data directly at issue by referring to it in support of Facebook's arguments.

22 **Second**, configuration tables contained in the [REDACTED]

23 \_\_\_\_\_  
24 <sup>5</sup> *Id.*, ¶¶ 13-16.

25 <sup>6</sup> The details of that source code are described in Plaintiffs' motion to compel source code for the  
entire class period, filed concurrently with this motion.

26 <sup>7</sup> Golbeck Decl., ¶ 18.

27 <sup>8</sup> *See, e.g.*, Dkt. 199-1, Ex. 1 (Mot. For Class Cert.), at 5 (arguing Facebook uses data logged from  
Private Messages to fuel recommendations, including data from the [REDACTED] table); Dkt. 184-11  
(Jan. 14, 2016 Himel Decl.), ¶ 44 (admitting [REDACTED] table informed "Recommendations Feed");  
Dkt. 184-17 (Golbeck Rebuttal Report), ¶¶ 28-37 (discussing [REDACTED] and scribeh\_share\_stats  
logging); Dkt. 184-21 (Feb. 26, 2016 Himel Decl.), ¶¶ 7-9 (same).

1 [REDACTED]  
2 [REDACTED].<sup>9</sup> As described in prior motions to compel and Orders,  
3 Facebook stores the “EntShare” data extracted from Private Messages in the format of “Objects”  
4 and “Associations.”<sup>10</sup> Thus, this data is necessary to understand how EntShares are used within  
5 Facebook’s source code.

6 *Third*, values from the “[REDACTED]” configuration table in the [REDACTED]  
7 [REDACTED]

8 [REDACTED].<sup>11</sup> Facebook has argued that it extracts Private Message content  
9 for security purposes and thus its practices fall within the “ordinary course of business” exceptions  
10 to Plaintiffs’ claims under the ECPA and CIPA; in order to examine this assertion it is necessary to  
11 fully understand the operation of Facebook’s [REDACTED] source code. As Facebook employee Michael  
12 Adkins testified, [REDACTED]

13 [REDACTED].<sup>12</sup>

14 **B. Plaintiffs’ Configuration Table Request is Confined to The Scope of the Issues**  
15 **As Defined in This Court’s Orders and the Second Amended Complaint.**

16 Plaintiffs seek only the production of those configuration tables that relate to Plaintiffs’  
17 claims as described by the Court in the Class Certification Order and as articulated in the SAC, and  
18 thus the discovery satisfies the proportionality requirements of Fed. R. Civ. P. 26(b)(1). As the  
19 Court noted, Plaintiffs allege that Facebook intercepts Private Message content for uses not related  
20 to message delivery through the creation of EntShare objects.<sup>13</sup> Plaintiffs also allege that Facebook  
21 intercepts Private Message content through logging that then passes that content on to systems that

22 \_\_\_\_\_  
23 <sup>9</sup> Golbeck Decl., ¶¶ 19-23.

24 <sup>10</sup> See, e.g., Dkt. 130, at 4 (granting Plaintiffs’ motion to compel all “Objects” and “Associations”  
25 generated from Private Messages, noting “Plaintiffs generally define ‘Objects and Associations’ as  
26 ‘metadata structures that Facebook generates to catalog its users’ online activity.’”).

27 <sup>11</sup> Golbeck Decl., ¶¶ 24-25.

28 <sup>12</sup> Ex. 10 (Adkins Dep.), at 92:14-18 (“[REDACTED]”).

<sup>13</sup> Dkt. 192, (Cert. Order), at 4 (“Plaintiffs then specifically describe the three ways in which the  
message data is allegedly redirected and used. The first is to ‘fuel its algorithms for measuring user  
engagement and making recommendations.’ This alleged use is related to the ‘EntShare’ and the  
‘EntGlobalShare’ described above...”).

1 either 1) provide recommendations to users, or 2) share information about URLs in Private Message  
2 with third parties.<sup>14</sup> Plaintiffs' request is confined to these areas of inquiry.

3 Plaintiffs seek only those configuration tables that relate to 1) the creation or use of  
4 EntShares and EntGlobalShares, 2) Facebook's use of Private Message content to provide  
5 recommendations, 3) Facebook's sharing of Private Message URL content with third parties, and  
6 4) Facebook's affirmative defenses. The specific configuration tables Plaintiffs have identified thus  
7 far fall within these constraints as follows:

8 [REDACTED] Plaintiffs seek the configuration data for  
9 the [REDACTED]

10 [REDACTED]  
11 [REDACTED]<sup>15</sup> As described in the class certification briefing, Plaintiffs allege that Facebook  
12 logged Private Message content in a table referred to as "[REDACTED]," and Facebook has identified  
13 this table as residing in Facebook's "Hive" database.<sup>16</sup> Plaintiffs' expert also identified the same  
14 functionality being performed by a source code function referred to as "scribeh\_share\_stats," which  
15 Facebook subsequently admitted writes data to Facebook's "Scribe" database.<sup>17</sup> As Plaintiffs'  
16 expert further explained, and as Facebook admitted, Private Message URL data logged into the  
17 [REDACTED] Hive table was used by Facebook to inform recommendations.<sup>18</sup> Dr. Golbeck also  
18 specifically noted that because Facebook's source code production was incomplete, she could not  
19 discern what table "scribeh\_share\_stats" was depositing Private Message information into.<sup>19</sup> The  
20 Court noted that the parties' ongoing factual disputes over the nature and extent of the "[REDACTED]"

21 \_\_\_\_\_  
22 <sup>14</sup> Dkt. 192, at 3-4 ("[P]laintiffs allege two other interceptions/uses: (1) Facebook scans users'  
23 messages, and when a URL is included, it uses that data to generate recommendations for other  
24 users, and (2) Facebook scans the messages, and when a URL is included, it shares that data with  
25 third parties so that they can generate targeted recommendations." (footnotes omitted))

26 <sup>15</sup> Golbeck Decl., ¶ 18.

27 <sup>16</sup> Dkt. 184-11 (Jan. 14, 2016 Himel Decl.), ¶ 44 ("For a period of time, prior to the Class Period,  
28 Facebook logged data regarding share objects in a table, "[REDACTED]," in its [REDACTED] database, a data  
warehouse.")

<sup>17</sup> Dkt. 184-21 (Feb. 26, 2016 Himel Decl.), at ¶ 7; Dkt. 181-18 (Fechete Decl., Ex. VV) (referring  
to "[REDACTED]" as a "[REDACTED]").

<sup>18</sup> Dkt. 184-11 (Jan. 14, 2016 Himel Decl.), ¶ 44 ("The [REDACTED] Hive] table was used for,  
among other things, Facebook's Recommendations social plugin . . .").

<sup>19</sup> Dkt. 184-17 (Golbeck Rebuttal Report), ¶ 34.



1 and “scribeh\_share\_stats” logging is related to Plaintiffs’ allegations that “Facebook scans users’  
2 messages, and when a URL is included, it uses that data to generate recommendations for other  
3 users.”<sup>20</sup>

4 Additionally, Facebook’s witnesses identified the “ [REDACTED]

5 [REDACTED]  
6 [REDACTED].<sup>21</sup> This Court observed that Plaintiffs allege that Facebook “‘redirects’ the content of  
7 private messages to interested third parties through its Insights’ product.”<sup>22</sup>

8 “[REDACTED]”: EntShare and EntGlobalShare objects, and their associated uses within  
9 Facebook’s system, are central to Plaintiffs’ claims. Configuration tables contained in the

10 [REDACTED]  
11 [REDACTED] which is required to understand EntShare and EntGlobalShare objects and how those objects,  
12 which are central to the Court’s class certification ruling and to Plaintiffs’ allegations in the SAC,<sup>23</sup>  
13 are used within Facebook’s systems.<sup>24</sup>

14 [REDACTED]”: Facebook has argued that its interception of Private Message content is  
15 related to the functioning of its security systems, and thus part of the “ordinary course of  
16 business.”<sup>25</sup> The [REDACTED]

17 [REDACTED] make of Private Message content.<sup>26</sup>

18 In addition to these three categories of configuration tables, Plaintiffs respectfully request

19 \_\_\_\_\_  
20 <sup>20</sup> Dkt. 192 (Cert. Order), at 4, n.3 (“The parties are still disputing the details of this alleged  
21 practice, Facebook filing an “errata” on May 11, 2016 to clarify and withdraw some of the  
22 assertions made during briefing [i.e., related to the “[REDACTED]” Hive table] . . . For purposes of  
23 this motion, the court finds that plaintiffs have adequately shown that Facebook intercepts users’  
24 message data in order to generate recommendations, even as the parties continue to dispute the  
25 specifics of those alleged interceptions.”)

26 <sup>21</sup> Ex. 7 (Himel Dep.), at 336:17-22 ([REDACTED])

27 [REDACTED] *see also* SAC, ¶ 47.

28 <sup>22</sup> Dkt. 192, at 5; SAC, ¶ 47 (same).

<sup>23</sup> *See* Dkt. 192, at 4 (discussing the role of EntShares and EntGlobalShares in Plaintiffs’  
allegations); SAC, ¶¶ 44-55 (alleging Facebook’s creation and used of EntShares and  
EntGlobalShares to stockpile and use intercepted Private Message content).

<sup>24</sup> Golbeck Decl., ¶¶ 19-23.

<sup>25</sup> *See, e.g.*, Dkt. 35 (Reply ISO Mot. to Dismiss), at 6.

<sup>26</sup> Golbeck Decl., ¶¶ 24-25.

1 that the Court order Facebook to produce any further configuration tables that relate to Plaintiffs'  
2 claims as described in the Class Certification Order and the SAC, to the extent the above three  
3 categories do not capture all such tables.

4 **C. Facebook's Has Relied On Configuration Table Data For Its Defenses Yet**  
5 **Refused to Produce that Data.**

6 Facebook's position regarding the relevance of these configuration tables is duplicitous. On  
7 the one hand, Facebook has claimed the configuration tables are irrelevant and highly confidential  
8 and thus need not be produced. Yet, on the other hand, Facebook simultaneously offered testimony  
9 in support of its class certification opposition to establish that key aspects of Facebook's Private  
10 Message functionality are determined by the configuration tables it failed to produce.  
11 Compounding this error, Facebook also, at the eleventh hour, belatedly produced a small sliver of  
12 configuration data contained in the configuration tables, which it apparently believed supports its  
13 defenses.

14 Facebook offered a declaration of its Engineering Director, Alex Himel, in opposition to  
15 class certification which states that the "[REDACTED]" table that logged Private Message content,  
16 which Facebook admits it used to provide recommended links, was deleted in 2011—a statement  
17 which Facebook subsequently admitted was false.<sup>27</sup> At his deposition, Mr. Himel implicitly  
18 admitted that this fact is not reflected in the source code Facebook produced: [REDACTED]  
19 [REDACTED] configuration data that  
20 Plaintiffs request and Facebook refuses to produce.<sup>28</sup> This testimony alone would have rendered  
21 the Hive configuration data indisputably relevant.

22 However, while the parties were in the midst of a dispute regarding the filing of a joint letter  
23 brief seeking the production of Facebook's configuration tables, (*see* Dkt. 186), Facebook produced  
24 a small sliver of this configuration data—which demonstrated that *Mr. Himel's testimony on this*  
25 *key point was false* (*see* Dkt. 185; 187). This incident demonstrates precisely why the production of  
26 the configuration tables is necessary; there is simply no further legitimate dispute that the

27 <sup>27</sup> Dkt. 184-11 (Jan. 14, 2016 Himel Decl.), ¶ 44; Dkt. 186.

28 <sup>28</sup> Ex. 5 (Himel Dep.), at 203:7-23.

1 configuration data is relevant and must be produced *in its entirety*. Facebook’s continued refusal to  
2 do so constitutes discovery misconduct.

3 Likewise, while Mr. Himel’s declaration in opposition to class certification asserted, without  
4 citation to any evidence, that Facebook’s “██████████” log only “██████████” Private Message content, at  
5 his deposition he was forced to admit that he verified this by examining Facebook’s configuration  
6 tables<sup>29</sup> (Facebook’s failure to volunteer the foundation for Mr. Himel’s statement in his declaration  
7 reveals its deliberate efforts to conceal the central role of the configuration tables). As with the  
8 Hive configuration table, Facebook subsequently produced a small sliver of configuration data  
9 related to ██████████ logs. As with Facebook’s eleventh-hour production of a sliver of configuration  
10 data related to “██████████,” Facebook’s production of a small sliver of configuration data related  
11 to “██████████,” which Facebook apparently believes supports its contentions, only underscores the  
12 necessity of production of the *complete* configuration table from which this data was drawn—  
13 Facebook cannot selectively produce only the data it believes it is helpful to its case, while  
14 withholding the rest of the relevant dataset from which it was drawn.

15 Similarly, Facebook has highlighted the importance of the “Scribe” configuration tables in  
16 its assertion that Plaintiffs’ expert has failed to show any link between “scribeh\_share\_stats,” which  
17 logs Private Message content, and the “██████████ Hive table” which Facebook uses to provide  
18 “Recommendations” of internet content to users.<sup>30</sup> The information that would link those two  
19 functionalities likely resides in the ██████████ and ██████████ configuration data that Facebook refuses to  
20 produce.

21 Plaintiffs anticipate Facebook will argue that it need only produce this small, cherry-picked  
22 sliver of configuration data that it believes is helpful to its arguments.<sup>31</sup> However, as Facebook’s  
23 “Errata” demonstrates, neither Facebook nor its employees can be relied on to provide an accurate

24 \_\_\_\_\_  
25 <sup>29</sup> Ex. 5 (Himel Dep.), at 205:18-208:15.

26 <sup>30</sup> Dkt. 184-21, ¶¶ 7-9; Dkt. 184-13 (Jan. 15, 2016 Fechete Decl.), ¶¶ 13-14, 18, 26.

27 <sup>31</sup> Moreover, as noted in Plaintiffs’ Objections to Facebook’s Errata, even this data does not appear  
28 to be a document kept in the ordinary course of business, and appears to reflect Facebook’s  
lawyer’s editing to address a contested issue presently before the Court. *See* Dkt. 187, at 1  
(metadata associated with document purporting to demonstrate deletion of “██████████” table  
indicates document was created on May 10, 2016).

1 representation of Facebook’s internal data and systems; the direct evidence of the functioning of  
2 those systems—in this case, the configuration tables, along with the relevant source code for the  
3 entire class period—must be produced.<sup>32</sup>

4 **D. Facebook’s Justifications For Refusing To Produce the Configuration Tables**  
5 **Are Unavailing.**

6 Facebook has articulated internally inconsistent, factually incorrect, and improper  
7 justifications for refusing to produce the configuration tables. First, while Facebook has repeatedly  
8 stated that it simply does not understand what Plaintiffs mean by “configuration tables,” it  
9 simultaneously confidently asserts that the data it recently produced was *not* taken from a  
10 “configuration table.” *See* Dkt. 191. This statement, bereft of any explanation or factual backing,  
11 is incorrect (Facebook produced configuration data taken from a table, and produced it in table  
12 form, albeit in the form of a single entry within that table),<sup>33</sup> and is indicative of the internally  
13 inconsistent nature of Facebook’s posturing on this issue.

14 Second, Facebook has objected that its *databases* themselves, opposed to the *configuration*  
15 *tables* within them, are too large to produce. This is simply a red herring; Plaintiffs do not seek  
16 production of the databases, or the primary data in the databases, but rather the *configuration* data  
17 related to those databases. Facebook has never articulated why that configuration data would be too  
18 burdensome to produce, and in fact this objection appears to have not been made in good faith; as  
19 part of the meet and confer process, in response to Facebook’s asserted concerns about burden,  
20 Plaintiffs requested that Facebook provide a list of the names of each table in the databases as well  
21 as the size of each configuration table, to assist Plaintiffs in narrowing the requests to only those  
22 that do not contain user data. Facebook refused to do so on the grounds that the names of these  
23 tables are “proprietary,” but, even if true, this is completely irrelevant in light of the stringent

24 \_\_\_\_\_  
25 <sup>32</sup> As just one example of the ways in which an incomplete production of this data will not provide  
26 the Court or Plaintiffs with the full scope of Facebook’s interception and use of Private Message  
27 content, while Facebook has purported to produce one entry of configuration data that shows that  
28 the “██████████” table was deleted, subsequent configuration data may show that the “██████████,”  
table, or another table with an identical function, was later created. Without access to the full  
configuration data, Plaintiffs and the Court have only Facebook’s witness testimony to rely on,  
which has shown to be demonstrably false on these issues.

<sup>33</sup> *See also* Golbeck Decl., ¶¶ 5-16.

1 protective order in this case. Facebook’s refusal to take even this minimal step towards reducing  
2 any alleged burden demonstrates its burden argument is simply pretextual. Moreover, given that  
3 Plaintiffs seek *only* the configuration data—as opposed to the underlying user data—related to the  
4 specific conduct at issue, this request is proportional to the needs of the case pursuant to Rule  
5 26(b)(1) and, as established in Dr. Golbeck’s declaration, the information contained in these tables  
6 is necessary to understand the functioning of the relevant systems and, therefore pursuant to Rule  
7 26(b)(2), the requested tables are neither cumulative nor duplicative of other discovery, nor can the  
8 configuration data be obtained from some other source.

9 Third, while Facebook at first took the position that the configuration tables are entirely  
10 irrelevant, it later conceded that at least some configuration tables should be produced so long as  
11 Plaintiffs identified specific lines of source code showing a call made to the data from the source  
12 code. Facebook’s suggestion turns the purpose of discovery on its head—Plaintiffs require these  
13 configuration tables to understand the function of Facebook’s source code. It is Facebook, not  
14 Plaintiffs, that is in a position to identify which configuration tables are relevant to the  
15 functionalities at issue under the Court’s class certification ruling and as articulated in the SAC.  
16 Requiring Plaintiffs to identify every potentially relevant configuration table through examination  
17 of the source code is equivalent to requiring that Plaintiffs identify every relevant document in  
18 Facebook’s possession before it produces them.<sup>34</sup> This demand is not consistent with the precepts  
19 of Rule 26(b)(1) and (2), which provide for discovery proportional to the needs of the case, not  
20 obtainable from other sources, and not unduly burdensome—consistent with Plaintiffs’ requests

### 21 **III. CONCLUSION**

22 For the foregoing reasons, Plaintiffs respectfully request the Court order Facebook to  
23 produce all configuration tables for all databases that contain data derived from Private Message  
24 URL content including, but not limited to, the three categories of configuration tables specified  
25 above, to be produced as a text file dump within two weeks of the entry of an Order on this motion.

---

26 <sup>34</sup> Moreover, what Facebook demands is likely an impossible task, as it well knows. In prior  
27 discovery briefing, Facebook’s own declarant explained that it “would be exceedingly burdensome  
28 to review the source code in its entirety to develop a list of all possible uses” of Objects created  
from Private Message content. Dkt. 140-1 (Oct. 6, 2015 Harrison Decl.), ¶¶ 6-7.

1  
2 Dated: August 2, 2016

By: /s/ Michael W. Sobol  
Michael W. Sobol

3 Michael W. Sobol (State Bar No. 194857)  
4 msobol@lchb.com  
5 David T. Rudolph (State Bar No. 233457)  
6 drudolph@lchb.com  
7 Melissa Gardner (State Bar No. 289096)  
8 mgardner@lchb.com  
9 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
10 275 Battery Street, 29th Floor  
11 San Francisco, CA 94111-3339  
12 Telephone: 415.956.1000  
13 Facsimile: 415.956.1008

14 Rachel Geman  
15 rgeman@lchb.com  
16 Nicholas Diamand  
17 ndiamand@lchb.com  
18 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
19 250 Hudson Street, 8th Floor  
20 New York, NY 10013-1413  
21 Telephone: 212.355.9500  
22 Facsimile: 212.355.9592

23 Hank Bates (State Bar No. 167688)  
24 hbates@cbplaw.com  
25 Allen Carney  
26 acarney@cbplaw.com  
27 David Slade  
28 dslade@cbplaw.com  
CARNEY BATES & PULLIAM, PLLC  
2800 Cantrell Road, Suite 510  
Little Rock, AR 72202  
Telephone: 501.312.8500  
Facsimile: 501.312.8505

*Attorneys for Plaintiffs and the Class*