1 2 3 4 5 6	Michael W. Sobol (State Bar No. 194857) msobol@lchb.com David T. Rudolph (State Bar No. 233457) drudolph@lchb.com Melissa Gardner (State Bar No. 289096) mgardner@lchb.com LIEFF CABRASER HEIMANN & BERNST 275 Battery Street, 29th Floor San Francisco, CA 94111-3339 Telephone: 415.956.1000 Facsimile: 415.956.1008	ΈΙΝ, LLP
7 8 9 10 11	Rachel Geman rgeman@lchb.com Nicholas Diamand ndiamand@lchb.com LIEFF CABRASER HEIMANN & BERNST 250 Hudson Street, 8th Floor New York, NY 10013-1413 Telephone: 212.355.9500 Facsimile: 212.355.9592	TEIN, LLP
12 13 14 15 16 17	Hank Bates (State Bar No. 167688) hbates@cbplaw.com Allen Carney acarney@cbplaw.com David Slade dslade@cbplaw.com CARNEY BATES & PULLIAM, PLLC 519 West 7 <sup>th</sup> Street Little Rock, AR 72201 Telephone: 501.312.8500 Facsimile: 501.312.8505	
18	Attorneys for Plaintiffs and the Class	
19	UNITED STATES DISTRICT COURT	
20	NORTHERN DISTRICT OF CALIFORNIA	
21 22 23 24 25	MATTHEW CAMPBELL, MICHAEL HURLEY, on behalf of themselves and all others similarly situated, Plaintiffs, v.	Case No. 4:13-cv-05996-PJH JOINT DECLARATION OF MICHAEL SOBOL AND HANK BATES IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT
25 26 27 28	FACEBOOK, INC., Defendant.	Date: August 9, 2017 Time: 9:00 a.m. Judge: Hon. Phyllis J. Hamilton Place: Courtroom 3, 3rd Floor

DECLARATION OF M. SOBOL & H. BATES ISO MOT. FOR FINAL APPROVAL CASE NO. 4:13-CV-05996-PJH 1

We, Michael Sobol and Hank Bates, declare as follows:

Michael Sobol is a member in good standing of the California State Bar and a
 partner in the law firm Lieff, Cabraser, Heimann & Bernstein, LLP ("LCHB"), counsel for
 Plaintiffs and the Class in this proceeding. He is the LCHB attorney principally responsible for
 overseeing LCHB's work in this proceeding.

6 2. Hank Bates is a member in good standing of the California and Arkansas State
7 Bars and a partner in the law firm Carney Bates & Pulliam PLLC ("CBP"), counsel for Plaintiffs
8 and the Class in this proceeding. He is the CBP attorney principally responsible for overseeing
9 CBP's work in this proceeding.

- 3. We submit this declaration jointly in support of Plaintiffs' Motion for Final
   Approval of Class Action Settlement.
- 4. Except as otherwise noted, we have personal knowledge of the facts set forth
  herein, and if called to testify thereto, could and would do so competently, including with respect
  to the information provided regarding our respective law firms.
- 5. Consistent with the Court's Order Granting Preliminary Approval of Class Action
  Settlement as Modified (Dkt. No 235), notice of the settlement in this Action was posted on Class
  Counsels' websites<sup>1</sup> on May 3, 2017.
- 18 6. This notice included the Court's Order, the Settlement Agreement, and Plaintiffs'
  19 Motion for Preliminary Approval of Class Action Settlement.

7. Attached hereto as <u>Exhibit 1</u> are screen shots of the portions of CBP's website
related to notice of the settlement in this Action. These changes were implemented on May 3,
2017 and have remained in place, to date.

23 24

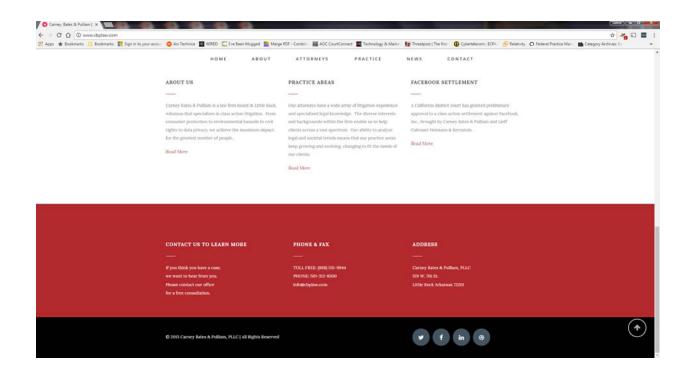
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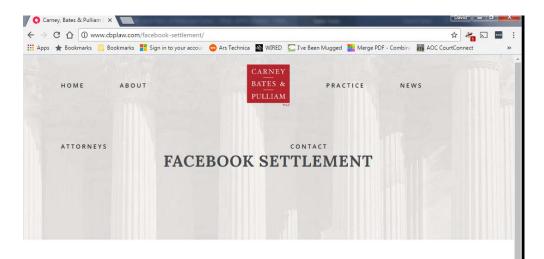
Attached hereto as <u>Exhibit 2</u> are screen shots of the portions of LCHB's website related to notice of the settlement in this Action. These changes were implemented on May 3, 2017 and have remained in place, to date.

9. In further compliance with the Court's Order, Class Counsel will post, on their
 websites, the following documents, as soon as such documents are filed: Plaintiffs' Motion for
 <sup>1</sup>Respectively, www.cbplaw.com and www.lieffcabraser.com

1	Attorneys' Fees and Incentive Awards, and any opposition or reply papers related to any motion		
2	identified in ¶ 7.d of the Court's Order.		
3			
4	I declare under penalty of perjury that the foregoing is true and correct. Executed this		
5	26th day of May, 2017 in San Francisco, California.		
6			
7	<u>/s/ Michael W. Sobol</u> Michael W. Sobol		
8			
9	I declare under penalty of perjury that the foregoing is true and correct. Executed this		
10	26th day of May, 2017 in Little Rock, Arkansas.		
11	/-/ Hards Dates		
12	<u>/s/ Hank Bates</u> Hank Bates		
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	- 2 - DECLARATION OF M. SOBOL & H. BATES ISO MOT. FOR FINAL APPROVAL CASE NO. 4:13-CV-05996-PIH		

# **EXHIBIT 1**





On April 26, 2017, the Honorable Phyllis J. Hamilton of the United States District Court for the Northern District of California granted preliminary settlement approval to a class action, filed December 31, 2013, alleging that Facebook Intercepted the content of Facebook messages, without consent, in violation of the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510, et seq. and Cal. Penal Code §§ 630, et seq. The settlement class includes all natural-person Facebook users located within the United States and its territories who have sent, or received from a Facebook user, private messages that included URLs in their content (and from which Facebook generated a URL attachment), from December 30, 2011 to March 1, 2017. As part of the injunctive-relief only settlement, Facebook has confirmed that the challenged conduct has ceased—namely, Facebook confirms that it no longer utilizes data from URLs within private messages to (1) generate recommendations to its users; (2) share user data with third parties or (3) increase "like" counter numbers on third party websites. In addition, during the course of this litigation, Facebook made changes to its operative disclosures to its users, stating that it collects the "content and other information" that people provide when they "message or communicate with others,"—thereby further explaining the ways in which Facebook may use that content. Facebook has also agreed to display additional educational language on its United States website for Help Center materials concerning its processing of URLs shared within messages.

On August 9, 2017, at 9 a.m., at the United States District Court for the Northern District of California, Oakland Courthouse, Courtroom 3 – 3rd Floor, 1301 Clay Street, Oakland, California 946i2, before the Honorable Phyllis L. Hamilton, the Court will hold a hearing to determine whether final approval of this class action settlement is appropriate. If approved, class members will release their ability to seek or obtain any other injunctive relief related to the claims asserted in this lawsuit. Class members will not release any claims for monetary relief.

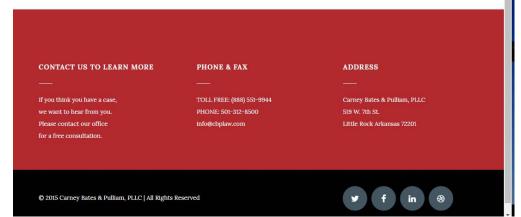
Class Counsel's motion in support of final approval of the settlement, application for attorneys' fees, costs and expenses not to exceed \$3.9 million, including a service award of \$5,000 for each of the two Class Representatives will be filed no later than May 26, 2017. Class members may submit comments or objections to the settlement or the requested fees and expenses. Any opposition, comment, or objection must be filed or mailed to the Court as described at paragraphs 9–11 of the Court's Order granting Preliminary Approval the link below, no later than June 26, 2017.

You may view the settlement agreement and other related documents (including Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, the Court's Order Granting Preliminary Approval of Class Action Settlement, Plaintiffs' Motions for Final Approval of Class Action Settlement, Attorneys' Fees and Incentive Awards, and any opposition or reply papers related to these motions) here:

> Settlement Agreement Plaintiffs' Motion for Preliminary Approval of Class Action Settlement Court's Order Granting Preliminary Approval of Class Action Settlement

Further documents to be posted as they are filed.

Plaintiffs and the Class are represented by Carney Bates & Pulliam, PLLC and Lieff, Cabraser, Heimann & Bernstein, LLP.



## **EXHIBIT 2**



plaintiffs' firms." American Lawyer

"Representing the best qualities of the plaintiffs' bar."

The National Law Journal











### Facebook Message Scanning Privacy Lawsuit

Lief Cabraser represents plaintiffs in litigation against Facebook for allegedly scanning and intercepting users' private email messages on its social network. In December 2013 Facebook users represented by Lief Cabraser and co-counsel filed a nationwide class action lawsuit alleging that Facebook intercepts certain private data in users' personal and private e-mail

### May 2, 2017 Update re Case Settlement

On April 26, 2017, a Northern District of California Federal Court granted preliminary settlement approval to a class action, filed December 31, 2013, alleging that Facebook intercepted the content of Facebook messages, without consent, in violation of the Electonic Communicatione Privacy Act, 18 U.S.C. §§ 2510, ef seq, and Cal. Penal Code §§ 630, ef seq. The settlement class includes all natural-person Facebook users located within the United States and its territories who have sent, or received from a Facebook user, private messages that included URLs in their content (and from which Facebook generated a URL attachment), from December 30, 2011 to March 1, 2017.

ages on the social network and profits by sharing that information with third parties.

As part of the injunctive-relief-only settlement, Facebook has confirmed that the challenged conduct has ceased—namely, Facebook confirms that it no longer utilizes data from URLs within private messages to (1) generate recommendations to its users: (2) share user data with third parties; or (3) increase "like" counter numbers on third party websites. In addition, during the course of this lingation, Facebook made changes to its operative disclosures to its users, stating that it collects the "content and other information" that people provide when they "message or communicate with others."—thereby further explaining the ways in which Facebook may use that content. Facebook has also agreed to display additional educational language on its United States website for Heip Center materials concerning its processing of URLs shared within messages.

On August 9, 2017, at 9 a.m., at the United States District Court for the Northern District of California, Oakland Courthouse, Courtoom 3 – 3rd Floor, 1301 Clay Street, Oakland, California 94612, before the Honorable Phyllis L. Hamilton, the Court will hold a hearing to determine whether final approval of this class action settlement is appropriate. If approved, class members will release their ability to seek or obtain any other injunctive relief related to the claims asserted in this lawsuit. Class members will not release any claims for monetary relief.

Class Counsel's motion in support of final approval of the settlement, and application for attorneys' fees, costs and expenses not to exceed \$3.9 million, including a service award of \$5,000 for each of the two Class Representatives, will be filed no later than May 26, 2017. Class members may submit comments or objections to the settlement or the requested fees and expenses. Any opposition, comment, or objection must be filed or mailed to the Court as described at paragraphs 9-11 of the Court's Order granting Preliminary Approval and available at the link below, no later than June 26, 2017.

You may view the settlement agreement and other related documents (including Plaintifts' Motion for Preliminary Approval of Class Action Settlement, the Courts Order Granting Preliminary Approval of Class Action Settlement, Plaintifts' Motions for Final Approval of Class Action Settlement, Plaintifts' Motions for Final Approval of Class Action Settlement, Attorneys' Fees and Incentive Awards, and any opposition or reply papers related to these motions) as these documents become available by clicking on the relevant hiphlighted text. In this paragraph.

Plaintifs and the Class are represented by Carney Bates & Pulliam, PLLC and Lieff, Cabraser, Heimann & Bernstein, LLP.

#### Types of Communications Offered on Facebook

Facebook describes the communication options it offers users as, in relevant part, "[d]epending on whom you'd like to share with." The options range from the broadest possible audience (a post which the public may see, including via searches on the intermet), to posts viewable by small groups of friends, to Facebook messages shared "privately" with a single individual. Facebook claims the privacy of its messaging function as "unprecedented" in terms of user control and the prevention of unwanted contact.

### The Facebook Alleged Privacy Violation Explained

The complaint alleges that when a user composes a private Facebook message and includes a link to a third party website (a "URL"), Facebook does not treat this message as private. Instead, Facebook scans the content of the message, follows the enclosed link, and searches for information to profile the message-sender's web activity. This enables Facebook to mine Excel 2016 aspects of user data and profit from that data by sharing it with third parties – namely,

#### Case Resource

April 26, 2017 Order Granting Preliminary Approval of Class Action Settlement as Modified

U.S. District Court March 1, 2017

Plaintiffs' Motion for Preliminary Approval of Class Action Settlement U.S. District Court

December 23, 2014 Order Granting in Part and Denying in Part Motion to Dismiss U.S. District Court

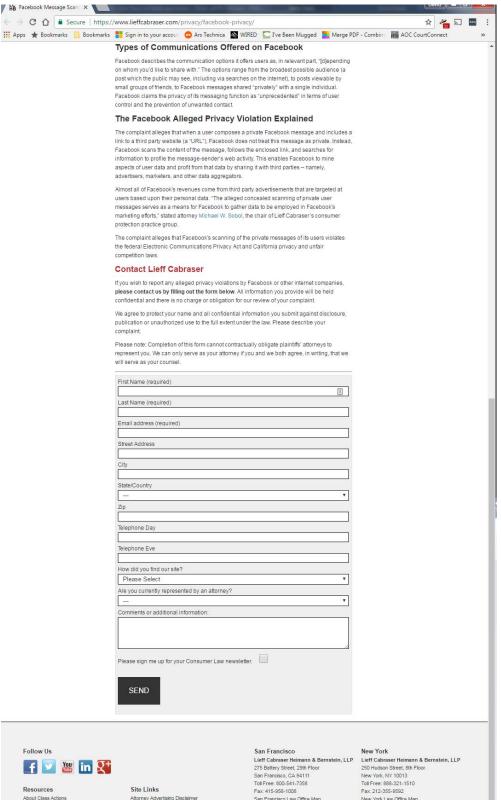
July 30, 2014 Plaintiffs' Opposition to Motion to Dismiss U.S. District Court

December 30, 2013 Complaint U.S. District Court

#### In the News

February 22, 2016 Facebook Users Push For Class Certification In Message-Scanning Row (subscription)

December 26, 2014 Judge to Facebook: Scan Users' Private Messages for Targeted Advertising, Prepare for Class-Action Lawsuits



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San Francisco Law Office Map

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Seattle Lieff Cabraser Heimann & Bernstein, LLP 2101 Fourth Avenue Suite 1900 Seattle, WA 98121-2315