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17 *Attorneys for Plaintiffs and the Proposed Class*

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

21 MATTHEW CAMPBELL, MICHAEL
22 HURLEY, and DAVID SHADPOUR, on
23 behalf of themselves and all others
similarly situated,

24 Plaintiffs,

25 v.

26 FACEBOOK, INC.,

27 Defendant.
28

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Case No. C 13-05996 PJH

**PLAINTIFFS' NOTICE OF RECENT
DECISION**

Judge: The Honorable Phyllis J. Hamilton
Courtroom: 3, Third Floor

1 Pursuant to L.R. 7-3(d)(2), Plaintiffs respectfully inform this Court of a recent decision
2 that is relevant to Defendant Facebook, Inc.'s Motion to Dismiss [Dkt. 29] and Plaintiffs'
3 Opposition [Dkt. 31].

4 On August 12, 2014, U.S. District Judge Lucy Koh granted in part and denied in part a
5 motion to dismiss claims based on defendant Yahoo's alleged practice of scanning emails for
6 content. *See In re: Yahoo Mail Litig.*, No. 5:13-cv-4980-LHK, Dkt. 49 (N.D. Cal.) (copy attached
7 hereto as Exhibit A). The court held that it was premature, on a Rule 12(b)(6) motion to dismiss,
8 to determine whether Yahoo had intercepted emails "in transit" within the meaning of the
9 Electronic Communications Privacy Act ("ECPA") and the California Invasion of Privacy Act
10 ("CIPA"). *Id.* at 11-12, 24. The court also analyzed ECPA's consent exception in the context of
11 the particular disclosures at issue, dismissing the plaintiffs' ECPA claims with limited leave to
12 amend in view of Yahoo's specific, extensive disclosures. *Id.* at 12-17.

13 Dated: August 19, 2014

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14 By: /s/ Melissa Gardner
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