

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

6 Rachel Geman
rgeman@lchb.com
7 Nicholas Diamand
ndiamand@lchb.com
8 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
250 Hudson Street, 8th Floor
9 New York, NY 10013-1413
Telephone: 212.355.9500
10 Facsimile: 212.355.9592

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

Jeremy A. Lieberman
Lesley F. Portnoy
info@pomlaw.com
POMERANTZ, LLP
600 Third Avenue, 20th Floor
New York, New York 10016
Telephone: 212.661.1100
Facsimile: 212.661.8665

Patrick V. Dahlstrom
pdahlstrom@pomlaw.com
POMERANTZ, LLP
10 S. La Salle Street, Suite 3505
Chicago, Illinois 60603
Telephone: 312.377.1181
Facsimile: 312.377.1184

17 *Attorneys for Plaintiffs and the Proposed Class*

18 UNITED STATES DISTRICT COURT
19
20 NORTHERN DISTRICT OF CALIFORNIA

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

23 Plaintiffs,

24 v.

25 FACEBOOK, INC.,

26 Defendant.

Case No. 4:13-cv-05996-PJH (MEJ)

**DECLARATION OF DAVID T. RUDOLPH IN
SUPPORT OF PLAINTIFFS' REQUEST FOR
TELEPHONIC DISCOVERY CONFERENCE**

1 I, David T. Rudolph, hereby declare:

2 1. I am a member in good standing of the California State Bar and Of Counsel in the
3 law firm Lieff, Cabraser, Heimann & Bernstein, LLP, counsel for the plaintiffs in the above-
4 captioned Action (Plaintiffs). I have personal knowledge of the facts set forth herein, and if
5 called to testify thereto, I could and would do so competently. I submit this declaration in support
6 of Plaintiffs' Request for a Telephonic Discovery Conference.

7 2. Attached hereto as Exhibit A is a true and correct copy of portions of email
8 correspondence between myself and Facebook's counsel, Joshua Jessen, dated June 3 and 4,
9 2015.

10 3. Consistent with this Court's Discovery Standing Order, on June 3, 2015, I
11 informed Facebook's counsel that Plaintiffs intended to submit a letter brief seeking to compel
12 the deposition of Alex Himel the week of June 15, 2015 and, given the time-sensitive nature of
13 this dispute, Plaintiffs would seek expedited resolution of this issue. Ex. A at 4. I accordingly
14 proposed that the parties exchange their respective positions on June 4, 2015, and that the joint
15 letter brief be filed on June 5, 2015. *Id.*

16 4. Facebook rejected this schedule, and instead suggested that the parties "discuss a
17 bilateral briefing schedule for both our letter brief regarding Mr. Shadpour and your letter brief
18 regarding Mr. Himel." *Id.* Facebook has indicated that it intends to move to compel discovery
19 from named plaintiff David Shadpour, and the parties have agreed to a briefing schedule for that
20 issue under which the parties exchange initial positions on June 9, 2015, exchange revisions to
21 their positions the following week on June 16, 2015 and file the letter brief June 17, 2015.

22 5. Because Plaintiffs seek to compel Mr. Himel's deposition to take place the week
23 of June 15, 2015 a "reciprocal" briefing schedule on these two issues by which both briefs would
24 be filed on June 17, 2015 is not feasible, and I instead proposed the following compromise
25 schedule: the parties will exchange positions June 5, 2015, the parties will exchange any
26 revisions to their positions on June 8, 2015, and the letter brief will be filed on June 9, 2015. Ex.
27 A at 2.

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6. Facebook’s counsel did not agree to this schedule, and instead suggested the parties further meet and confer on the scheduling of Mr. Himel’s deposition, despite the fact that the parties had already met and conferred in person and reached an impasse. Ex. A at 1.

7. Counsel for the parties have conferred and are generally available for a telephonic conference on June 5, 2015 after 2 p.m. on June 8, 2015 or June 9, 2015 prior to 12 p.m.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was signed in San Francisco, California, on June 5, 2014.

Dated: June 5, 2015

By: /s/ David T. Rudolph
David T. Rudolph