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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND  
13

14 ANTHONY DITIRRO, KATYA BRESLER,  
15 AND MICHELLE SHUMATE, individually  
16 and on behalf of all others similarly situated,

17 Plaintiffs,

18 v.

19 FACEBOOK, INC.,

20 Defendant.  
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Case No. 5:14-cv-00132-PJH

**DECLARATION OF SANDEEP N. SOLANKI  
IN SUPPORT OF DEFENDANT FACEBOOK,  
INC.'S MOTION TO DISMISS FIRST  
AMENDED COMPLAINT**

Date: June 11, 2014  
Time: 9:00 a.m.  
Courtroom: 3  
Judge: Hon. Phyllis J. Hamilton  
Trial Date: None Set

1 I, Sandeep N. Solanki, hereby declare as follows:

2 1. I am employed as Associate General Counsel with Defendant Facebook, Inc.  
3 (“Facebook”). Based on my overall experience working for Facebook, I have knowledge of  
4 Facebook’s current and historical terms of use, as well as the sign-up (registration) process for  
5 new users. Except as otherwise noted, I have personal knowledge of the following facts and, if  
6 called to testify, could and would testify competently thereto.

7 2. To register for an account on Facebook, a user must agree to Facebook’s terms of  
8 use, currently called the Statement of Rights and Responsibilities (“SRR”). Facebook has revised  
9 its terms of use at various times.

10 3. Attached hereto as **Exhibit A** is a true and correct copy of the current terms of use  
11 (SRR) that went into effect for all Users on or about November 15, 2013. These terms were in  
12 place when Plaintiffs filed their original complaint on January 9, 2014 (Dkt. No. 1) and remain in  
13 effect today.

14 4. Attached hereto as **Exhibit B** is a true and correct copy of the terms of use (SRR)  
15 that went into effect for all users on or about September 23, 2008 and remained in place until  
16 approximately February 4, 2009.

17 5. Attached hereto as **Exhibit C** is a true and correct copy of the terms of use (SRR)  
18 that went into effect for all users on or about February 4, 2009 and remained in place until  
19 approximately May 1, 2009.

20 6. Attached hereto as **Exhibit D** is a true and correct copy of the terms of use (SRR)  
21 that went into effect for all Users on or about May 1, 2009. Between May 1, 2009 and December  
22 31, 2009, Facebook revised the terms of use, but did not revise the text of any of the provisions  
23 cited in the Motion to Dismiss, i.e., the limitation-of-remedies provision or integration clause  
24 (sections 14.3 and 16.1, respectively, in the May 1, 2009 terms).

25 7. I understand from Plaintiffs’ First Amended Complaint (“FAC”) that Plaintiff  
26 Katya Bresler alleges that she registered for an account on Facebook in 2008. (FAC ¶ 19.) Based  
27 on publicly available information on Facebook, the user who appears to be Plaintiff Bresler  
28 appears to have registered for her Facebook account on or about December 11, 2008. The version

1 of the terms of use in place on December 11, 2008 were those that went into effect on September  
2 23, 2008 (**Exhibit B**).

3 8. I understand from the FAC that Plaintiff Michelle Shumate alleges that she  
4 registered for an account on Facebook in 2008. (FAC ¶ 20.) Based on publicly available  
5 information on Facebook, the user who appears to be Plaintiff Shumate appears to have registered  
6 for her Facebook account on or about October 22, 2008. The version of the terms of use in place  
7 on December 11, 2008 were those that went into effect on September 23, 2008 (**Exhibit B**).

8 9. I understand from the FAC that Mr. DiTirro alleges that he registered for an  
9 account on Facebook in 2009. (FAC ¶ 18.) Assuming that Plaintiff DiTirro registered for  
10 Facebook in 2009, as alleged, **Exhibit B** would have been the version of the terms in place if he  
11 registered prior to February 4, 2009. If Plaintiff DiTirro registered for Facebook between  
12 February 4, 2009 and May 1, 2009, **Exhibit C** would have been the version of the terms in place  
13 at the time. If Plaintiff DiTirro registered for Facebook between May 1, 2009 and December 31,  
14 2009, he would have been subject to the versions of the limitation-of-remedies provision and  
15 integration clause contained in the May 1, 2009 terms of use (**Exhibit D**).

16 10. Notwithstanding Plaintiff DiTirro's allegation that he registered for Facebook in  
17 2009 (FAC ¶18), publicly available information on Facebook suggests that the user who appears  
18 to be Plaintiff DiTirro actually registered for his account on or about July 22, 2008. If Plaintiff  
19 DiTirro registered on that date, he would have been subject to a version of the terms that went  
20 into effect on June 7, 2008, which contained a limitation-of-remedies provision and integration  
21 clause identical to that contained in the September 23, 2008 version of the terms (**Exhibit B**).

22 I declare under penalty of perjury that the foregoing is true and correct. Executed on April  
23 15, 2014 in Menlo Park, California.

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26 Sandeep Solanki