



## **I. INTRODUCTION**

The Motion to Clarify and Compel (the “Motion”) filed by Plaintiff Timelines, Inc. (“Timelines”) is unwarranted. Timelines has not articulated any reason it needs Facebook’s complete document production by this Friday. Facebook has already informed Timelines that it is in the process of reviewing tens of thousands of documents and intends to complete its rolling productions by July 31, 2012 – one month before the parties’ agreed upon close of fact discovery on August 31 and five months before the Court-ordered close of all discovery on December 28. Further, Facebook is willing to extend the August 31 date if Timelines requires more time to review the production and take fact depositions. It is unnecessary for the Court to adjust any deadlines or compel any discovery from Facebook.

## **II. ARGUMENT**

Timelines inexplicably moves to compel Facebook to complete its document production by June 29, 2012, nearly six months before the close of all discovery, two months before the mutually agreed target for the end of fact discovery, and one month before the date Facebook has estimated it can complete its main production. Timelines’ motion is devoid of any explanation or showing of urgency for why an order compelling production is necessary or appropriate given that Facebook has produced, and continues to diligently produce, responsive documents. The motion lacks merit and should be denied.

Facebook is proceeding reasonably to satisfy its discovery obligations. As Timelines is well aware, discovery was initially postponed by mutual agreement for early settlement negotiations. Since that time, the parties responded to written discovery and negotiated a protective order, and have each produced hundreds of pages of documents.

Facebook has now conducted interviews of potential document custodians, collected data from relevant custodial and noncustodial sources, and is in the process of reviewing tens of thousands of documents potentially responsive to Timelines' 75 document requests. As it has informed Timelines, Facebook expects to continue producing documents on a rolling basis and to complete its production by the end of July. Timelines' demand that Facebook complete its production by this Friday, June 29, is logistically impossible and unnecessary in light of the December 28 close of discovery.

Timelines, on the other hand, has indicated that its initial production of 229 documents constitutes the entirety of its production. This production does not include any internal emails relating to the substantive issues in this proceeding. If in fact Timelines only possesses 229 responsive documents, the burden of discovery in this proceeding is obviously disproportionate. It is hardly surprising that, unlike Timelines, Facebook's collection and review is ongoing.

Timelines' sense of urgency is misplaced; Timelines will not be prejudiced in any manner by the current trajectory of Facebook's production. While the parties have agreed to complete fact discovery by August 31, that date is not part of the scheduling order in this case. Although Facebook believes there is no scheduling ambiguity that requires the Court's clarification, it is willing to extend the August 31 fact discovery date if Timelines needs more time to review Facebook's production and take fact depositions.<sup>1</sup> Facebook has already conveyed this offer to Timelines.

### **III. CONCLUSION.**

For the reasons stated above, Facebook respectfully requests that the Court deny Timelines' Motion to Clarify and Compel.

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<sup>1</sup> No depositions have been noticed by either party.

Dated: June 26, 2012

Respectfully submitted,

By: /s/ Peter J. Willsey  
Peter J. Willsey (*pro hac vice*)  
Brendan J. Hughes (*pro hac vice* pending)  
COOLEY LLP  
777 6<sup>th</sup> Street, NW, Suite 1100  
Washington, DC 20001  
Phone: (202) 842-7800  
Fax: (202) 842-7899  
Email: pwillsey@cooley.com  
bhughes@cooley.com

Michael G. Rhodes (*pro hac vice*)  
COOLEY LLP  
101 California Street, 5th Floor  
San Francisco, CA 94111-5800  
Phone: (415) 693-2000  
Fax: (415) 693-2222  
Email: rhodesmg@cooley.com

Steven D. McCormick (IL Bar No. 1824260)  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, IL 60654-3406  
Tel: (312) 862-2000  
Fax: (312) 862-2200  
Email: smccormick@kirkland.com

*Attorneys for Defendant-Counterplaintiff  
FACEBOOK, INC.*

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that he served the foregoing **DEFENDANT FACEBOOK, INC.'S OPPOSITION TO PLAINTIFF TIMELINES, INC.'S MOTION TO CLARIFY AND COMPEL** by means of the Court's CM/ECF System, which causes a true and correct copy of the same to be served electronically on all CM/ECF registered counsel of record, on June 26, 2012.

Dated: June 26, 2012

/s/ Peter J. Willsey

Peter J. Willsey (*pro hac vice*)

Brendan J. Hughes (*pro hac vice* pending)

COOLEY LLP

777 6<sup>th</sup> Street, NW, Suite 1100

Washington, DC 20001

Phone: (202) 842-7800

Fax: (202) 842-7899

Email: pwillsey@cooley.com

*Attorney for Defendant-Counterplaintiff  
FACEBOOK, INC.*

1040697/HN