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E-filing

Attorneys for Defendant
FACEBOOK, INC.

15

FILED
JUN 28 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

KEVIN HICKS, LINH LUU and 135 additional
Plaintiffs, Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

FACEBOOK, INC., MORGAN STANLEY & CO.
LLC,

Defendants.

Case No. **CV 12 3353**
San Mateo County Superior Court
Case No. CIV-514772

CLASS ACTION

**NOTICE OF REMOVAL OF STATE
COURT CIVIL ACTION**

NOTICE OF REMOVAL OF STATE COURT
CIVIL ACTION

1 Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, and 15 U.S.C. § 77v(a), defendant Facebook,
2 Inc. hereby removes this case, and all claims and causes of action therein, from the Superior Court of
3 the State of California for the County of San Mateo to the United States District Court for the
4 Northern District of California. In support of this Notice of Removal, Facebook sets forth the
5 following grounds for removal:

6 1. On or about June 22, 2012, Plaintiff Kevin Hicks, Linh Luu and 135 additional
7 plaintiffs commenced a civil action in the Superior Court of the State of California for the County of
8 San Mateo, captioned *Hicks, et al. v. Facebook, Inc., et al.*, Case No. CIV-514772 (the "State Court
9 Action"). True and accurate copies of the Summons and Complaint are attached as Exhibit A.

10 2. Defendants have not pled, answered, or otherwise appeared in the State Court Action.

11 3. This Notice of Removal is being filed before the expiration of 30 days after service of
12 the Summons and Complaint, and is thus timely filed under 28 U.S.C. § 1446(b).

13 4. This action is within the original jurisdiction of this Court under 28 U.S.C. § 1331
14 and 15 U.S.C. § 77v(a). The State Court Action is a putative nationwide class action brought against
15 Facebook, certain officers and directors of Facebook, and certain underwriters of Facebook's May
16 18, 2012 initial public offering ("IPO") on the NASDAQ stock exchange. The State Court Action
17 alleges violations of the Securities Act of 1933 (the "Securities Act").

18 5. There are at least 30 cases already pending in the federal district courts that allege
19 claims under the Securities Act. Fourteen are pending in the District Court for the Northern District
20 of California; 16 are pending in the District Court for the Southern District of New York. Four of
21 the cases in the Northern District of California have been marked as related and are pending before
22 the Honorable Maxine M. Chesney.

23 6. On June 18, 2012, Facebook, certain of its officers and directors, and certain of the
24 underwriter defendants filed with the Judicial Panel on Multidistrict Litigation a Motion to Transfer
25 Actions to the Southern District of New York Pursuant to 28 U.S.C. § 1407 for Coordinated and/or
26 Consolidated Pretrial Proceedings (the "MDL Motion").

27 7. This Court has jurisdiction over this case under two federal statutes: 28 U.S.C.
28 § 1331 and Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a). This case is therefore removable

1 under 28 U.S.C. § 1441. Under 28 U.S.C. § 1441(a), “[e]xcept as otherwise expressly provided by
2 Act of Congress, any civil action brought in a State court of which the district courts of the United
3 States have original jurisdiction, may be removed ... to the district court of the United States ...
4 embracing the place where such action is pending.”

5 **Section 22(a) Provides Exclusive Federal Jurisdiction Over Securities Act**
6 **Claims Involving “Covered Class Actions.”**

7 8. Section 22(a) is the jurisdictional provision of the Securities Act. As originally
8 written, Section 22(a) provided for concurrent jurisdiction between state and federal courts over
9 Securities Act claims. 15 U.S.C. § 77v(a) (1933). The Securities Litigation Uniform Standards Act
10 of 1998 (“SLUSA”), 15 U.S.C. § 77p(c), amended Section 22(a) to provide that there will be some
11 claims or cases brought under the Securities Act over which a state court will no longer have
12 concurrent jurisdiction:

13 The district courts of the United States ... shall have jurisdiction of offenses and
14 violations under this subchapter and under the rules and regulations promulgated by
15 the Commission in respect thereto, and, concurrent with State and Territorial courts,
16 *except as provided in [Section 16] of this title with respect to covered class actions,*
of all suits in equity and actions at law brought to enforce any liability or duty created
by this subchapter.

17 15 U.S.C. § 77v(a) (emphasis added to SLUSA amendments). As amended, Section 22(a) deprives
18 state courts of concurrent jurisdiction over “covered class actions” that raise Securities Act claims.
19 *See Knox v. Agria Corp.*, 613 F. Supp. 2d 419, 425 (S.D.N.Y. 2009); *see also In re Fannie Mae*
20 *2008 Sec. Litig.*, No. 08 Civ. 7831, 2009 WL 4067266, at *2 (S.D.N.Y. Nov. 24, 2009); *Rovner v.*
21 *Vonage Holdings Corp.*, No. 07-178, 2007 WL 446658, at *3-4 (D.N.J. Feb. 7, 2007).

22 9. Section 16(f) defines “covered class actions” as including

23 any single lawsuit in which ... one or more named parties seek to recover damages on
24 a representative basis on behalf of themselves and other unnamed parties similarly
25 situated, and questions of law or fact common to those persons or members of the
26 prospective class predominate over any questions affecting only individual persons or
27 members.
28

1 15 U.S.C. § 77p(f)(2)(A)(i)(II). Plaintiffs are named parties seeking to recover damages on a
2 representative basis on behalf of themselves and other unnamed parties similarly situated, and
3 common questions of law or fact allegedly predominate over individual questions. (See Exhibit A.)
4 Plaintiffs also are bringing claims under the Securities Act. This action therefore is a “covered class
5 action” within the meaning of Section 16. Accordingly, state courts do not have jurisdiction over
6 Plaintiffs’ putative class action. Federal courts alone have jurisdiction to hear Plaintiffs’ putative
7 class action claims under the Securities Act. See *Knox*, 613 F. Supp. 2d at 423.

8 **Section 22(a)’s Removal Ban Does Not Apply.**

9 10. Section 22(a) of the Securities Act also includes an anti-removal provision, which
10 originally prohibited the removal of any Securities Act cases that were brought in state court. As
11 amended by SLUSA, however, Section 22(a) now provides as follows: “[e]xcept as provided in
12 section [16(c)] of [the Securities Act], no case arising under [the Securities Act] and brought in any
13 State court of competent jurisdiction shall be removed to any court of the United States.” 15 U.S.C.
14 § 77v(a) (italics added to SLUSA amendments; underscoring added). This anti-removal provision
15 does not apply here for two independent reasons.

16 11. The first is that Section 22(a)’s anti-removal provision only prohibits the removal of
17 cases brought in a “State court of competent jurisdiction.” 15 U.S.C. § 77v(a). As discussed above,
18 state courts no longer have jurisdiction to adjudicate a “covered class action” raising Securities Act
19 claims and are therefore no longer courts of competent jurisdiction with respect to such claims. See
20 *Knox*, 613 F. Supp. 2d at 423. Accordingly, Section 22(a)’s anti-removal provision does not apply
21 to this action. See *id.* at 425.

22 12. The Court need not reach the second reason why Section 22(a)’s anti-removal
23 provision does not apply, which is supplied by Section 16(c). Section 16(c) allows the removal of
24 “[a]ny covered class action brought in any State court involving a covered security, as set forth in
25 subsection (b),” 15 U.S.C. § 77p(c), which subsection “makes some state-law claims nonactionable
26 through the class-action device in federal as well as state court.” *Kircher v. Putnam Funds Trust*,
27 547 U.S. 633, 637, n.1 (2006) (discussing Section 16(b), 15 U.S.C. § 77p(b)). District courts are
28 divided on the question whether Section 16(c) provides a basis for removing covered class actions

1 that raise only *federal* claims under the Securities Act. Some courts have interpreted Section 16(c)
2 to allow the removal of “covered class actions” raising either state law claims or Securities Act
3 claims. *See, e.g., Rubin v. Pixelplus Co.*, No. 06 Civ. 2964, 2007 WL 778485, at *3-4 (E.D.N.Y.
4 Mar. 13, 2007); *Brody v. Homestore, Inc.*, 240 F. Supp. 2d 1122, 1123-24 (C.D. Cal. 2003). Other
5 courts, however, have interpreted Section 16(c) as permitting removal of “only those ‘covered class
6 actions’ described in § 77p(b) alleging omission or deception based upon state law” *Young v.*
7 *Pacific Biosciences of Cal., Inc.*, No. 11-cv-5668, 2012 WL 851509, at *3-4 (N.D. Cal. Mar. 13,
8 2012); *see also West Virginia Laborers Trust Fund v. STEC Inc.*, No. SACV 11-01171, 2011 WL
9 6156945, at *4 (C.D. Cal. Oct. 7, 2011) (discussing the different interpretations and holding that
10 “subsection (c) only allows for removal of actions based on state law”).¹

11 13. In any event, the Court need not address this division of authority over the scope of
12 Section 16(c)’s exception to Section 22(a)’s anti-removal provision. That is because the logically
13 prior question — which *Young* did not address — is whether Section 22(a)’s anti-removal provision
14 applies to this case in the first instance. It does not. As discussed *supra*, Section 22(a) prohibits
15 removal only of cases over which the state courts have “competent jurisdiction.” Because the state
16 court had no jurisdiction over Plaintiffs’ “covered class action,” as the result of SLUSA, Section
17 22(a)’s anti-removal provision does not apply and does not prohibit removal of this case. Removal
18 is thus proper under 28 U.S.C. § 1441.

19 14. Facebook will promptly serve a copy of this Notice on counsel for Plaintiffs and will
20 file a copy of this Notice with the Clerk of the Superior Court of the State of California for the
21 County of San Mateo, pursuant to 28 U.S.C. § 1446(d).

22
23 ¹ *Luther v. Countrywide Home Loans Servicing LP*, 533 F.3d 1031, 1032 (9th Cir. 2008), is
24 inapposite. In *Luther*, the Ninth Circuit held that “the Class Action Fairness Act of 2005, which
25 permits in general the removal to federal court of high-dollar class actions involving diverse parties,
26 does not supersede § 22(a)’s *specific* bar against removal of cases arising under the [Securities] Act.”
27 The court did not address whether the SLUSA amendments to Section 22(a) strip state courts of
28 jurisdiction over class actions raising claims under the Securities Act. Nor did the court have
occasion to address whether the SLUSA amendments to Section 22(a) create an exception to Section
22(a)’s anti-removal provision because the parties agreed that the mortgage pass-through certificates
at issue were not “covered securities.” *Id.* at 1033 n.1; *cf. Madden v. Cowen & Co.*, 576 F.3d 957,
965 (9th Cir. 2009) (observing in the context of a removed state-law action that “any suit removable
under SLUSA’s removal provision, § 77p(c), is precluded under SLUSA’s preclusion provision,
§ 77p(b), and any suit not precluded is not removable”).

1 **CERTIFICATE OF SERVICE**

2 I, Rosie U. Tejada, am employed in the County of San Francisco, State of California. I am
3 over the age of 18 and not a party to the within action; my business address is 555 California Street,
San Francisco, California 94104.

4 On June 28, 2012, I served a copy of the following document(s) described as:

5 **NOTICE OF REMOVAL OF STATE COURT CIVIL ACTION**

6 on the interested parties in this action as follows:

7 **By Facsimile**

8 By transmitting via facsimile, the document(s) listed above to the fax number set forth below
9 on this date before 5:00 p.m. I am aware that service is presumed invalid unless the
10 transmission machine properly issues a transmission report stating the transmission is
complete and without error.

11 **By U.S. Mail**

12 By placing the document(s) listed above in a sealed envelope with postage thereon fully
13 prepaid, in the United States mail at San Francisco, California, to the addressee(s) set forth
below.

14 I am "readily familiar" with the firm's practice of collection and processing correspondence
15 for mailing. Under that practice, it would be deposited with the U.S. postal service on that
16 same day with postage thereon fully prepaid at San Francisco, California in the ordinary
course of business. I am aware that on motion of the party served, service is presumed
invalid if postal cancellation date or postage meter date is more than one day after date of
deposit for mailing.

17 **By Overnight Mail**

18 By causing the document(s) listed above to be delivered to the addressee(s) set forth below
19 on the following business morning by Federal Express Corporation or Express Mail.

20 **By Personal or Messenger Service**

21 By causing the document(s) listed above to be personally served in such envelope by hand to
the person at the address(s) set forth below:

22 **See Attached Service List**

23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed on June 28, 2012, at San Francisco, California.

25
26 

27 Rosie U. Tejada
28

SERVICE LIST

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Raj V. Abhyanker
Kuscha Hatami Fard
RAJ ABHYANKER, P.C.
1580 W. El Camino Real, Suite 13
Mountain View, CA 94040
Telephone: 650-965-8731
Facsimile: 650-989-2131

Counsel for Plaintiffs

Exhibit A

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

FACEBOOK INC., MORGAN STANLEY & CO. LLC.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
ENDORSED FILED
SAN MATEO COUNTY

JUN 22 2012

Clerk of the Superior Court
By Rebecca Krill
DEPUTY CLERK

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

**KEVIN HICKS, LINH LUU, ^{and} 135 ADDITIONAL PLAINTIFFS, AND
ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ^{individually} See ^{attached}**

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO:** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presente su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibido mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Hall of Justice, 400 County Center
Redwood City, CA. 94063

CASE NUMBER:
(Número del Caso)
CIV 51 477 B

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Raj Abhyanker P.C., 1580 W. El Camino Real St. 13, Mountain View, CA. 94040, (650) 965-8731

JOHN C. FITTON

DATE:
(Fecha)

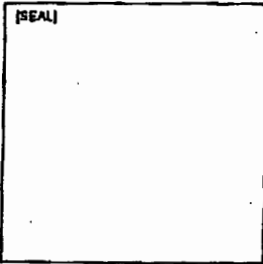
JUN 22 2012

Clerk, by
(Secretario)

R. KRILL

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): **Facebook Inc.,**
under:

<input checked="" type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date):

Raj Abhyanker, P.C.
Mountain View, CA
rajpatent.com

1 RAJ V. ABHYANKER (CA SBN 233284)
raj@rajpatent.com
2 KUSCHA HATAMI FARD (CA SBN 282954)
kuscha@rajpatent.com

3 RAJ ABHYANKER, P.C.
4 1580 W. El Camino Real, Suite 13
5 Mountain View CA, 94040
6 Telephone: (650) 965-8731
Facsimile: (650) 989-2131

7 Attorneys for Plaintiffs,
8 KEVIN HICKS and LINH LUU

ENDORSED FILED
SAN MATEO COUNTY

JUN 22 2012

Clerk of the Superior Court
By Rebecca Krill
DEPUTY CLERK

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SAN MATEO**

12 **CIV 51 4772**

13 KEVIN HICKS, LINH LUU and 135
14 additional Plaintiffs, Individually and on
15 Behalf of All Others Similarly Situated,
see attached
16 Plaintiffs,

17 v.

18 FACEBOOK INC., Morgan Stanley & Co.
19 LLC,

20 Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR

- 1) Violation of Section 11 of the 1933 Securities Act (15 U.S.C. § 77k); and
- 2) Violation of Section 12(a)(2) of the 1933 Securities act (15 U.S.C. § 77l);

Jury trial Demanded

BY FAX

23 Plaintiffs, Kevin Hicks, Linh Luu and 135 additional plaintiffs, all of whom placed orders and
24 purchased FACEBOOK stock pursuant to the IPO day of May 18, 2012 attached hereto as Exhibit "A"
25 to the complaint (collectively "Plaintiffs"), by and through their undersigned counsel, bring this
26 securities law class action on behalf of all purchasers of common stock of FACEBOOK, Inc.
27 ("FACEBOOK" or the "Company") pursuant or traceable to the Registration Statement and
28

- 1 | Abdirahim Isaq, Alan Shawn, Ali Pouredad, Andres G. Villegas, Andrew Guthart,
- 2 | Aneesah Bray-LaStrape, Anna Lee, Armand J. Addonizio, Ashok Goyal, Beatrice E. Velez,
- 3 | Bernard Schembri, Bartholomew H. Palo Sr., Brian Kasper, Brian Wayland, Carla Leiwes,
- 4 | Charles Coelho, Chris Curley, Chris Hannaford, Chris Joannou, Clifford Hamilton, Craig Dunkle,
- 5 | Dave Slade, Daver Werolin, David A. Oller, David Dortch, David Gonzalez, David Longo,
- 6 | David Slack, Deborah Peters, Dennis Beck, Deronn Hasan, Diane Binder, Ebon Graham,
- 7 | Eduardo Saucedo, Ellssa Kaye, Fawad Shahid, Gala Eubanks-Martin, Gary Huth, Gerad Ryan,
- 8 | Gordon Jin, Gregory Gonzales, Hanh Nguyen, Sidney Morgan Chatman, Isaac Chaaya Moghrabl,
- 9 | Jack & Kerri Ditmars, Jack Dean Galindo, Jack Ohlrich, James A. Cameron, James H. Dawson,
- 10 | Jamona Ketton, Jason David Knight, Jason Van Haselen, Jiantao Huang, Jim Wall, Johnathan Jenkins,
- 11 | Johnnie Johnson, Jorge R Colon, Jordan Harris, Joseph Mirabile, Kamran Nikbakhk-Tali,
- 12 | Keith Gordon, Kenneth Hayes, Kevin Nutt, Kevin Hicks, Lauren Jenkins, Leroy Eifler,
- 13 | Louis Guariglia, Magnus Nyemah, Marine Chelepyan, Mario Carmosino, Mark Noronha, Mary Rose,
- 14 | Marvin Burdette, Mohit Mittal, Niels Goldstein, Nick Malone, Norman Pawloski, Ovesp Chelepyan,
- 15 | Paul O'Sullivan, Paul R. D'Amato, Preeti Dave, Ramesh Bollina, Randolph Ott, Randall K. Stapelton,
- 16 | Raymond Heenan, Richard D. Freeman, Rick Hofsheier, Richard H. Vader, Robert Allen Masterz,
- 17 | Robert Friedman, Robert Salmons, Robert W. Shernanski, Ron Kartchner, Ron Stroschein, Ronald Castillo,
- 18 | Rosie Harris, Sam Cracchiolo Jr, Sam Jomaa, Satish Shetty, Scott MacAllister,
- 19 | Shakir Zaman, Siamak Broomand, Steven P. Hershman, Steven P. Pickworth, Sue Chen, Swiatoslaw Kuziw,
- 20 | Teri Button, Thomas Lee, Timothy S Kern, Troy G. Marcroft, William Lee, Yang Cao,
- 21 | William Carl Mullins, Michael J. Empel, Irena Winter, Raminder Uppal, Bill Wrede, Anthony Rodarte,
- 22 | Charles Stermer, Eddie Bell, Eric Gufford, Katalin Gufford, Frank Veraldi, Harkesh Johal,
- 23 | Harold Muxlow, Jeb Long, John Henson, Mark E. Bruck, Mary Mann, Mei We, Nadim Thomas,
- 24 | Robert Cassilas, Shawn H. O'Day, Yolanda Glover.

25
26 | *(Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line numbers):*

1 Prospectus filed with the United States Securities and Exchange Commission ("SEC") and issued in
2 connection with the Company's Initial Public Offering (the "IPO" of the "Offering") on May 18, 2012
3 (the "Class"). The allegations herein are based upon the investigation of Plaintiffs' counsel, which
4 included, inter alia: (i) a review and analysis of regulatory filings made by FACEBOOK, Inc.
5 ("FACEBOOK" or the "Company") with the United States Securities and Exchange Commission
6 ("SEC"); (ii) securities analysts' reports; (iii) press releases and media reports issued by and
7 disseminated by FACEBOOK; and (iv) review of other publicly available information concerning
8 FACEBOOK.

9 NATURE AND SUMMARY OF THE ACTION

- 10
11 1. This is a Securities class action brought by Plaintiffs alleging claims under sections
12 11 and 12 of the Securities Act of 1933, 15 U.S.C. § 77 et seq. ("Securities Act")
13 against Defendants, seeking to recover damages caused to the Class by Defendants'
14 violations of the Securities Act of 1933.
- 15 2. FACEBOOK operates as a social networking company worldwide. The Company
16 builds tools that enable users to connect, share, discover, and communicate with
17 each other and tools that enable developers to build social applications on
18 FACEBOOK or to integrate their websites with FACEBOOK; and offers products that
19 allow advertisers and marketers to engage with its users.
- 20 3. On May 18, 2012, FACEBOOK Inc. ("FACEBOOK" or the "Company") floated its initial
21 public offering ("IPO") of 421,233,615 shares of its common stock at a price to the
22 public of \$38.00 per share on the NASDAQ Global Select Market under the symbol
23 "FB". Under the terms of the offering, FACEBOOK sold 180,000,000 shares of Class A
24 common stock and selling stockholders sold 241,233,615 shares of Class A common
25 stock. According to the Company, FACEBOOK expects to receive net proceeds of
26 approximately \$6,764,760,000 and selling stockholders expect to receive
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\$9,066,041,719 from the Offering, after deducting underwriting discounts, commissions and offering related transactions.

4. In addition, FACEBOOK and the selling stockholders granted the underwriters a thirty (30) day option to purchase up to 63,185,042 additional shares of Class A common stock to cover over-allotments, if any.
5. As set forth in greater detail below, the claims arise from the false and misleading statements and material omissions in FACEBOOK's Registration Statement and Prospectus, and amendments thereto. The Registration Statement and Prospectus, and amendments thereto were issued in connection with the FACEBOOK IPO. In violation of the Securities Act of 1933, defendants omitted material information and misled investors in regards to FACEBOOK'S IPO including, but not limited to: (a) the fact that FACEBOOK was experiencing severe earnings growth reductions, as more FACEBOOK members were accessing FACEBOOK through mobile devices rather than personal computers; (b) that during the IPO road show, FACEBOOK selectively provided reduced earnings guidance to certain underwriters who were provided this information, such as Goldman Sachs & Co. and Morgan Stanley, responded by reducing their earnings forecast for FACEBOOK; (c) and that those informed underwriters selectively passed the information they received from FACEBOOK only to certain large investors and not the public.
6. This information was not disclosed and was withheld by FACEBOOK. Earning trends, earnings guidance from the Offering Corporation, and earnings forecasts by underwriters are all highly material information that any reasonable investor would want, and need to know before making the final decision to purchase and determine how much to pay for the IPO stock.
7. While Defendants' Registration Statement and Prospectus purported to warn investors that FACEBOOK's revenues could be negatively affected by the rate of

Raj Abhyanker, P.C.
Mountain View, CA
rajpatent.com

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growth of mobile users of its site or application, those supposed disclosures were inadequate, false and misleading. In Fact, at the time of the IPO, FACEBOOK was then experiencing such a severe reduction in growth due to an increase of users on its FACEBOOK application through mobile devices, that FACEBOOK told its underwriters to materially lower the revenue forecast for 2012.

- 8. Defendants violated the Securities Act of 1933 by providing material, non-public information to select analysts that was then shared with select investors in the form of lower earnings projections.
- 9. The fact that FACEBOOK's own underwriters revised their earnings estimates downwards and did not publicly disclose that information is material information that all investors were entitled to know.
- 10. Defendants further failed to disclose that, during the road show for the IPO, certain underwriters had reduced their second quarter and 2012 year-end estimates for FACEBOOK. This material information also was omitted from the Registration Statement and Prospectus.
- 11. FACEBOOK's conduct in violation of securities laws has caused Plaintiffs and other IPO investors to lose millions if not billions of dollars by paying an inflated price for FACEBOOK IPO stock.
- 12. Defendants, individually and collectively, had a duty to Plaintiffs and the Class (defined infra) to provide information regarding FACEBOOK that did not contain material misstatements or omit to disclose all information about FACEBOOK that would be material to Plaintiffs and the Class in their decisions to purchase shares of FACEBOOK.

JURISDICTION AND VENUE

- 13. This class action is brought pursuant to California Code of Civil Procedure section 382.

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- 1 14. The amount in controversy exceeds \$25,000.00, the jurisdictional minimum of this
2 Court, and will be established according to proof at trial.
- 3 15. The claims asserted herein arise under Sections 11, and 12(a)(2) of the Securities Act
4 of 1933, 15 U.S.C. §§ 77k, 77l.
- 5 16. This court has jurisdiction over the subject matter of this action pursuant to Section
6 22 of the Securities Act, 15 U.S.C. § 77v, which explicitly states that "[e]xcept as
7 provided in section 16(c), no case arising under this title and brought in any State
8 court of competent jurisdiction shall be removed to any court in the United States."
9 (Emphasis added.) Section 16(c) of the Securities Act, in turn, refers to "covered
10 class actions," which are defined as lawsuits brought as class actions or brought on
11 behalf of more than 50 persons asserting claims under state or common law.
12 Because this is an action asserting federal law claims it does not fall within the
13 definition of a "covered class action" under §16(c) and, therefore, is not removable to
14 federal court under the Securities Litigation Uniform Standards Act of 1998, 15 U.S.C.
15 § 78bb(f).
- 16
- 17 17. This court has personal jurisdiction over each defendant named herein because each
18 defendant is either a corporation that does sufficient business in California, or an
19 individual who has sufficient minimum contacts with California to render the
20 exercise of jurisdiction by the California courts permissible under traditional notions
21 of fair play and substantial justice. All of the defendants conduct business and/or
22 maintain offices in California, and FACEBOOK'S headquarters are located at 1601
23 Willow Road, Menlo Park, California 94025.
- 24
- 25 18. Venue is proper in this Court pursuant to Section 22 of the Securities Act, 15 U.S.C. §
26 77v. Defendant FACEBOOK'S principal executive offices are located within this
27 County, the individual Defendants conduct business in this County, and many of the
28 acts and transactions alleged herein, including the preparation and dissemination of

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1 materially false and/or misleading information, occurred in substantial part in this
2 County.

3 **PARTIES**

- 4 19. Plaintiff Kevin Hicks purchased FACEBOOK securities pursuant and/or traceable to
5 the Registration Statement issued in connection with the Company's IPO and has
6 been damaged thereby.
7
8 20. Plaintiff Linh Luu purchased FACEBOOK securities pursuant and/or traceable to the
9 Registration Statement issued in connection with the Company's IPO and has been
10 damaged thereby.
11
12 21. 135 additional plaintiffs attached hereto as Exhibit "A" to the complaint, purchased
13 FACEBOOK securities pursuant and/or traceable to the registration Statement issued
14 in connection with Company's IPO and have been damaged thereby,
15
16 22. Defendant FACEBOOK, Inc. ("FACEBOOK" or the "Company") maintains its principal
17 executive offices at 1601 Willow Road, Menlo Park, California 94025, within this
18 judicial district, and is incorporated under the laws of the State of Delaware.
19 Facebook operates a social networking website that allows people to communicate
20 and share information with friends and family. It also develops technologies that
21 facilitate the sharing of information

22 **UNDERWRITER DEFENDANTS**

- 23 23. Defendant Morgan Stanley & Co. LLC ("Morgan Stanley") served as the lead
24 underwriter to the FACEBOOK IPO.

25 **CLASS ACTION ALLEGATIONS**

- 26 24. Plaintiffs bring this action on behalf of Plaintiffs Kevin Hicks, Linh Luu and Plaintiffs
27 listed in "Exhibit A" attached hereto individually and jointly as a class action
28 pursuant to California Code of Civil Procedure Section 382 on behalf of a Class,

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consisting of all persons and/or entities who purchased or otherwise acquired FACEBOOK common stock pursuant and/or traceable to the Company's false and/or misleading Registration Statement and Prospectus issued in connection with the Company's IPO which occurred on May 18, 2012, and who were damaged thereby.

25. Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and an entity in which Defendants have or had a controlling interest.

26. Members of the Class will be referred to as "class members." Plaintiffs reserve the right to redefine the above Class and add additional subclasses as appropriate based on investigation, discovery, and the specific theories of liability.

27. There is a well-defined community of interest in the litigation and the class is readily ascertainable:

(a) Numerosity: Upon information and belief, the members of the class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. After the IPO, FACEBOOK's shares were actively traded on the NASDAQ Stock Exchange (the "NASDAQ"). While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery. Plaintiffs believe that there are at least thousands of members of the proposed Class. Record owners and other members of the Class may be identified from records maintained by FACEBOOK or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar and customarily used in securities class actions.

(b) Typicality: Plaintiffs' claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants'

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1 violations of the securities laws complained of herein. Plaintiffs and the
2 other members of the Class, by virtue of their purchases of shares of
3 FACEBOOK on or pursuant to the IPO, have sustained damages as a result of
4 the Defendants' unlawful activities as alleged herein.

5 (c) Adequacy: Plaintiffs are qualified to, and will fairly and adequately protect
6 the interests of each class member with whom they have a well-defined
7 community of interest and typicality of claims, as demonstrated herein.
8 Plaintiffs have retained competent counsel experienced in complex litigation
9 to further ensure such protection, and intend to prosecute this action
10 vigorously.

11 (d) Superiority: The nature of this action makes the use of class action
12 adjudication superior to other methods. A class action will achieve
13 economies of time, effort and expenses as compared with separate lawsuits,
14 and will avoid inconsistent outcomes because the same issues can be
15 adjudicated in the same manner and at the same time for the entire class.

16 (e) Public Policy Considerations: The majority of the proposed class members
17 would not know the information that Defendants withheld and only disclosed
18 to certain underwriters. In addition, even if the proposed class members
19 discovered that information was not disclosed to them, they have little
20 incentive to pursue an action for injunctive relief or damages because of the
21 relatively low individual amounts at stake and the complex nature of
22 securities litigation. Obtaining representation would be difficult for the same
23 reason. A class action however provides the necessary incentives and allows
24 all class members to obtain relief at once.
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28. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members, including but not limited to:
- (a) Whether Defendants violated the 1933 Securities Act as alleged;
 - (b) Whether the Registration Statement and Prospectus contained untrue statements of material facts about FACEBOOK and/or misrepresented material facts about the business, operations and prospects of FACEBOOK; and
 - (c) Whether the members of the Class have sustained damages and, if so, what is the proper measure thereof.

PLAINTIFFS' FACTS

29. On or about May 18, 2012 Plaintiff Kevin Hicks purchased 600 shares of FACEBOOK IPO stock at issue in this complaint.
30. On or about May 18, 2012 Plaintiff Linh Luu purchased 2,000 shares of FACEBOOK IPO stock at issue in this complaint.
31. As a result of Defendants' violations set forth in this complaint, Plaintiffs suffered thousands of dollars in damages.

FACTUAL ALLEGATIONS

32. Defendant FACEBOOK owns and operates FACEBOOK, a social networking service and website launched in February 2004. FACEBOOK was founded by Defendant Zuckerberg along with other Harvard classmates. Between 2004 and 2012, FACEBOOK accumulated approximately 900 million active users (MAUs) and 526 million daily active users (DAUs) who advertisers can theoretically engage with using. In some instances, information users have chosen to share with FACEBOOK, including their age, location, gender and interests. For the year ended December 31, 2011, FACEBOOK generated revenues of \$3.7 billion and net income of \$1 billion.

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For the quarter ending in March 31, 2012, FACEBOOK generated revenues of \$1 billion and earned net income of \$205 million.

33. On May 16, 2012, FACEBOOK filed with the Securities and Exchange Commission ("SEC") a Form S-1/A Registration Statement (the "Registration Statement") for the IPO. Two days later, on May 18, 2012, the IPO prospectus (the "Prospectus"), which contains the Registration Statement, became effective and 421 million shares of FACEBOOK common stock were sold to the public at \$38.00 per share, thereby valuing the total size of the IPO at more than \$16 billion, and FACEBOOK at \$101 billion.

34. The Registration Statement and Prospectus contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading and were not prepared in accordance with the rules and regulations governing their preparation.

35. With regards to the Company's expectations for the second quarter of 2012, the Registration Statement and Prospectus stated, in pertinent part, as follows:

Based upon our experience in the second quarter of 2012 to date, the trend we saw in the first quarter of [daily active users] increasing more rapidly than the increase in number of ads delivered has continued. We believe that this trend is driven in part by increased usage of Facebook on mobile devices where we have only recently begun showing an immaterial number of sponsored stories in News Feed, and in part due to certain pages having fewer ads per page as a result of product decisions.

36. In describing the risks related to Facebook's business and industry, the Registration Statement purported to warn that the Company's revenues could be negatively affected by the rate of growth in mobile users of its site or application ("app"). The Registration Statement and Prospectus state in pertinent part as follows:

Growth in use of Facebook through our mobile products, where our ability to monetize is unproven, as a substitute for use on personal computers may negatively affect our revenue and financial results.

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1 We had 488 million [monthly active users] who used Facebook mobile
2 products in March 012. While most of our mobile users also access Facebook
3 through personal computers, we anticipate that the rate of growth in mobile
4 usage will exceed the growth in usage through personal computers for the
5 foreseeable future, in part due to our focus on developing mobile products to
6 encourage mobile usage of Facebook. We have historically not shown ads to
7 users accessing Facebook through mobile apps or our mobile website. In
8 March 2012, we began to include sponsored stories in users' mobile News
9 Feeds. However, we do not currently directly generate any meaningful
10 revenue from the use of Facebook mobile products, and our ability to do so
11 successfully is unproven. We believe this increased usage of Facebook on
12 mobile devices, has contributed to the recent trend of our daily active users
13 (DAUs) increasing more rapidly than the increase in the number of ads
14 delivered. If users increasingly access Facebook mobile products as a
15 substitute for access through personal computers, and if we are unable to
16 successfully implement monetization strategies for our mobile users,
17 or if we incur excessive expenses in this effort, our financial performance and
18 ability to grow revenue would be negatively affected.

- 19 37. The registration Statement and Prospectus also purported to warn investors that the
20 Company's revenues from advertising could be adversely affected by, among other
21 things, the "increased user access to and engagement with FACEBOOK through
22 mobile devices. In that regard, the Registration Statement and Prospectus stated in
23 pertinent part as follows:

24 *We generate a substantial majority of our revenue from advertising.
25 The loss of advertisers, or reduction in spending by advertisers with
26 Facebook, could seriously harm our business.*

27 The substantial majority of our revenue is currently generated from third
28 parties advertising on Facebook. In 2009, 2010, and 2011 and the first
quarter of 2011 and 2012, advertising accounted for 98%, 95%, 85%, 87%
and 82%, respectively, of our revenue. As is common in the industry,
our advertisers typically do not have long-term advertising commitments
with us. Many of our advertisers spend only a relatively small portion of
their overall advertising budget with us. In addition, advertisers may view
some of our products, such as sponsored stories and ads with social context,
as experimental and unproven. Advertisers will not continue to do business
with us, or they will reduce the prices they are willing to pay to advertise
with us, if we do not deliver ads and other commercial content in an
effective manner, or if they do not believe that their investment in
advertising with us will generate a competitive return relative to other
alternatives. Our advertising revenue could be adversely affected by a
number of other factors, including:

- Decreases in user engagement, including time spent on Facebook;
- Increased user access to and engagement with Facebook through our mobile products, where we do not currently directly generate meaningful revenue, particularly to the extent that mobile

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1 engagement is substituted for engagement with Facebook on
2 personal computers where we monetize usage by displaying ads and
3 other commercial content;

- 4 • Product changes or inventory management decisions we may make
5 that reduce the size, frequency, or relative prominence of ads and
6 other commercial content displayed on Facebook;
- 7 • Our inability to improve our analytics and measurement solutions
8 that demonstrate the value of our ads and other commercial content;
- 9 • Decisions by advertisers to use our free products, such as Facebook
10 Pages, instead of advertising on Facebook;
- 11 • Loss of advertising market share to our competitors;
- 12 • Adverse legal developments relating to advertising, including
13 legislative and regulatory developments and developments in
14 litigation;
- 15 • Adverse media reports or other negative publicity involving us, our
16 Platform developers, or other companies in our industry;
- 17 • Our inability to create new products that sustain or increase the value
18 of our ads and other commercial content;
- 19 • The degree to which users opt out of social ads or otherwise limit the
20 potential audience of commercial content;
- 21 • Changes in the way online advertising is priced;
- 22 • The impact of new technologies that could block or obscure the
23 display of our ads and other commercial content; and
- 24 • The impact of macroeconomic conditions and conditions in the
25 advertising industry in general.

26 The occurrence of any of these or other factors could result in a
27 reduction in demand for our ads and other commercial content, which
28 may reduce the prices we receive for our ads and other commercial
content, or cause advertisers to stop advertising with us altogether,
either of which would negatively affect our revenue and financial
results.

*Growth in use of Facebook through our mobile products, where
our ability to monetize is unproven, as a substitute for use on
personal computers may negatively affect our revenue and
financial results.*

We had 488 million MAU's who used Facebook mobile products in
March 2012. While most of our mobile users also access Facebook
through personal computers, we anticipate that the rate of growth in
mobile usage will exceed the growth in usage through personal
computers for the foreseeable future, in part due to our focus on
developing mobile products to encourage mobile usage of Facebook.
We have historically not shown ads to users accessing Facebook
through mobile apps or our mobile website. In March 2012, we began
to include sponsored stories in users' mobile News Feeds. However,
we do not currently directly generate any meaningful revenue from
the use of Facebook mobile products, and our ability to do so
successfully is unproven. We believe this increased usage of Facebook
on mobile devices has contributed to the recent trend of our daily
active users (DAUs) increasing more rapidly than the increase in the

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1 number of ads delivered. If users increasingly access Facebook mobile
2 products as a substitute for access through personal computers, and if
3 we are unable to successfully implement monetization strategies for
4 our mobile users, or if we incur excessive expenses in this effort, our
5 financial performance and ability to grow revenue would be negatively
6 affected.

*Facebook user growth and engagement on mobile devices depend
upon effective operation with mobile operating systems,
networks, and standards that we do not control.*

7 There is no guarantee that popular mobile devices will continue to
8 feather Facebook, or that mobile device users will continue to use
9 Facebook rather than competing products. We are dependent on the
10 interoperability of Facebook with popular mobile operating systems
11 that we do not control, such as Android and IOS, and any changes in
12 such systems that degrade our products' functionality or give
13 preferential treatment to competitive products could adversely affect
14 Facebook usage on mobile devices. Additionally, in order to deliver
15 high quality mobile products, it is important that our products work
16 well with a range of mobile technologies, systems, networks, and
17 standards that we do not control. We may not be successful in
18 developing relationships with key participants in the mobile industry
19 or in developing products that operate effectively with these
20 technologies, systems, networks, or standards. In the event that it is
21 more difficult for our users to access and use Facebook on their mobile
22 devices, or if our users choose not to access or use Facebook on their
23 mobile devices or use mobile products that do not offer access to
24 Facebook, our user growth and user engagement could be harmed.

- 25 38. The statements referenced above in ¶¶79-81 were untrue statements of material
26 fact. The true facts at the time of the IPO were that FACEBOOK was then
27 experiencing a severe and pronounced reduction in the rate of revenue growth due
28 to an increase of users of its FACEBOOK app or website through mobile devices
rather than a traditional PC such that the Company told the Underwriter Defendants
to materially lower their revenue forecasts for 2012. Defendants also failed to
disclose that during the road show conducted in connection with the IPO, certain of
the Underwriter Defendants were told by FACEBOOK to reduce their second quarter
and full year 2012 performance estimates for FACEBOOK. This information was
material and not shared with all FACEBOOK investors, but rather, was selectively

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disclosed by defendants to certain preferred investors and omitted from the Registration Statement and/or Prospectus.

39. On May 22, 2012, in an article entitled "Insight: Morgan Stanley cut FACEBOOK estimates just before IPO." Reuters reported that FACEBOOK'S lead underwriters, Morgan Stanley, JP Morgan and Goldman Sachs, all cut their earnings forecasts for the Company in the middle of the IPO road show and that only a handful of preferred investor clients were told the news of the reduction. In that regard, the article states, in pertinent part as follows:

In the run-up to Facebook's \$16 billion IPO, Morgan Stanley, the lead underwriter on the deal, unexpectedly delivered some negative news to major clients: The bank's consumer Internet analyst, Scott Devitt, was reducing his revenue forecasts for the company.

The sudden caution very close to the huge initial public offering, and while an investor road show was underway, was a big shock to some, said two investors who were advised of the revised forecast.

They say it may have contributed to the weak performance of Facebook shares, which sank on Monday - their second day of trading to end 10 percent below the IPO price. The \$38.00 per share IPO price valued Facebook at \$104 billion.

The change in Morgan Stanley's estimates came on the heels of Facebook's filing of an amended prospectus with the U.S. Securities and Exchange Commission (SEC), in which the company expressed caution about revenue growth due to a rapid shift by users to mobile devices. Mobile advertising to date is less lucrative than advertising on a desktop.

"This was done during the road show - I've never seen that before in 10 years," said a source at a mutual fund firm who was among those called by Morgan Stanley.

JP Morgan Chase and Goldman Sachs, which were also major underwriters on the IPO but had lesser roles than Morgan Stanley, also revised their estimates in response to Facebook's May 9 SEC filing, according to sources familiar with the situation.

Morgan Stanley declined to comment and Devitt did not return a phone message seeking comment. JP Morgan and Goldman both declined to comment.

Typically, the underwriter of an IPO wants to paint as positive a picture as possible for prospective investors. Investment bank analysts, on the other hand, are required to operate independently of the bankers, and salesmen who are marketing stocks - that was

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stipulated in a settlement by major banks with regulators following a scandal over tainted stock research during the dotcom boom.

The people familiar with the revised Morgan Stanley projections said Devitt cut his revenue estimate for the current second quarter significantly, and also cut his full-year 2012 revenue forecast. Devitt's precise estimates could not be immediately verified.

"That Declaration freaked a lot of people out," said one of the investors.

Scott Sweet, senior managing partner at the research firm IPO Boutique, said he was also aware of the reduced estimates.

"They definitely lowered their numbers and there was some concern about that," he said. "My biggest hedge fund client told me they lowered their numbers right around mid-roadshow."

That client, he said, still bought the issue but "flipped his IPO allocation and went short on the first day."

"VERY UNUSUAL"

Sweet said analysts at firms that are not underwriting IPOs often change forecasts at such times. However, he said it is unusual for analysts at lead underwriters to make such changes so close to the IPO.

"That would be very, very unusual for a book runner to do that," he said.

The lower revenue projection came shortly before the IPO was priced at \$38.00 a share, the high end of an already upwardly revised projected range of \$34-\$38, and before Facebook increased the number of shares being sold by 25 percent.

The much-anticipated IPO has performed far below expectations, with the shares barely staying above the \$38.00 offer price on their Friday debut and then plunging on Monday.

Companies do not make their own financial forecasts prior to an IPO, and underwriters are generally barred from issuing recommendations on the stock until 40 days after it begins trading. Analysts often rely on guidance from the company in building their forecasts, but companies doing IPOs are not permitted to give out material information that is not available to all investors.

Institutions and major clients generally enjoy quick access to investment bank research, while retail clients in many cases only get it later. It is unclear whether Morgan Stanley only told its top clients about the revised view or spread the word more broadly. The firm declined to comment when asked who was told about the research.

"It's very rare to cut forecasts in the middle of the IPO process," said an official with a hedge fund firm who received a call from Morgan Stanley about the revision.

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2 40. Also on May 22, 2012, in an article entitled "EXCLUSIVE: Here's The Inside Story Of
3 What Happened On The FACEBOOK IPO" reported at
4 [http://www.businessinsider.com/exclusive-heres-the-inside-story-of-what--](http://www.businessinsider.com/exclusive-heres-the-inside-story-of-what--happened-on-the-FACEBOOK-Ipo-2012-5#ixzzlvkkVbdmb)
5 [happened-on-the-FACEBOOK-Ipo-2012-5#ixzzlvkkVbdmb](http://www.businessinsider.com/exclusive-heres-the-inside-story-of-what--happened-on-the-FACEBOOK-Ipo-2012-5#ixzzlvkkVbdmb), Henry Blodget reported
6 more details based on interviews conducted by he and his staff at Business Insider
7 confirming that FACEBOOK was behind the guidance. In that regards, the article
8 stated, in pertinent part as follows:

9 In early May, as Facebook prepared to kick off its IPO roadshow, the
10 research analysts at the company's lead underwriters developed
11 financial forecasts to facilitate the marketing and pricing of the IPO.

12 Such estimates are usually developed through close collaboration
13 between the underwriters' research analysts and company
14 management. These estimates are viewed by sophisticated investors
15 as having been "blessed" by the company: They are perceived as
16 revenue and earnings targets that the company has reviewed and is
17 confident it will hit. Sophisticated investors use these estimates when
18 they are developing "bids" for the stock, as a tool with which to help
19 determine the price they are willing to pay.

20 Importantly, these estimates are not published anywhere.

21 Rather, in conjunction with industry convention, these estimates are
22 conveyed verbally to institutional investors who are considering
23 investing in the IPO.

24 (This is an absurd and unfair practice. The estimates themselves are
25 material information--the consensus of smart, well-trained analysts
26 who have worked with the company's management to develop
27 realistic forecasts. Most investors don't even know that these
28 estimates exist, let alone that they're whispered verbally to only a
handful of big investors. All potential investors should have easy
access to these estimates, as well as to any logic underlying them. The
SEC needs to change the rules here).

The same development and dissemination of estimates also happened
with Facebook.

As the Facebook roadshow began, institutional investors who were
considering investing in the stock were verbally given the
underwriters' initial estimates for the company. And, initially, there
was a lot of institutional enthusiasm for the stock.

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1 Several days later, however, on May 9th, Facebook filed an amended
2 IPO prospectus with the SEC.

3 This prospectus contained new disclosure language that had not
4 previously appeared in Facebook's SEC filings. The language was on
5 page 57 of the prospectus, in a section discussing the company's recent
6 financial and user trends:

7 *Based upon our experience in the second quarter of 2012 to date, the
8 trend we saw in the first quarter DAU's increasing more rapidly than
9 the increase in number of ads delivered has continued. We believe this
10 trend is driven in part by increased usage of Facebook on mobile
11 devices where we have only recently begun showing an immaterial
12 number of sponsored stories in News Feeds, and in part due to certain
13 pages having fewer ads per page as a result of product decisions.*

14 The appearance of this language unnerved some sophisticated
15 investors and analysts, who took it as a sign that Facebook's business
16 might have deteriorated. The language was vague, however, and it did
17 not make clear that Facebook's second quarter was weaker than
18 expected. (To infer that message from the language, you had to know
19 that Facebook's first quarter had been weak -- and that the cause had
20 been the divergence between user growth and revenue growth.)

21 Soon after Facebook amended its prospectus, all three analysts at the
22 company's lead underwriters--Morgan Stanley, JP Morgan, and
23 Goldman Sachs--cut their estimates for Facebook's Q2 and the full
24 year.

25 These estimate cuts were conveyed verbally to sophisticated
26 institutional investors.

27 And, not surprisingly, these investors viewed the estimate cuts as a
28 startling and negative development.

One important question, of course, was why all three underwriter
analysts cut their estimates?

Had they all read the new sentence in the prospectus above and
realized that the second quarter was weak? Or had they been tipped
off?

It seemed inconceivable that all three analysts could have read the
language above and concluded independently that Facebook's Q2 was
weak and therefore decided to take the highly unusual step of cutting
estimates in the middle of a company's IPO roadshow.

More likely, it seemed, someone had directed the analysts to cut their
estimates--most likely someone with inside knowledge of how
Facebook's Q2 was progressing.

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And we have now heard from one source that that is what happened.

One of the underwriter's analysts has said he was told by a Facebook financial executive to cut his estimates.

According to another source with insight into the Facebook IPO process, until the underwriters' analysts cut their estimates, demand for Facebook's stock among sophisticated institutional investors was high. Once these investors heard about the estimate cut, however, they became more cautious about the IPO.

(Again, an estimate cut like this during a roadshow would be hard to interpret as anything but negative. One institutional investor I spoke to said he has looked at more than 1,200 IPO's over the course of his career, and he has never heard of this before. This is especially true because the underwriter estimates aren't really "estimates"--they're more like company guidance.)

The estimate cut, moreover, was followed by three additional pieces of information that were interpreted negatively by some institutional investors:

- 1) The price range for the deal was increased, which made the deal even less attractive in light of the estimate cut;
- 2) The size of the deal was increased, which meant that more stock would be sold, and
- 3) Many smart institutional Facebook shareholders like Goldman Sachs decided to sell more stock on the deal--the "smart money," in other words, was cashing out.

Meanwhile, during private roadshow meetings, Facebook executives were reportedly "signaling" to some sophisticated investors that Facebook's advertising revenue would not grow as rapidly as some potential investors had hoped. Facebook's advertising business is driven primarily by company-to company sales efforts, not by the self-serve ads that drive Google's business. Facebook executives reportedly made clear to sophisticated investors that this would limit the rate at which Facebook's ad business could grow.

By the second week of the roadshow, after the estimate cut and price increase, some institutional investors became more cautious about the IPO. According to one investor who looked at the deal, institutions "got the willies" and stated to talk about paring back their stock orders.

Meanwhile, out in the real world, demand for Facebook stock was hitting a fever pitch. One senior stockbroker at a major brokerage firm reported that he "had never seen such demand" for an IPO.

These individual investors, needless to say, were not likely aware that the research analysts at the company's lead underwriters had cut their

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1 estimates for the company. They were also, presumably, unaware that
2 Facebook's Q2 was weaker than expected.

3 At the end of last week, the time came to decide on the IPO price for
4 Facebook's stock.

5 This process was handled by Facebook's lead underwriter, Morgan
6 Stanley, and Facebook executives.

7 According to one source (unconfirmed--this really is just scuttlebutt),
8 based on the book of orders submitted by both institutional and retail
9 investors, Morgan Stanley found that there were two distinct price
10 levels at which investors were interested in buying stock.

11 Institutional investors, having digested the news of the underwriter
12 estimate cut, were comfortable buying Facebook stock at \$32.00 a
13 share.

14 Retail investors, meanwhile, who were presumably unaware of the
15 estimated cut, were comfortable buying Facebook at \$40.00 a share.

16 Knowing that a big percentage of the IPO stock could be sold to retail
17 investors instead of institutional investors, Facebook and Morgan
18 Stanley decided to price the IPO at \$38.00.

19 Although the precise allocations could not be learned, a source says
20 that Morgan Stanley allocated a far larger percentage of the Facebook
21 deal to individual investors than is normally the case in an IPO like
22 this.

- 23 41. Also on May 22, 2010, Reuters' reporters Poornima Gupta and Alexei
24 Oreskovic uncovered the before-and-after FACEBOOK estimates that were verbally
25 conveyed to big investors (see below). As seen in the article, both sets of numbers
26 are carefully coordinated across the firms strongly inferring explicit direction from
27 FACEBOOK:

28 While Facebook did not provide any specifics in its amended S-1 filing,
the four underwriters reduced their earnings and revenue estimates for both
the second quarter of 2012 and the full year within the next two days,
according to sources.

The new estimates highlighted a continued slowdown in Facebook's growth,
with the banks forecasting 30.4 percent year-on-year 2012 revenue growth
on average, instead of the 36.7 percent growth previously expected. In
2011, Facebook's revenue grew 87.9 percent year-on-year to \$3.71 billion.

1 The new numbers were relayed to big investors through phone calls and
2 conference calls, according to investors. Bank of America held a
3 conference call on May 10 with analyst Justin Post, where the
4 underwriter revealed the lower estimates. Here are the detailed figures
5 from the four banks, according to one of the investors who received the
6 new numbers.

7 The New numbers were relayed to big investors through phone calls and
8 conference calls, according to investors. Bank of America held a
9 conference call on May 10 with analyst Justin Post, where the
10 underwriter revealed the lower estimates. Here are the detailed figures
11 from the four banks, according to one of the investors who received the
12 new numbers.

13 Lowered full year revenue estimate for 2012

14 Morgan Stanley -- \$4.854 bln (new) from \$5.036 bln (old)
15 Bank of America -- \$4.815 bln (new) from \$5.040 bln (old)
16 JPMorgan -- \$4.839 bln (new) from \$5.044 bln (old)
17 Goldman Sachs -- \$4.852 bln (new) from \$5.169 bln (old)

18 Lowered estimates for second-quarter 2012

19 Morgan Stanley -- \$1.111 bln (new) from \$1.175 bln (old)
20 Bank of America -- \$1.100 bln (new) from \$1.166 bln (old)
21 JPMorgan -- \$1.096 bln (new) from \$1.182 bln (old)
22 Goldman Sachs -- \$1.125 bln (new) from \$1.207 bln (old)

23 Lowered 2013 Earnings per share estimate

24 Morgan Stanley -- 83 cents (new) from 88 cents
25 Bank of America -- 64 cents (new) from 66 cents
26 JPMorgan -- 66 cents (new) from 70 cents
27 Goldman Sachs -- 63 cents (new) from 68 cents

28 There is also no way that an investor could get this information from FACEBOOK'S
IPO prospectus.

42. As a result of Defendants' materially false and misleading statements, FACEBOOK

closed just \$0.23 above the offering price on May 18, 2012, and in the days after

declined to close at \$34.03 and \$31.00 on May 21, 2012 and May 22, 2012

respectively. On Monday, June 11, 2012, FACEBOOK stock closed at \$27.01, well

below the \$38.00 price at which the company went public with its IPO.

43. As of June 12, 2012 just days before the date of the filing of this complaint, the 421

million shares of FACEBOOK Common A shares sold in the IPO are trading at \$27.40

per share, or \$10.60 per share below the price where plaintiffs and the Class

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1 purchased \$16 billion worth of FACEBOOK stock, while defendants pocketed billions
2 of dollars. Plaintiffs and the Class have suffered losses of more than \$4.5 billion since
3 the IPO.

4 **COUNT I**

5 **VIOLATIONS OF SECTION 11 OF THE 1933 SECURITIES ACT**
6 **(15 U.S.C. § 77K)**
7 **AGAINST ALL DEFENDANTS**

8 44. Plaintiffs repeat and re-allege the allegations contained in the foregoing paragraphs
9 as if set forth fully herein.

10 45. This Count is brought pursuant to Section 11 of the 1933 Securities Act, 15 U.S.C. §
11 77k, on behalf of the Class, against all Defendants.

12 46. Section 11(a) of the Securities Act, states in pertinent part:

13 In case any part of the registration statement, when such part became
14 effective, contained an untrue statement of a material fact or omitted to state
15 a material fact required to be stated therein or necessary to make the
16 statements therein not misleading, any person acquiring such security
17 (unless it is proved that at the time of such acquisition he knew of such
18 untruth or omission) may, either at law or in equity, in any court of
19 competent jurisdiction, sue -- (1) every person who signed the registration
20 statement; (2) every person who was a director of (or person performing
21 similar functions) or partner in, the issuer at the time of the filing of the part
22 of the registration statement with respect to which his liability is asserted;
23 (3) every person who, with his consent, is named in the registration
24 statement as being or about to become a director, person performing similar
25 functions or partner; (4) every accountant, engineer, or appraiser, or any
26 person whose profession gives authority to a statement made by him, who
27 has with his consent been named as having prepared or certified any part of
28 the registration statement, or as having prepared or certified any report or
valuation which is used in connection with the registration statement, with
respect to the statement in such registration statement, report, or valuation,
which purports to have been prepared or certified by him; (5) every
underwriter with respect to such security.

47. FACEBOOK is the registrant for the IPO.

48. The Registration Statement for the IPO contained untrue statements of material
facts, omitted to state other facts necessary to make the statements made not
misleading and/or omitted to state material facts required to be stated therein.

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- 1 49. The Defendants named herein were responsible for the contents and dissemination
2 of the Registration Statement.
- 3 50. As issuers of the shares, FACEBOOK is strictly liable to Plaintiffs and the Class for the
4 misstatements and omissions.
- 5 51. None of the Defendants named herein made a reasonable investigation or possessed
6 reasonable grounds for the belief that the statements contained in the Registration
7 Statement were true and without omissions of any material facts and were not
8 misleading.
- 9 52. By reasons of the conduct herein alleged, each Defendant violated, and/or controlled
10 a person who violated Section 11 of the 1933 Securities Act.
- 11 53. Plaintiffs acquired FACEBOOK shares pursuant to the Registration Statement.
- 12 54. Plaintiffs and the Class have sustained damages. The value of the FACEBOOK shares
13 has declined substantially subsequent to and due to Defendants' violations.
- 14 55. At the time of their purchases of the FACEBOOK shares, Plaintiffs and other members
15 of the Class were without knowledge of the facts concerning the untrue statements
16 or omissions herein and could not have reasonably discovered those facts prior to
17 May 22, 2012, if at all.
- 18 56. Less than one year has elapsed from the time that Plaintiffs discovered or reasonably
19 could have discovered the facts upon which this complaint is based to the time that
20 Plaintiffs filed this complaint.
- 21 57. Less than three years have elapsed between the time that FACEBOOK shares upon
22 which this Count is brought were offered to the public and the time Plaintiffs filed
23 this complaint.
- 24 58. By virtue of the foregoing, Plaintiffs and the Class are entitled to damages under
25 Section 11 as measured by the provisions of Section 11(e), from all Defendants, and
26 each of them, jointly and severally.
- 27
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COUNT II

**VIOLATION OF SECTION 12(a)(2) OF THE 1933 SECURITIES ACT
(15 U.S.C. § 77f)
AGAINST ALL DEFENDANTS**

59. Plaintiffs repeat and re-allege the allegations contained in the foregoing paragraphs as set forth fully herein.

60. This Count is brought pursuant to Section 12(a)(2) of the 1933 Securities Act, 15 U.S.C. § 77f, on behalf of the Class, against all Defendants.

61. Section 12(a) of the Securities Act, states in pertinent part:

Any person who -- (1) offers or sells a security in violation of section 5, or (2) offers or sells a security (whether or not exempted by the provisions of section 3, other than paragraphs (2) and (14) of subsection (a) thereof), by the use of any means or instruments of transportation or communication in interstate commerce or of the mails, by means of a prospectus or oral communication, which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of such untruth or omission), and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission, shall be liable, subject to subsection (b), to the person purchasing such security from him, who may sue either at law or in equity in any court of competent jurisdiction, to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if he no longer owns the security.

62. Defendants, either directly or through trusts or other entities that they control or have a beneficial interest in, offered, sold or solicited purchasers of Common A shares of FACEBOOK by means of the Prospectus and Registration Statement.

63. This prospectus and Registration Statement contained untrue statements of material facts and/or omitted to state material facts necessary in order to make the statements, in light of the circumstances under which they were made, not misleading, which statements and omissions the Defendants knew, or in the exercise of reasonable care the Defendants would have known, were false or were material

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facts which were required to be disclosed to avoid the representations which were made from being misleading.

64. Defendants owed to the purchasers of FACEBOOK'S shares, including Plaintiffs and other members of the Class, the duty to conduct a reasonable and diligent investigation of the statements contained in the IPO materials, including the Registration Statement and Prospectus, to ensure that such statements were true and that there was no omission to state a material fact required to be state in order to make the statements contained therein not misleading.

65. Had the Defendants conducted a reasonable and diligent investigation, they would have known of the misstatements and omissions contained in the IPO materials as set forth above.

66. The Defendants actively solicited the sale of FACEBOOK shares to serve their own financial interest.

67. Plaintiffs and other members of the Class purchased or otherwise acquired FACEBOOK'S shares pursuant to and/or traceable to the defective Registration Statement and Prospectus.

68. Neither Plaintiffs nor Class members knew, or in the exercise of reasonable diligence could have known, that the representations made in connection with the distribution to them by Defendants regarding the matters described above were untrue and did not know and did not know the material facts described above were not disclosed.

69. As a result of the matters set forth herein, pursuant to Section 12(a)(2) of the 1933 Securities Act, Plaintiffs and Class members are entitled to recover the consideration paid for such security with interest thereon, less the amount of any income received thereon, upon the tender of such security, or for damages if they no longer own such shares.

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- 70. Plaintiffs and putative Class members, who do not opt out, hereby tender their shares in FACEBOOK.
- 71. The Section 12 Defendants are liable to Plaintiffs and Class members pursuant to § 12(a)(2) of the Securities Act, as sellers of FACEBOOK's Class A common stock.
- 72. Pursuant the 1933 Securities Act, Plaintiffs on behalf of themselves and all other similarly situated persons, seek damages, equitable relief, attorney's fees and costs and all other available relief for Plaintiffs and class members.
- 73. This action was brought within three years from the time that the shares upon which this Count is brought were sold to the public, and within one year from the time when Plaintiffs discovered or reasonably could have discovered the facts upon which this Count is based.

PRAYER FOR RELIEF

Wherefore, Plaintiffs, and on behalf of themselves and all others similarly situated, pray for relief and judgment against Defendants, jointly and severally, as follows:

- a) Determining that this action is a proper class action under California Code of Civil Procedure Section 382;
- b) Awarding compensatory damages in favor of Plaintiffs and other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial;
- c) Awarding Plaintiffs and the Class their reasonable costs and expenses incurred in this action, including counsel fees, accounting fees, expert fees and other costs and disbursements;
- d) Awarding Plaintiffs and the Class Pre-judgment and post judgment interest;

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- e) Awarding Plaintiffs and the Class rescission or rescissory measure of damages;
- f) Awarding Plaintiffs and the Class restitutionary measure of damages;
- g) Awarding Plaintiffs and the Class punitive damages;
- h) Awarding Plaintiffs and the Class such equitable, injunctive or other relief as deemed appropriate by the Court.

JURY TRIAL DEMANDED

Plaintiffs hereby demand trial by jury.

Dated: 6/21/12

Respectfully submitted,

By 
RAJ V. ABHYANKER

By 
KUSCHA HATAMI FARD

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Facsimile: (650) 989-2131

Attorneys for Plaintiffs.

EXHIBIT A

	Name	Zip Code	Shares	Price
1.	Abdirahim Isaq	21122	250	\$40.00
2.	Alan Shawn	29650	200	\$38.00
3.	Ali Pourdad	V7T2G7	100	\$40.00
4.	Andres G. Villegas	94131	3100	\$42.00
5.	Andrew Guthart	80013	200	\$42.50
6.	Aneesah Bray-LaStrape	30328	298	\$42.00
7.	Anna Lee	94513	900	\$43.00
8.	Armand J. Addonizio	49686	300	\$40.00
9.	Ashok Goyal	95051	200	\$41.00
10.	Beatrice E. Velez	33176	200	\$40.00
11.	Bernard Schembri	19809	442	\$40.00
12.	Bartholomew H. Palo Sr.	19036	38	\$41.15
13.	Brian Kasper	60457	50	\$40.30
14.	Brian Wayland	19350	45	\$40.00
15.	Carla Leiwes	95051	700	\$40.00
16.	Charles Coelho	11793	1400	\$40.50
17.	Chris Curley	8210	52	\$38.14
18.	Chris Hannaford	30022	10	\$42.00
19.	Chris Joannou	22181	745	\$42.00
20.	Cliffard Hamilton	93907	23	\$40.00
21.	Craig Dunlde	17050	158	\$38.00
22.	Dave Slade	87120	1500	\$40.00
23.	Daver Werolin	95023	100	\$40.00
24.	David A. Oiler	77546	27	\$40.40
25.	David Dortch	90057	2	\$38.00
26.	David Gonzalez	29169	86	\$42.00
27.	David Longo	14586	60	\$42.00
28.	David Slack	19979	100	\$42.00
29.	Deborah Peters	90073	134	\$42.00
30.	Dennis Beck	11365	50	\$38.00
31.	Deronn Hasan	90045	19	\$34/32
32.	Diane Binder	80305	100	\$40.08
33.	Ebon Graham	J9H4E3	40	\$40.00
34.	Eduardo Saucedo	92648	240	\$40.00
35.	Elissa Kaye	11215	2400	\$41.00
36.	Fawad Shahid	M1B6G8	1750	\$38.01
37.	Galz Eubanks-Martin	94503	70	\$40.00
38.	Gary Huth	32068	70	\$38.01
39.	Gerad Ryan	11754	11	\$42.00
40.	Gordon Jin	94534	100	\$40.10
41.	Gregory Gonzales	96002	150	\$40.00
42.	Hanh Nguyen	77498	1000	\$40.00
43.	Sidney Morgan Chatman	32514	1250	\$40.00
44.	Isaac Chaaya Moghrabi	11223	440	\$40.00

45.	Jack & Kerri Ditmars	72104	1500	\$40.00
46.	Jack Dean Galindo	91205	100	\$42.00
47.	Jack Ohlrich	32955	100	\$40.00
48.	James A. Cameron	3839	20	\$40.60
49.	James H. Dawson	46163	300	\$40.12
50.	Jamona Ketton	30088	100	\$38.00
51.	Jason David Knight	85718	1800	\$40.00
52.	Jason Van Haselen	79922	11	\$39.85
53.	Jiantao Huang	94040	1250	\$38.03
54.	Jim Wall	V5C2X7	200	\$40.05
55.	Johnathan Jenkins	97501	63	\$40/38
56.	Johnnie Johnson	48221	70	\$38.00
57.	Jorge R Colon	19152	365	\$40.00
58.	Jordan Harris	30328	30	\$41.00
59.	Joseph Mirabile	48038	500	\$40.00
60.	Kamran Nikbakhk-Tali	95746	300	\$38.00
61.	Keith Gordon	29414	750	\$42.00
62.	Kenneth Hayes	97225	800	\$40.50
63.	Kevin Nutt	80207	20	\$40.00
64.	Kevin Hicks	94960	600	\$42.00
65.	Lauren Jenkins	97501	25	\$40.90
66.	Leroy Eifler	85353	400	\$42.00
67.	Louis Guariglia	06468	1000	\$39.00
68.	Magnus Nyemah	7106	25	\$40.00
69.	Marine Chelepyan	91501	290	\$40.00
70.	Mario Carmosino	80528	10500	\$40.05
71.	Mark Noronha	94087	50	\$41.00
72.	Mary Rose	27609	35	\$38.23
73.	Marvin Burdette	29646	200	\$38.00
74.	Mobit Mittal	94043	50	\$40.00
75.	Niels Goldstein	21784	430	\$38.05
76.	Nick Malone	8083	100	\$42.00
77.	Norman Pawloski	30312	100	\$40.00
78.	Ovesp Chelepyan	91501	150	\$40.38
79.	Paul O'Sullivan	15227	250	\$48.00
80.	Paul R. D'Amato	70503	100	\$42.00
81.	Preeti Dave	95132	1000	\$40.50
82.	Ramesh Bollina	20171	120	\$38.14
83.	Randolph Ott	77510	90	\$42.00
84.	Randall K. Stapelton	62985	53	\$43.00
85.	Raymond Heenan	50220	2250	\$42.00
86.	Richard D. Freeman	6830	75	\$38.00
87.	Rick Hofsheier	97132	8	\$40.00
88.	Richard H. Vader	44130	10	\$40.00
89.	Robert Allen Masterz	95688	1000	\$40.00
90.	Robert Friedman	33458	1190	\$42.00

91.	Robert Salmons	95008	250	\$38.61
92.	Robert W. Shemanski	11581	131	\$38.00
93.	Ron Kartchner	30019	35	\$38.00
94.	Ron Stroschein	60657	27	\$40.00
95.	Ronald Castillo	77407	180	\$38.00
96.	Rosie Harris	48223	30	\$40.00
97.	Ron Kartchner	30019	35	\$38.00
98.	Sam Cracchiolo Jr.	33437	2100	\$38.50
99.	Sam Jomaa	78945	1300	\$38.00
100.	Satish Shetty	98052	300	\$38.00
101.	Scott MacAllister	99352	250	\$40.00
102.	Shakir Zaman	99352	130	\$42/38
103.	Siamak Broomand	94523	400	\$42.00
104.	Steven P. Hershman	2143	70	\$40.25
105.	Steven P. Pickworth	29063	150	\$39.00
106.	Sue Chen	95014	198	\$39.99
107.	Swiatoslaw Kuziw	7082	16756	\$38.00
108.	Teri Button	50125	40	\$41.00
109.	Thomas Lee	7922	1500	\$39.72
110.	Timothy S Kern	17408	20	\$42.00
111.	Troy G. Marcroft	95540	11	\$40.00
112.	William Lee	30039	20	\$42.00
113.	Yang Cao	94604	200	\$38.00
114.	William Carl Mullins	75028	100	\$38.00
115.	Michael J. Empel	48188	471	\$40.00
116.	Irena Winter	94025	24	\$41.00
117.	Raminder Uppal	V3M6X3	1000	\$39.00
118.	Bill Wrede	07945	1000	\$38.00
119.	Anthony Rodarte	78703	1184	\$38.00
120.	Charles Stermer	95120	2000	\$40.00
121.	Eddie Bell	89434	100	\$38.01
122.	Eric Gufford	08816	500	\$40.18
123.	Katalin Gufford	08816	500	\$40.18
124.	Frank Veraldi	11354	220	\$42.00
125.	Harkesh Johal	91501	200	\$38.00
126.	Harold Muxlow	34287	50	\$40.12
127.	Jeb Long	91011	200	\$42.50
128.	John Henson	83202	1000	\$40.50
129.	Mark E. Bruck	2809	511	\$41.00
130.	Mary Mann	30354	28	\$38.00
131.	Mei We	94063	4700	\$41.08
132.	Nadim Thomas	48314	630	\$38.58
133.	Robert Cassilas	77407	180	\$38.00
134.	Shawn H. O'Day	22306	60	\$40.00
135.	Yolanda Glover	48089	125	\$39.48

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Raj Abhyankar P.C. Kuscha Hatami Fard, CA SBA 282954 1580 W. El Camion Real #13, Mountain View CA. 94040		FOR COURT USE ONLY <div style="font-size: 24pt; font-weight: bold; text-align: center;">RECEIVED</div> <div style="font-size: 18pt; font-weight: bold; text-align: center;">JUN 22 2012</div> <div style="font-size: 10pt; text-align: center;">CLERK OF THE SUPERIOR COURT SAN MATEO COUNTY</div>
TELEPHONE NO.: 650-965-8731 FAX NO.: 650-989-2131 ATTORNEY FOR (Name): Kevin Hicks, Linh Luu, & Others Similarly Situated		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: Hall of Justice and Records MAILING ADDRESS: 400 County Center CITY AND ZIP CODE: Redwood City, CA. 94063 BRANCH NAME: Southern Branch		
CASE NAME: Kevin Hicks & Linh Luu v. Facebook Inc. <i>J MORGAN STANLEY & CO. LLC</i>		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: <div style="font-size: 24pt; font-weight: bold;">CIV 51 4772</div>
		JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<input type="checkbox"/> Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/WD (23) Non-PIP/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (18) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) .. <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input checked="" type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|---|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input checked="" type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 6-21-12
Kuscha Hatami Fard
(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (08)	Antitrust/Trade Regulation (03)
Uninsured Motorist (48) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)	Breach of Rental/Lease	Construction Defect (10)
	Contract (not unlawful detainer or wrongful eviction)	Claims Involving Mass Tort (40)
	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Securities Litigation (28)
Other P/DP/DWD (Personal Injury/Property Damage/Wrongful Death) Tort	Negligent Breach of Contract/Warranty	Environmental/Toxic Tort (30)
Asbestos (04)	Other Breach of Contract/Warranty	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Asbestos Property Damage	Collections (e.g., money owed, open book accounts) (09)	Enforcement of Judgment
Asbestos Personal Injury/Wrongful Death	Collection Case—Seller Plaintiff	Enforcement of Judgment (20)
Product Liability (not asbestos or toxic/environmental) (24)	Other Promissory Note/Collections Case	Abstract of Judgment (Out of County)
Medical Malpractice (45)	Insurance Coverage (not provisionally complex) (18)	Confession of Judgment (non-domestic relations)
Medical Malpractice—Physicians & Surgeons	Auto Subrogation	Sister State Judgment
Other Professional Health Care Malpractice	Other Coverage	Administrative Agency Award (not unpaid taxes)
Other P/DP/DWD (23)	Other Contract (37)	Petition/Certification of Entry of Judgment on Unpaid Taxes
Premises Liability (e.g., slip and fall)	Contractual Fraud	Other Enforcement of Judgment Case
Intentional Bodily Injury/DP/DWD (e.g., assault, vandalism)	Other Contract Dispute	Miscellaneous Civil Complaint
Intentional Infliction of Emotional Distress	Real Property	RICO (27)
Negligent Infliction of Emotional Distress	Eminent Domain/Inverse Condemnation (14)	Other Complaint (not specified above) (42)
Other P/DP/DWD	Wrongful Eviction (33)	Declaratory Relief Only
Non-P/DP/DWD (Other) Tort	Other Real Property (e.g., quiet title) (26)	Injunctive Relief Only (non-harassment)
Business Tort/Unfair Business Practice (07)	Writ of Possession of Real Property	Mechanics Lien
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Mortgage Foreclosure	Other Commercial Complaint Case (non-tort/non-complex)
Defamation (e.g., slander, libel) (13)	Quiet Title	Other Civil Complaint (non-tort/non-complex)
Fraud (16)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Miscellaneous Civil Petition
Intellectual Property (19)	Unlawful Detainer	Partnership and Corporate Governance (21)
Professional Negligence (25)	Commercial (31)	Other Petition (not specified above) (43)
Legal Malpractice	Residential (32)	Civil Harassment
Other Professional Malpractice (not medical or legal)	Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)	Workplace Violence
Other Non-P/DP/DWD Tort (35)	Judicial Review	Elder/Dependent Adult Abuse
Employment	Asset Forfeiture (05)	Election Contest
Wrongful Termination (36)	Petition Re: Arbitration Award (11)	Petition for Name Change
Other Employment (15)	Writ of Mandate (02)	Petition for Relief From Late Claim
	Writ—Administrative Mandamus	Other Civil Petition
	Writ—Mandamus on Limited Court Case Matter	
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Raj Abhyanker P.C. Kuscha Hatami Fard, CA SBA 282954 1580 W. El Camino Real #13, Mountain View CA. 94040 TELEPHONE NO: 650-965-8731 FAX NO. (Optional): 650-989-2131 E-MAIL ADDRESS (Optional): kuscha@legalforcelaw.com ATTORNEY FOR (Name): Kevin Hicks, Linh Luu & Others Similarly Situated</p>	<p>FOR COURT USE ONLY</p> <p>ENDORSED FILED SAN MATEO COUNTY</p> <p>JUN 22 2012</p> <p>Clerk of the Superior Court By <u>Rebecca Krill</u> DEPUTY CLERK</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: Hall of Justice and Records MAILING ADDRESS: 400 County Center CITY AND ZIP CODE: Redwood City, CA. 94063 BRANCH NAME: Southern Branch</p>	<p>CASE NUMBER: CIV 51 4772</p> <p>JUDICIAL OFFICER:</p>
<p>PLAINTIFF/PETITIONER: Kevin Hicks, Linh Luu et al</p> <p>DEFENDANT/RESPONDENT: Facebook Inc., MORGAN STANLEY & CO. LLC</p>	<p>DEPT:</p>
<p>NOTICE OF RELATED CASE</p>	

Identify, in chronological order according to date of filing, all cases related to the case referenced above.

1. a. Title: **Darryl Lazar vs. Facebook, Inc. et al**
- b. Case number: **CIV 514065**
- c. Court: same as above
 other state or federal court (name and address):
- d. Department: **Civil**
- e. Case type: limited civil unlimited civil probate family law other (specify):
- f. Filing date: **05/22/2012**
- g. Has this case been designated or determined as "complex?" Yes No
- h. Relationship of this case to the case referenced above (check all that apply):
 - involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 1h
- i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment
2. a. Title: **Matthew Pilgram vs. Facebook Inc. et al**
- b. Case number: **CIV514111**
- c. Court: same as above
 other state or federal court (name and address):
- d. Department: **Civil**

BY FAX

PLAINTIFF/PETITIONER: Kevin Hicks, Lingham et al DEFENDANT/RESPONDENT: Facebook Inc.	CASE NUMBER:
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2. (continued)

- e. Case type: limited civil unlimited civil probate family law other (specify):
- f. Filing date: 05/23/2012
- g. Has this case been designated or determined as "complex?" Yes No
- h. Relationship of this case to the case referenced above (check all that apply):
 - involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - involves claims against, title to, possession of, or damages to the same property.
 - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 2h
- i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment

3. a. Title: Jennifer Stokes vs. Facebook Inc. et al

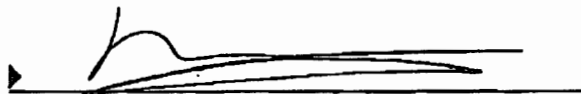
- b. Case number: CIV514107
- c. Court: same as above
 other state or federal court (name and address):
- d. Department: Civil
- e. Case type: limited civil unlimited civil probate family law other (specify):
- f. Filing date: 05/23/2012
- g. Has this case been designated or determined as "complex?" Yes No
- h. Relationship of this case to the case referenced above (check all that apply):
 - Involves the same parties and is based on the same or similar claims.
 - arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 - Additional explanation is attached in attachment 3h
- i. Status of case:
 - pending
 - dismissed with without prejudice
 - disposed of by judgment

4. Additional related cases are described in Attachment 4. Number of pages attached: _____

Date: 6/21/2012

Kosha Hatami Ford

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)



(SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF/PETITIONER: Kevin Hicks, Lingsh Luu et al	CASE NUMBER:
DEFENDANT/RESPONDENT: Facebook Inc.	

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF RELATED CASE**

(NOTE: You cannot serve the Notice of Related Case if you are a party in the action. The person who served the notice must complete this proof of service. The notice must be served on all known parties in each related action or proceeding.)

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:

 2. I served a copy of the *Notice of Related Case* by enclosing it in a sealed envelope with first-class postage fully prepaid and *(check one)*:
 - a. deposited the sealed envelope with the United States Postal Service.
 - b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

 3. The *Notice of Related Case* was mailed:
 - a. on *(date)*:
 - b. from *(city and state)*:

 4. The envelope was addressed and mailed as follows:

<ol style="list-style-type: none"> a. Name of person served: Street address: City: State and zip code: b. Name of person served: Street address: City: State and zip code: 	<ol style="list-style-type: none"> c. Name of person served: Street address: City: State and zip code: d. Name of person served: Street address: City: State and zip code:
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- Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)

ATTACHMENT 4

5. a) Title: Jeff Offner v. Facebook Inc.
b) Case Number: 12-2666
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 05/23/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
6. a) Title: Michael Sptaz v. Facebook Inc.
b) Case Number: 12-2662
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 05/23/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending

7. a) Title: James Chang v. Facebook
b) Case Number: 12-2680
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 05/24/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
8. a) Title: Edward H Shierry v Facebook
b) Case Number: CIV514172
c) Court: Same as above
d) Department: Civil
e) Case type: Unlimited Civil
f) Filing Date: 05/25/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
9. a) Title: Vernon R Demois Jr. vs. Facebook
b) Case Number: CIV514163
c) Court: Same as above
d) Department: Civil
e) Case type: Unlimited Civil
f) Filing Date: 05/25/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.

- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

10. a) Title: Elbita Alfonso
 b) Case Number: CIV514171
 c) Court: Same as above
 d) Department: Civil
 e) Case type: Unlimited Civil
 f) Filing Date: 5/25/2012
 g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

11. a) Title: Michael Lieber
 b) Case Number: CIV514193
 c) Court: Same as above
 d) Department: Civil
 e) Case type: Unlimited Civil
 f) Filing Date: 05/29/2012
 g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

12. a) Title: Hal Hubuschman et al v. Mark Zuckerberg, et al
b) Case Number: CIV514237
c) Court: Same as above
d) Department: Civil
e) Case type: Unlimited Civil
f) Filing Date: 05/30/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
13. a) Title: Karen Cuker et al vs. Facebook, Inc, et al
b) Case Number: CIV514238
c) Court: Same as above
d) Department: Civil
e) Case type: Unlimited Civil
f) Filing Date: 05/30/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
14. a) Title: Harvey Lapin vs. Facebook Inc et al
b) Case Number: CIV514240
c) Court: Same as above
d) Department: Civil
e) Case type: Unlimited Civil
f) Filing Date: 05/30/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.

- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

15. a) Title: William Cole vs. Mark Zuckerberg et al

b) Case Number: CIVB514327

c) Court: Same as above

d) Department: Civil

e) Case type: Unlimited Civil

f) Filing Date: 05/31/2012

g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

16. a) Title: John Gregory v. Facebook Inc.

b) Case Number: 12-2815

c) Court: Northern District of California.

d) Department: Civil

e) Case type: Securities Class Action

f) Filing Date: 06/01/2012

g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

17. a) Title: Jennifer Stokes v. Facebook Inc.

b) Case Number: 12-3203

c) Court: Northern District of California.

d) Department: Civil

e) Case type: Securities Class Action

f) Filing Date: 06/20/2012

g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

18. a) Title: Michael Lieber v Facebook Inc

b) Case Number: 12-3202

c) Court: Northern District of California.

d) Department: Civil

e) Case type: Securities Class Action

f) Filing Date: 06/20/2012

g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

19. a) Title: Karen Cuker v. Facebook Inc.

b) Case Number: 12-3201

c) Court: Northern District of California.

d) Department: Civil

e) Case type: Securities Class Action

f) Filing Date: 06/20/2012

g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

20. a) Title: Edward Sherry v. Facebook Inc.
b) Case Number: 12-3200
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 06/20/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
21. a) Title: Darryl Lazar v. Facebook Inc
b) Case Number: 12-3199
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 06/20/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.i) Status of Case: Pending
22. a) Title: Elbita Alfonso
b) Case Number: 12-3198
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 06/20/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.

- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

23. a) Title: Mathew Pilgram v Facebook Inc.
 b) Case Number: 12-3197
 c) Court: Northern District of California.
 d) Department: Civil
 e) Case type: Securities Class Action
 f) Filing Date: 06/20/2012
 g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

24. a) Title: Vernon R Demois Jr v. Facebook Inc.
 b) Case Number: 12-3196
 c) Court: Northern District of California.
 d) Department: Civil
 e) Case type: Securities Class Action
 f) Filing Date: 06/20/2012
 g) Complex?: Yes

h) Relationship:

- Involves the Same parties and is based on the same or similar claims.
- Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
- Involves claims against, title to, possession of, or damages to the same property.
- Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

i) Status of Case: Pending

25. a) Title: Harvey Lapin v. Facebook Inc.
b) Case Number: 12-3195
c) Court: Northern District of California.
d) Department: Civil
e) Case type: Securities Class Action
f) Filing Date: 06/20/2012
g) Complex?: Yes
h) Relationship:
 - Involves the Same parties and is based on the same or similar claims.
 - Arises from the same or substantially identical transactions, incidents, or events requiring substantial identical questions of law or fact.
 - Involves claims against, title to, possession of, or damages to the same property.
 - Is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
- i) Status of Case: Pending

Attorney or Party without Attorney (Name/Address) <i>Raj V. Abhejumber P.C.</i> <i>Kusela Holomi Ford</i> <i>1580 W. El Camino Real #13, Mountain View, CA 94040</i> Telephone: <i>650-465-0731</i> State Bar No.: <i>282254</i> Attorney for: <i>Kevin Hicks & Linh Lee</i>	FOR COURT USE ONLY ENDORSED FILED SAN MATEO COUNTY JUN 22 2012 Clerk of the Superior Court By <u>Rebecca Krill</u> DEPUTY CLERK Case Number CIV 51 4778
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO 400 COUNTY CENTER REDWOOD CITY, CA 94063	
Plaintiff <i>Kevin Hicks & Linh Lee & Situated</i> <i>Others Similarly</i>	
Defendant <i>Facebook Inc. & Morgan Stanley</i>	
Certificate Re Complex Case Designation	

BY FAX

This certificate must be completed and filed with your Civil Case Cover Sheet if you have checked a Complex Case designation or Counter-Designation

- In the attached Civil Case Cover Sheet, this case is being designated or counter-designated as a complex case [or as not a complex case] because at least one or more of the following boxes has been checked:

 - Box 1 – Case type that is best described as being [or not being] provisionally complex civil litigation (i.e., antitrust or trade regulation claims, construction defect claims involving many parties or structures, securities claims or investment losses involving many parties, environmental or toxic tort claims involving many parties, claims involving mass torts, or insurance coverage claims arising out of any of the foregoing claims).
 - Box 2 – Complex [or not complex] due to factors requiring exceptional judicial management
 - Box 5 – Is [or is not] a class action suit.

- This case is being so designated based upon the following supporting information [including, without limitation, a brief description of the following factors as they pertain to this particular case: (1) management of a large number of separately represented parties; (2) complexity of anticipated factual and/or legal issues; (3) numerous pretrial motions that will be time-consuming to resolve; (4) management of a large number of witnesses or a substantial amount of documentary evidence; (5) coordination with related actions

pending in one or more courts in other counties, states or countries or in a federal court;
(6) whether or not certification of a putative class action will in fact be pursued; and (7)
substantial post-judgment judicial supervision):

(2) Counsel anticipates complex legal issues (3) Counsel
expects several pre-trial motions (4) due to amount of
plaintiffs, counsel anticipates a substantial amount
of documentary evidence (5) Counsel expect similar
cases to be filed in different jurisdictions (6)
This case is a class action and counsel plans to
seek certification

(attach additional pages if necessary)

3. Based on the above-stated supporting information, there is a reasonable basis for the complex case designation or counter-designation [or noncomplex case counter-designation] being made in the attached Civil Case Cover Sheet.

I, the undersigned counsel or self-represented party, hereby certify that the above is true and correct and that I make this certification subject to the applicable provisions of California Code of Civil Procedure, Section 128.7 and/or California Rules of Professional Conduct, Rule 5-200 (B) and San Mateo County Superior Court Local Rules, Local Rule 2.30.

Dated: 6/21/12

Kusku Hatami Fard
[Type or Print Name]

[Signature]
[Signature of Party or Attorney For Party]

NOTICE OF CASE MANAGEMENT CONFERENCE

Kevin Hickey et al **ENDORSED FILED** CIV 5 14778
SAN MATEO COUNTY No. _____
Date: 11-7-12
JUN 22 2012 Time: 9:00 a.m.
By *Facebook Inc., et al* Clerk of the Superior Court
Rebecca Krill Dept. _____ on Tuesday & Thursday
DEPUTY CLERK Dept. 7 on Wednesday & Friday

You are hereby given notice of your Case Management Conference. The date, time and department have been written above.

1. In accordance with applicable California Rules of Court and Local Rules 2.3(d)1-4 and 2.3(m), you are hereby ordered to:
- a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of filing the complaint (CRC 201.7).
 - b. Serve a copy of this notice, Case Management Statement and ADR Information Sheet on all named parties in this action.
 - c. File and serve a completed Case Management Statement at least 15 days before the Case Management Conference [CRC 212(g)]. Failure to do so may result in monetary sanctions.
 - d. Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 212(f) no later than 30 days before the date set for the Case Management Conference.

2. If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order To Show Cause hearing will be at the same time as the Case Management Conference hearing. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.

- 3. Continuances of case management conferences are highly disfavored unless good cause is shown.
- 4. Parties may proceed to an appropriate dispute resolution process ("ADR") by filing a Stipulation To ADR and Proposed Order (see attached form.). If plaintiff files a Stipulation To ADR and Proposed Order electing to proceed to judicial arbitration, the Case Management Conference will be taken off the court calendar and the case will be referred to the Arbitration Administrator. If plaintiffs and defendants file a completed stipulation to another ADR process (e.g., mediation) 10 days prior to the first scheduled case management conference, the case management conference will be continued for 90 days to allow parties time to complete their ADR session. The court will notify parties of their new case management conference date.
- 5. If you have filed a default or a judgment has been entered, your case is not automatically taken off the Case Management Conference Calendar. If "Does", "Roes", etc. are named in your complaint, they must be dismissed in order to close the case. If any party is in bankruptcy, the case is stayed only as to that named party.
- 6. You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
- 7. The Case Management judge will issue orders at the conclusion of the conference that may include:
 - a. Referring parties to voluntary ADR and setting an ADR completion date;
 - b. Dismissing or severing claims or parties;
 - c. Setting a trial date.
- 8. The Case Management judge may be the trial judge in this case.

For further information regarding case management policies and procedures, see the court's website at www.sanmateocourt.org.

* Telephonic appearances at case management conferences are available by contacting CourtCall, LLC, an independent vendor, at least 5 business days prior to the scheduled conference (see attached CourtCall information).

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO STREET ADDRESS: 400 County Center MAILING ADDRESS: 400 County Center CITY AND ZIP CODE: Redwood City, CA 94063-1655 BRANCH NAME: Southern Branch	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
(Check one): <input type="checkbox"/> CASE MANAGEMENT STATEMENT <input type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)	CASE NUMBER: _____
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): _____ <input type="checkbox"/> Notice of Intent to Appear by Telephone, by (name): _____	

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. Party or parties (answer one):
 - a. This statement is submitted by party (name):
 - b. This statement is submitted jointly by parties (names):

2. Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date):
 - b. The cross-complaint, if any, was filed on (date):

3. Service (to be answered by plaintiffs and cross-complainants only)
 - a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. Description of case
 - a. Type of case in complaint cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date (indicate source and amount), estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial
The party or parties request a jury trial a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

8. Trial date

- a. The trial has been set for (date):
b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):

7. Estimated length of trial

The party or parties estimate that the trial will take (check one):

- a. days (specify number):
b. hours (short causes) (specify):

8. Trial representation (to be answered for each party)

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
b. Firm:
c. Address:
d. Telephone number:
e. E-mail address:
f. Fax number:
g. Party represented:
 Additional representation is described in Attachment 8.

9. Preference

This case is entitled to preference (specify code section):

10. Alternative dispute resolution (ADR)

- a. ADR Information package. Please note that different ADR processes are available in different courts and communities; read the ADR Information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.
- (1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
- (2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.
- b. Referral to judicial arbitration or civil action mediation (if available).
- (1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
- (2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form are willing to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (name):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (explain):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (specify):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.

- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:

- Additional cases are described in Attachment 13a.

- b. A motion to consolidate coordinate will be filed by (name party):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

15. Other motions

- The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):

16. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (describe all anticipated discovery):

<u>Party</u>	<u>Description</u>	<u>Date</u>
--------------	--------------------	-------------

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (specify):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

**CHAPTER 2. CIVIL TRIAL COURT MANAGEMENT RULES
PART 1. MANAGEMENT DUTIES**

Rule 2.2 Trial Court Management

Reference CRC, rules 3.700, 3.710-3.713, 10.900, 10.901

(Adopted, effective January 1, 2000) (Amended, effective January 1, 2007)

PART 2. CASEFLOW MANAGEMENT

Rule 2.3 New Case Management

This rule applies to all civil cases with the exception of the following: (1) juvenile court matters; (2) probate matters; (3) family law matters; and (4) civil cases which, based on subject matter, have been assigned to a judge, or to more than one judge, for all purposes. For rules applicable to these exceptions, see CRC 2.20, 2.30, 2.570-2.573, 2.585, 2.810-2.819, 2.830-2.834, 3.650, 3.700-3.735, 3.920-3.927, 3.1370, 3.1380-3.1385, 3.1590-3.1591, 3.1806, 5.590, 10.900-10.901, 10.910, 10.950-10.953.

(a) Purposes and Goals

The purposes and goals of the San Mateo Superior Court Civil Case Management System effective January 1, 1992 are:

- (1) To manage fairly and efficiently, from commencement to disposition, the processing of civil litigation.
- (2) To prepare the bench and bar for full implementation of the Trial Court Delay Reduction Act (A.B. 3820) on July 1, 1992; and
- (3) To encourage parties to agree to informal discovery early in the life of the case, to use standard form interrogatories and to promote alternative dispute resolution. Nothing in these rules is intended to prevent the parties from stipulating to an earlier intervention by the court by way of a case management conference, settlement conference or any other intervention that seems appropriate.
- (4) In accordance with Sections 3.710-3.715, 10.900, 10.901 of the California Rules of Court, Local Rule 2.3 is adopted to advance the goals of Section 68603 of the Government Code and Section 2.1 of the Standards of Judicial Administration recommended by the Judicial Council.

(b) Team concept

Beginning January 1, 1994 civil litigation will be managed primarily by a team of two program judges.

The clerk will assign the case to a program judge at the time the complaint is filed. The case shall be managed by the assigned program judge until disposition or until the case is assigned to a trial department.

(A) Time to serve may be extended for good cause: Upon ex parte application to the court, *in compliance with California Rules of Court 3.1200-3.1206*, within 60 days of the date the complaint was filed, plaintiff may obtain an extension of time to serve to a date on or before the case management conference, if good cause is shown by declaration of counsel (or plaintiff filing in propria persona). An additional extension of the time to serve (an initial extension if the application is by a cross-complainant) may be obtained upon written application to the court upon good cause shown before the prior extension has expired. The filing of a timely application for an extension will automatically extend the time to serve by five days, whether or not the application is granted.

Good cause will be found if the declaration shows that the action is filed against a defendant who is an uninsured motorist, and the plaintiff's claim is subject to an arbitration provision in plaintiff's contract of insurance. In determining good cause in other cases, the court will give due consideration to any standards, procedures and policies which have been developed in consultation with the bar of the county through the bench-bar trial court delay committee.

(B) Additional extension of time if uninsured motorist arbitration is pending. In addition to any extension of time obtained pursuant to subsection (5)(A) above, if an uninsured motorist arbitration is still pending between plaintiff and plaintiff's insurance carrier 30 days prior to the expiration of the extension, plaintiff may obtain an additional extension of time by an ex parte application supported by a declaration showing the scheduled or anticipated date of the arbitration hearing and the diligence of plaintiff in pursuing arbitration.

(C) Time to respond may be extended for good cause: Before the time to respond has expired, any party served with a complaint or cross-complaint may, with notice to all other parties in the action, make ex parte application to the court upon good cause shown for an extension of time to respond. The filing of a timely application for an extension will automatically extend the time to respond by five days, whether or not the application is granted.

(e) Case management conference

(1) Date of conference: Unless the parties stipulate in writing and the court orders that the case be earlier referred to arbitration, a case management conference will be set by the clerk at the time the complaint is filed. (Government Code 68616)

(2) Attendance at the case management conference is mandatory for all parties or their attorneys of record.

(3) Plaintiff must serve the Notice of Case Management on all parties no later than 30 calendar days before the conference, unless otherwise ordered by the Court.

(4) The Court will deem the case to be at-issue at the time of the conference (Reference: CRC 3.714(a)) absent a showing of extraordinary circumstances.

(5) The conference may be set at an earlier date by order of the Court or by written stipulation of the parties.

(6) Designation of trial counsel: Trial counsel and, except for good cause shown, back-up trial counsel, must be specified at the case management conference. If such counsel is not

specified, relief from the scheduled trial date may not be obtained based upon the ground that counsel is engaged elsewhere.

(7) Conference orders: At the initial conference, the program judge will make appropriate pre-trial orders that may include the following:

- (A) An order referring the case to arbitration, mediation or other dispute resolution process;
 - (B) An order transferring the case to the limited jurisdiction of the superior court;
 - (C) An order assigning a trial date;
 - (D) An order identifying the case as one which may be protracted and determining what special administrative and judicial attention may be appropriate, including special assignment;
 - (E) An order identifying the case as one which may be amenable to early settlement or other alternative disposition technique;
 - (F) An order of discovery; including but not limited to establishing a discovery schedule, assignment to a discovery referee, and/or establishing a discovery cut-off date;
 - (G) An order scheduling the exchange of expert witness information;
 - (H) An order assigning a mandatory settlement conference date pursuant to Local Rule 2.3(k) and 2.4; and
 - (I) Other orders to achieve the interests of justice and the timely disposition of the case.
- (8) CourtCall Telephonic Appearances
- (A) Reference CRC, Rule 3.670
 - (B) Procedure. Telephonic appearances through the use of CourtCall, an independent vendor, are permitted at case management conference hearings. A party wishing to make a telephone appearance must serve and file a Request for Telephone Appearance Form with CourtCall not less than five court days prior to the case management conference hearing. Copies of the Request for CourtCall Appearance form and accompanying information sheet are available in the Clerk's office. There is a fee to parties for each CourtCall appearance and fees are paid directly to CourtCall. CourtCall will fax confirmation of the request to parties.
 - (C) On the day of the case management conference hearing, counsel and parties appearing by CourtCall must check-in five minutes prior to the hearing. Check-in is accomplished by dialing the courtroom's dedicated toll-free teleconference number and access code that will be provided by CourtCall in the confirmation. Any attorney or party calling after the check-in period shall be considered late for the hearing and shall be treated in the same manner as if the person had personally appeared late for the hearing.

(D) At a case management conference, parties may be referred to an appropriate dispute resolution ("ADR") process (e.g., mediation, binding arbitration or neutral evaluation). If parties are referred ADR, they must redial the dedicated toll-free teleconference number immediately following their case management conference appearance and use a second CourtCall access code to telephonically appear at the ADR referral meeting with ADR staff. If a case has been referred to ADR, a party's case management conference appearance is not complete until they have also telephonically appeared at the mandatory ADR referral. If parties are referred to judicial arbitration, they do not have to appear at the ADR referral.

(f) Case Management Statement

At least 15 calendar days before the scheduled case management conference, each party shall file with the court and serve on all other parties a completed Judicial Council Case Management Statement. If the case is set for further case management conference hearing(s), all parties must file updated Case Management Statements 15 (fifteen) calendar days prior to the scheduled hearing(s).

(g) Appropriate Dispute Resolution, ADR, Policy Statement

The Court finds it is in the best interests of parties to litigation to participate in appropriate dispute resolution procedures, including but not limited to mediation, neutral evaluation, private or judicial arbitration, voluntary settlement conferences, and the use of special masters and referees. Therefore, all parties shall stipulate to, or be referred to, an appropriate form of dispute resolution before being set for trial, unless there is good cause to dispense with this requirement. Parties are encouraged to stipulate to judicial arbitration or ADR prior to the case management conference.

(h) Stipulations to Arbitration

(1) If the case is at issue, and all counsel and each party appearing in propria persona stipulate in writing to judicial arbitration prior to the case management conference, discovery will remain open following judicial arbitration. A written stipulation to judicial arbitration must be filed with the clerk and a copy immediately sent to the Master Calendar Coordinator at least 10 calendar days before the case management conference in order to avoid the need to appear at that conference. A written stipulation to arbitrate will be deemed to be without a limit as to the amount of the award unless it expressly states otherwise.

(2) It is the policy of this court to make every effort to process cases in a timely manner. Parties who elect or are ordered by the court to judicial arbitration must complete the arbitration hearing within the time frame specified by the court.

Parties who wish to continue the arbitration hearing after the jurisdictional time frame must submit a court provided form entitled "*Ex Parte Motion and Stipulation for continuance of Judicial arbitration Hearing.*" Parties can obtain a copy of the form by contacting the court's judicial arbitration administrator [See Local Rule 10.1(d)(1)]. Continuances without adequate grounds will not be considered. A case management judge will either grant or deny the request for continuance. If the request is denied, the case may be assigned a trial date. If the request is granted, the judge will impose a new deadline by which the arbitration must be completed.

(3) Parties who wish to change their election from judicial arbitration to another form of ADR must file a "Stipulation and [Proposed] Order to [Mediation, Neutral Evaluation, etc.] in Lieu of [Court-Ordered] Judicial Arbitration" with the Clerk of the Court. The Stipulation must

state that parties have: (i) notified both the judicial arbitration and ADR coordinators; (ii) cancelled the judicial arbitration hearing; (iii) scheduled the ADR session within five months of the previously scheduled judicial arbitration hearing; and (iv) stipulated to a trial date, which is not more than six months from the previously scheduled judicial arbitration hearing.

(i) Stipulations to Private ADR

(1) If a case is at issue and all counsel and each party appearing in propria persona stipulate in writing to ADR and file a completed Stipulation and Order to ADR with the clerk of the court at least ten (10) calendar days before the first scheduled case management conference, that conference shall be continued 90 days. The court shall notify all parties of the continued case management conference.

(2) If counsel and each party appearing in propria persona are unable to agree upon an appropriate ADR process, they shall appear at the case management conference.

(3) Following an appearance at a case management conference hearing, parties shall, within 21 calendar days, file a completed Stipulation to ADR and Proposed Order identifying the name of the ADR provider, date of ADR session and the names of those who will be in attendance at the ADR session. The completed Stipulation to ADR and Proposed Order shall be filed with the court by plaintiff's counsel. The parties, through counsel, if represented, shall confer with the court's Multi-Option ADR Project (M.A.P.) staff if they cannot agree on a provider. Plaintiff's counsel, shall additionally, send a copy of the completed Stipulation to the court's M.A.P. offices within the same 21-day period.

(4) All parties and counsel shall participate in the ADR process in good faith.

(5) To maintain the quality of ADR services the court requires cooperation from all parties, counsel and ADR providers in completing ADR evaluation forms, and returning these forms to the M.A.P. offices within 10 calendar days of the completion of the ADR process.

(6) ADR Program Complaint Policy If mediation session participants have a concern about the mediation process or the conduct of a mediator affiliated with the court's program, the court encourages them to speak directly with the mediator first. In accordance with California Rules of Court §3.865 et seq., parties may also address written complaints, referencing the specific Rule of Court allegedly violated, to the Court's Civil ADR Program Coordinator. (For complete complaint procedure guidelines, see court web site: www.sanmateocourt.org/adr/civil)

(7) In accordance with the Code of Civil Procedure, section 1033.5(c)(4), the court, in its discretion, may allow the prevailing party at trial the fees and expenses of the ADR provider, unless there is a contrary agreement by the parties.

(j) Setting Short Cause Matters

If the parties agree that the time estimated for trial is 5 hours or less prior to the conference, a written stipulation shall be filed at least 10 calendar days before the case management conference in order to avoid the need to appear at that conference and a copy immediately sent to the Master Calendar Coordinator. In the absence of a stipulation, either party may file a motion to have the matter designated a "short cause" and set the case accordingly. All such matters shall be presumed short cause unless the contrary is established at the hearing on the motion.

(k) Law and Motion

All law and motion matters shall be heard by the regularly assigned Law and Motion judge.

(l) Settlement Conferences

All cases not assigned to arbitration or some other dispute resolution mechanism will be assigned two settlement conference dates, the first of which will be at the earliest practicable date under the circumstances presented by the case, and the second within approximately two weeks prior to the assigned trial date.

Cases assigned to arbitration or other form of ADR may be subjected to a settlement conference prior to the arbitration or ADR process, but will be assigned to a pre-trial settlement conference ~~only if the arbitration/ADR procedure fails to resolve the case.~~

All cases which fail to resolve by the trial date will be subject to an additional settlement conference on the trial date.

All settlement conferences shall be subject to the requirements specified in Local Rule 2.4.

(m) Sanctions

Sanctions pursuant to CRC 2.30 shall be imposed for any violation of the civil case management system rules. The minimum sanction imposed shall be \$150.00 payable to the court; sanctions payable to the court may be larger where appropriate and will be in addition to appropriate attorney fees and calendar changes, including any appropriate change in calendar status of the action.

Sanctions mandated hereby may be waived by the judge conducting the conference only upon an application showing good cause why sanctions should not be imposed.

(Adopted, effective July 1, 1996)(Amended, effective January 1, 2000) (Amended, effective January 1, 2003)
(Amended effective July 1, 2003) (Amended, effective January 1, 2005)(Amended, effective January 1, 2006)
(Amended, effective January 1, 2007) (Amended, effective January 1, 2010)

Rule 2.3.1 Orders to Show Cause re: Dismissals

(a) A hearing on an order to show cause why the case should not be dismissed for failure to prosecute the matter shall be set at the two year anniversary of the filing of the complaint and/or cross-complaint.

(b) An order to show cause hearing shall be set 45 days after court's receipt of notice of settlement.

(c) An order to show cause hearing regarding dismissals may be set by the court to achieve the interests of justice and the timely disposition of the case.

(d) An order to show cause hearing re: failure to complete judicial arbitration within the court-ordered time frame may be heard during the case management calendar. Sanctions may be imposed and a trial date may be assigned.

(Adopted, effective January 1, 2000)(Amended, effective January 1, 2003)(Amended, effective January 1, 2006)

Rule 2.4 Settlement Conference

Reference: California Rule of Court, rule 3.138.

Civil Appropriate Dispute Resolution (ADR) Information Sheet Superior Court of California, San Mateo County

Appropriate Dispute Resolution (ADR) is a way of solving legal problems without going to trial. All types of disputes can be resolved through ADR. The Court encourages you to use some form of ADR before you proceed to trial. The most popular form of ADR is mediation. The Multi-Option ADR Project can help you choose the option that is best for your case and refer you to an experienced ADR provider.

What are the Advantages of Using ADR?

- ☞ **Faster** – Traditional litigation can take years to complete but ADR usually takes weeks or months.
- ☞ **Cheaper** – Parties can save on attorneys' fees and litigation costs.
- ☞ **More control & flexibility** – Parties choose the ADR process most appropriate for their case.
- ☞ **Cooperative & less stressful** – In mediation, parties cooperate to find a mutually agreeable solution to their dispute.

What are the Disadvantages of Using ADR?

- ☞ **You may go to Court anyway** – If you can't resolve your case using ADR, you may still have to spend time and money on your lawsuit.
- ☞ **Not free** – The neutrals charge fees (except in judicial arbitration), but you may qualify for financial aid.

Are There Different Kinds of ADR?

- ☞ **Mediation** – A neutral person (mediator) helps the parties communicate, clarify facts, identify legal issues, explore settlement options and agree on a solution that is acceptable to all sides.
- ☞ **Judicial Arbitration** – Is an informal hearing where a neutral person (arbitrator) reviews the evidence, hears arguments and makes a decision on your case. In non-binding judicial arbitration, parties have the right to reject the arbitrator's decision and proceed to trial. For more information regarding judicial arbitration, please see the attached sheet or call (650) 363-4896.
- ☞ **Binding Arbitration** – The parties agree ahead of time to accept the arbitrator's decision as final. Parties who choose binding arbitration give up their right to go to Court and their right to appeal the arbitrator's decision.
- ☞ **Neutral Evaluation** – A neutral person (evaluator) listens to the parties, asks them questions about their case, reviews evidence and may hear witness testimony. The evaluator helps the parties identify the most important legal issues in their case and gives them an analysis of the strengths and weaknesses of each side's case. Special neutral evaluation guidelines are available on the Court's website at www.sanmateocourt.org/adr.
- ☞ **Settlement Conference** – Although similar to mediation, the neutral (a judge) may take more control in encouraging parties to settle. Settlement conferences take place at the courthouse. All cases have a mandatory settlement conference approximately 2-3 weeks before the trial date.

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How Does Voluntary Mediation/Neutral Evaluation Work in San Mateo County?

- ☞ The person who files the lawsuit (the plaintiff) must include this ADR Information Sheet with the complaint when serving the defendants in the case.
- ☞ All the parties in your case will meet with a Judge at your first Case Management Conference (CMC), which is scheduled within 120 days of the filing of the complaint. The Judge will speak to you about your voluntary ADR options, encourage you to participate in ADR and ask you to meet with Court ADR staff.
- ☞ If you and the parties decide to use ADR, Local Rule 2.3(i)(3) states that you must file a *Stipulation and Order to ADR* with the Court Clerk's Office. This form lets the Court know both whom you have selected as your ADR neutral and the date of the ADR session.
- ☞ You and the other parties can find your own ADR neutral for the case or use a neutral who is on the Court's ADR Panel.
 - For a list of Court ADR neutrals and their resumes, visit the Court's website at www.sanmateocourt.org/adr. (Go to "Civil ADR Program," "Civil ADR Program Panelist List" and click on any provider's name.)
- ☞ If you decide to do ADR and file a *Stipulation and Order to ADR* at least 10 days before your first CMC, the Court will postpone (continue) your first CMC for 90 days to allow the parties time to resolve the case using ADR. The Clerk's Office will send you a notice with your new CMC date.
- ☞ Within 10 days of completing ADR, you and your lawyer (if you have one) must fill out either an Evaluation By Attorneys or Client Evaluation and mail or fax it to the ADR offices at: 400 County Center, Courtroom 2F, Redwood City, CA 94063; (650) 599-1754 (fax).

Do I Have to Pay to Use ADR?

- ☞ Yes. You and the other parties will pay the ADR neutral directly. However, you do not have to pay the Court for either judicial arbitration or for the mandatory settlement conference that is scheduled before your trial.
- ☞ If you expect to have difficulty paying the ADR provider's fee, ask the ADR Coordinator for a financial aid application. You will need to fill out this application to determine whether or not you qualify for financial assistance.

In San Mateo County, parties also can take their case to the community mediation organization, the Peninsula Conflict Resolution Center (PCRC), and have their case mediated by PCRC's panel of trained and experienced volunteer mediators. To learn more about programs and fees, contact PCRC's Manager of Mediation Programs at (650) 513-0330.

For more information, visit the court website at www.sanmateocourt.org/adr or contact the Multi-Option ADR Project: 400 County Center, Courtroom 2F, Redwood City, CA 94063.
(650) 599-1070, (650) 363-4148 / fax: (650) 599-1754

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Judicial Arbitration, one of the available Appropriate Dispute Resolution (ADR) options, differs from other options in that it is usually court-ordered, unless the parties agree to it.

What are the Advantages of Using Judicial Arbitration?

- ☞ *Free* - Parties do not have to pay for the arbitrator's fee.
- ☞ *Fast* - Parties are usually given 120 days from the date of the Case Management Conference (CMC) to have their case heard by the appointed arbitrator.
- ☞ *Informal* - The hearing is conducted by an arbitrator who issues an award. (Arbitrators are usually attorneys who practice or have practiced in San Mateo County.)

What are the Disadvantages of Using Judicial Arbitration?

- ☞ The award issued by the arbitrator is not always binding (unless the parties stipulated otherwise). If any party requests a trial within 30 days of the award, the award becomes void and the case continues on to trial.

How Does Judicial Arbitration Work in San Mateo County?

- ☞ During your first CMC hearing, the judge may decide to order you to judicial arbitration. You will then receive instructions and a proposed list of arbitrators in the mail.
- ☞ Parties also may agree to judicial arbitration by filing a *Stipulation and Order to ADR* form at least 10 days before the first CMC. The CMC clerk will then vacate your CMC hearing and send the case to arbitration. The parties will receive instructions and a proposed list of arbitrators in the mail.
- ☞ Parties can stipulate (agree) to an arbitrator on the Court's Judicial Arbitration Panel list. Otherwise, proposed names of arbitrators will be sent to the parties.
 - For a list of arbitrators, their resumes, and other information, visit the Court's website at www.sanmateocourt.org/adr. (Go to "Judicial Arbitration Program," "Judicial Arbitration Panelist List" and click on the arbitrator's name. To view the arbitrators by subject matter, click on "Judicial Arbitration Panelists by Subject Matter.")
- ☞ After the arbitration hearing is held and the arbitrator issues an award, the parties have 30 days to turn down/reject the award by filing a Trial de Novo (unless they have stipulated that the award would be binding).
- ☞ If the parties reject the award and request a Trial de Novo, the Court will send out notices to the parties of the Mandatory Settlement Conference date and the trial date.
- ☞ Following your arbitration hearing, you will also receive an evaluation form to be filled out and returned to the Arbitration Administrator.

For more information, visit the court website at www.sanmateocourt.org/adr or contact Judicial Arbitration: 400 County Center, First Floor, Redwood City, CA 94063. Phone: (650) 363-4896 and Fax: (650) 365-4897

ADR Stipulation and Evaluation Instructions

In accordance with *Local Rule 2.3(i)(3)*, all parties going to ADR must complete a Stipulation and Order to ADR and file it with the Clerk of the Superior Court. The Office of the Clerk is located at:

Clerk of the Superior Court, Civil Division
Superior Court of California, County of San Mateo
400 County Center
Redwood City, CA 94063-1655

There is no filing fee for filing the stipulation. An incomplete stipulation will be returned to the parties by the Clerk's Office. All stipulations must include the following:

- Original signatures for all attorneys (and/or parties in pro per);
- The name of the neutral;
- Date of the ADR session; and
- Service List (Counsel need not serve the stipulation on parties).

Parties mutually agree on a neutral and schedule ADR sessions directly with the neutral. If parties would like a copy of the court's Civil ADR Program Panelist List and information sheets on individual panelists, they may visit the court's website at www.sanmateocourt.org/adr.

If Filing the Stipulation Prior to an Initial Case Management Conference

To stipulate to ADR prior to the initial case management conference, parties must file a completed stipulation at least 10 days before the scheduled case management conference. The clerk will send notice of a new case management conference date approximately 90 days from the current date to allow time for the ADR process to be completed.

If Filing Stipulation Following a Case Management Conference

When parties come to an agreement at a case management conference to utilize ADR, they have 21 days from the date of the case management conference to file a Stipulation and Order to ADR with the court [*Local Rule 2.3(i)(3)*].

Post-ADR Session Evaluations

Local Rule 2.3(i)(5) requires submission of post-ADR session evaluations within 10 days of completion of the ADR process. Evaluations are to be filled out by both attorneys and clients. A copy of the Evaluation By Attorneys and Client Evaluation are attached to the Civil ADR Program Panelist List or can be downloaded from the court's web site.

Non-Binding Judicial Arbitration

Names and dates are not needed for stipulations to judicial arbitration. The Judicial Arbitration Administrator will send a list of names to parties once a stipulation has been submitted. The Judicial Arbitration Administrator can be contacted at (650) 363-4896.

For further information regarding San Mateo Superior Court's Civil ADR and Judicial Arbitration Programs, visit the Court's website at www.sanmateocourt.org/adr or contact the ADR offices at (650) 599-1070.

Attorney or Party without Attorney (Name, Address, Telephone, Fax, State Bar membership number):	Court Use Only
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO Hall of Justice and Records 400 County Center Redwood City, CA 94063-1655 (650) 363-4711	
Plaintiff(s):	Case number:
Defendant(s):	Current CMC Date:

STIPULATION AND ORDER TO APPROPRIATE DISPUTE RESOLUTION

Plaintiff will file this stipulation with the Clerk's Office 10 days prior to or 3 weeks following the first Case Management Conference unless directed otherwise by the Court and ADR Director [Local Rule 2.3(i)(3)]. Please attach a Service List.

The parties hereby stipulate that all claims in this action shall be submitted to (select one):

- | | |
|---|---|
| <input type="checkbox"/> Voluntary Mediation | <input type="checkbox"/> Binding Arbitration (private) |
| <input type="checkbox"/> Neutral Evaluation | <input type="checkbox"/> Settlement Conference (private) |
| <input type="checkbox"/> Non-Binding Judicial Arbitration CRC 3.810 | <input type="checkbox"/> Summary Jury Trial <input type="checkbox"/> Other: _____ |

Case Type: _____
Neutral's name and telephone number: _____ Date of session: _____
(Required for continuance of CMC except for non-binding judicial arbitration)
Identify by name the parties to attend ADR session: _____

Original Signatures

Type or print name of Party without attorney Attorney for
 Plaintiff/Petitioner Defendant/Respondent/Contestant

(Signature)
Attorney or Party without attorney

Type or print name of Party without attorney Attorney for
 Plaintiff/Petitioner Defendant/Respondent/Contestant

(Signature)
Attorney or Party without attorney

Type or print name of Party without attorney Attorney for
 Plaintiff/Petitioner Defendant/Respondent/Contestant

(Signature)
Attorney or Party without attorney

Type or print name of Party without attorney Attorney for
 Plaintiff/Petitioner Defendant/Respondent/Contestant

(Signature)
Attorney or Party without attorney

IT IS SO ORDERED:

Date:

Judge of the Superior Court of San Mateo County