

EXHIBIT A

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

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

MARK ZUCKERBERG, DAVID A. EBERSMAN, SHERYL K. SANDBERG, (See attached Additional Parties Attachment Form)

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

HAL HUBUSCHMAN, Derivatively on Behalf of FACEBOOK, INC.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**ENDORSED FILED
SAN MATEO COUNTY**

MAY 30 2012

Clerk of the Superior Court
By G. MARQUEZ
DEPUTY CLERK

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 pueda 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 presenta 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 ó más de valor recibida 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 desochar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Mateo Superior Court
400 County Center, Redwood City, CA 94063

CA CASE NO: 514287
(Número de caso)

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):
Brian J. Robbins, ROBBINS UMEDA LLP, 600 B Street, Suite 1900, San Diego, CA 92101; (619) 525-3990

DATE: **MAY 30 2012** JOHN C. FITTON, Clerk G. MARQUEZ, Deputy
(Fecha) (Secretario) (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)).

(SEAL)

- 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):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
 - by personal delivery on (date):

SHORT TITLE: Hubuschman v. Zuckerberg, et al.	CASE NUMBER:
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INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff
 Defendant
 Cross-Complainant
 Cross-Defendant

DAVID M. SPILLANE,
 PETER A. THIEL,
 JAMES W. BREYER,
 MARC L. ANDREESSEN,
 DONALD E. GRAHAM,
 REED HASTINGS,
 ERSKINE B. BOWLES,
 and DOES 1-25, Inclusive,

Defendants,

-and-

FACEBOOK, INC., a Delaware corporation,

Nominal Defendant.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Brian J. Robbins (#190264)
ROBBINS UMEDA LLP
600 B Street, Suite 1900
San Diego, CA 92101
TELEPHONE NO.: (619) 525-3990 FAX NO.: (619) 525-3991
ATTORNEY FOR (Name): Plaintiff Hal Hubuschman

FOR COURT USE ONLY
RECEIVED

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo
STREET ADDRESS: 400 County Center
MAILING ADDRESS:
CITY AND ZIP CODE: Redwood City, CA 94063
BRANCH NAME:

MAY 30 2012
CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

CASE NAME:
Hubuschman v. Zuckerberg, et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)
 Counter Joinder
Complex Case Designation
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

NUMBER: CIV 5 14887
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:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (08) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	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 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)
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)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PIP/WD (Other) Tort <input checked="" 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 (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	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)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

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 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 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): 3
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: May 30, 2012
Brian J. Robbins
(TYPE OR PRINT NAME)


(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.

FILE BY FAX

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

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

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practices (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease
 - Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - 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

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment *(non-domestic relations)*
 - Sister State Judgment
 - Administrative Agency Award *(not unpaid taxes)*
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
 - Declaratory Relief Only
 - Injunctive Relief Only *(non-harassment)*
 - Mechanics Lien
 - Other Commercial Complaint Case *(non-tort/non-complex)*
 - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
- Other Civil Petition

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): Brian J. Robbins (#190264) ROBBINS UMEDA LLP 600 B Street, Suite 1900 San Diego, CA 92101 TELEPHONE NO.: (619) 525-3990 FAX NO. (Optional): (619) 525-3991 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff Hal Hubuschman</p>	<p>FOR COURT USE ONLY</p> <p>ENDORSED FILED SAN MATEO COUNTY</p> <p>MAY 30 2012</p> <p>Clerk of the Superior Court By <u>C. MARQUEZ</u> DEPUTY CLERK</p>
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: 400 County Center MAILING ADDRESS: CITY AND ZIP CODE: Redwood City, CA 94063 BRANCH NAME:</p>	
<p>PLAINTIFF/PETITIONER: Hal Hubuschman</p>	<p>CASE NO. CIV 514887</p>
<p>DEFENDANT/RESPONDENT: Mark Zuckerberg, et al.</p>	<p>JUDICIAL OFFICER:</p>
<p>NOTICE OF RELATED CASE</p>	

FILE BY FAX

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

1. a. Title: Lazar v. Facebook, Inc., et al.
- b. Case number: CIV514065
- c. Court: same as above
 other state or federal court (name and address):
- d. Department:
- e. Case type: limited civil unlimited civil probate family law other (specify):
- f. Filing date: May 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:
- b. Case number:
- c. Court: same as above
 other state or federal court (name and address):
- d. Department:

PLAINTIFF/PETITIONER: Hal Hubuschman	CASE NUMBER:
DEFENDANT/RESPONDENT: Mark Zuckerberg, et al.	

2. (continued)

e. Case type: limited civil unlimited civil probate family law other (specify):

f. Filing date:

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:

b. Case number:

c. Court: same as above
 other state or federal court (name and address):

d. Department:

e. Case type: limited civil unlimited civil probate family law other (specify):

f. Filing date:

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:

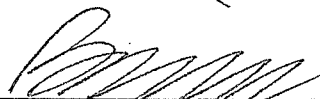
- pending
- dismissed with without prejudice
- disposed of by judgment

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

Date: May 30, 2012

Brian J. Robbins

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)


 (SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF/PETITIONER: Hal Hubuschman	CASE NUMBER:
DEFENDANT/RESPONDENT: Mark Zuckerberg, et al.	

**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*):

600 B Street, Suite 1900, San Diego, California 92101

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*): May 30, 2012
- b. from (*city and state*): San Diego, California

4. The envelope was addressed and mailed as follows:

- | | |
|---|--|
| a. Name of person served:
Robert V. Prongay
Street address: 1925 Century Park East, 2100
City: Los Angeles
State and zip code: CA 90067 | c. Name of person served:

Street address:
City:
State and zip code: |
| b. Name of person served:

Street address:
City:
State and zip code: | d. Name of person served:

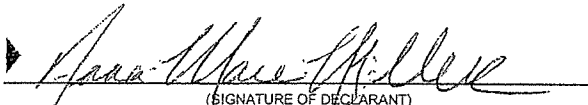
Street address:
City:
State and zip code: |

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: May 30, 2012

Anna-Marie Miller
(TYPE OR PRINT NAME OF DECLARANT)


(SIGNATURE OF DECLARANT)

Attorney or Party without Attorney (Name/Address) Brian J. Robbins ROBBINS UMEDA LLP 600 B Street, Suite 1900 San Diego, CA 92101 Telephone: (619) 525-3990 State Bar No.: 190264 Attorney for: Plaintiff Hal Hlubuschman	FOR COURT USE ONLY ENDORSED FILED SAN MATEO COUNTY MAY 30 2012 Clerk of the Superior Court By <u>G. MARQUEZ</u> DEPUTY CLERK Case Number CIV 14227
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO 400 COUNTY CENTER REDWOOD CITY, CA 94063	
Plaintiff Hal Hlubuschman	
Defendant Mark Zuckerberg, et al.	
Certificate Re Complex Case Designation	

FILE 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

1. 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.

2. 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];

Large number of separately represented parties; Extensive motion practice raising difficult or novel issues
that will be time-consuming to resolve; substantial amount of documentary evidence; and a large number of witnesses.


(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 non-complex 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: May 30, 2012

Brian J. Robbins
[Type or Print Name]


[Signature of Party or Attorney For Party]

NOTICE OF CASE MANAGEMENT CONFERENCE

ENDORSED FILE
SAN MATEO CO.

CIV 514887

Hrubusdman

MAY 26 2012

Case No. _____

Date: 10/11/12

vs

Clerk of the Superior Court
By G. MARQUEZ
DEPUTY CLERK

Time: 9:00 a.m.

facebook, et al

Dept. 21 on Tuesday & Thursday
Dept. 21 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 website at www.sanmateocourt.org.

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

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6 Attorneys for Plaintiff
7 [Additional Counsel on Signature Page]

ENDORSED FILED
SAN MATEO COUNTY

MAY 30 2012

Clerk of the Superior Court
By ~~JO MARQUEZ~~
DEPUTY CLERK

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO

11 HAL HUBUSCHMAN, Derivatively on)
Behalf of FACEBOOK, INC.,)

12) Plaintiff,

13 v.)

14 MARK ZUCKERBERG,)
DAVID A. EBERSMAN,)
15 SHERYL K. SANDBERG,)
DAVID M. SPILLANE,)
16 PETER A. THIEL,)
JAMES W. BREYER,)
17 MARC L. ANDREESSEN,)
DONALD E. GRAHAM,)
18 REED HASTINGS,)
ERSKINE B. BOWLES,)
19 and DOES 1-25, Inclusive,)

20) Defendants,

21 -and-)

22 FACEBOOK, INC., a Delaware corporation,)

23) Nominal Defendant.)

Case No. **CIV 514287**

) SHAREHOLDER DERIVATIVE
) COMPLAINT FOR BREACH OF
) FIDUCIARY DUTY, WASTE OF
) CORPORATE ASSETS, AND UNJUST
) ENRICHMENT

FILE BY FAX

) DEMAND FOR JURY TRIAL

1 *"Pretending that Facebook will have an independent board ... is like putting rouge on a corpse."*
2 Columbia Law School Professor John Coffee.

3 NATURE OF THE ACTION

4 1. This is a shareholder derivative action brought by plaintiff on behalf of nominal
5 defendant Facebook, Inc. ("Facebook" or the "Company") against certain members of its Board of
6 Directors (the "Board") and certain of its executive officers seeking to remedy defendants' breaches
7 of fiduciary duties, waste of corporate assets, and unjust enrichment.

8 2. Facebook operates a worldwide social networking company. Facebook purports to
9 have more than 900 million monthly active users ("MAUs"). For a number of years, the number of
10 Facebook's MAUs has grown exponentially. Indeed, as of March 31, 2012, Facebook claimed to
11 have increased its MAUs by 33% when compared to March 31, 2011, and since March 31, 2009,
12 MAUs have grown from 197 million to more than 900 million. Because of the nature of Facebook's
13 business, its users are inclined to "share" personal data such as age, location, gender, and interests.
14 Facebook touts this as the Company's competitive advantage, claiming that this allows it to "offer
15 advertisers a unique combination of reach, relevance, social context, and engagement to enhance the
16 value of their ads."

17 3. On May 16, 2012, Facebook filed a Form S-1 Registration Statement ("Registration
18 Statement") with the U. S. Securities and Exchange Commission ("SEC") in connection with its
19 highly awaited and highly publicized Initial Public Offering ("IPO"). Two days later, on May 18,
20 2012, the Prospectus ("Prospectus") with respect to the IPO, which forms part of the Registration
21 Statement, became effective and 421 million shares of Facebook common stock were sold to the
22 public at \$38 per share. This price per share valued the Company as a whole at more than \$104
23 billion.

24 4. Facebook's IPO was one of the most anticipated IPOs in years. At the IPO price of
25 \$38 per share, the Company's market value was set higher than McDonalds, Boeing, Caterpillar, or
26 Amazon.com. Defendants were able to attain such a high valuation for the Company by touting
27 Facebook's extraordinary growth in the Registration Statement. Prior to, and during the IPO,
28 however, Facebook was experiencing a serious reduction in revenue growth due to an increase of

1 users of its website through mobile devices rather than a traditional personal computer ("PC"). This
2 pattern in Facebook's user-base negatively affected the Company's current and future business
3 prospects because advertising was not as effective on mobile devices as it was on a traditional PC,
4 therefore alienating Facebook's customer-base.

5 5. This negative trend in the Company's advertising business was so serious that, during
6 a road show¹ preceding Facebook's IPO, its lead underwriters – Morgan Stanley & Co. LLC,
7 ("Morgan Stanley"), JPMorgan Securities LLC ("JPMorgan"), and Goldman Sachs & Co. ("Goldman
8 Sachs") – all reduced their revenue forecasts for the Company. This highly unusual move was not
9 made available to the market in general, but was selectively disclosed to certain of the underwriters'
10 large investor clients, thereby keeping the public in the dark.

11 6. Each defendant that signed the Registration Statement had an obligation to ensure the
12 Registration Statement did not contain an untrue statement of a material fact or omitted to state a
13 material fact required to be stated therein or necessary to make the statements therein not misleading.
14 The members of the Board breached their fiduciary duty to the Company and its shareholders by at
15 least negligently signing and approving the improper Registration Statement and Prospectus.
16 Facebook is strictly liable for the improper Registration Statement. As a result of the defendants'
17 breaches, Facebook has suffered and will continue to suffer harm.

18 7. Defendants Mark Zuckerberg ("Zuckerberg"), James W. Breyer ("Breyer"), and Peter
19 A. Thiel ("Thiel") did not let their personal wealth suffer, however, and took advantage of material,
20 non-public information to sell over \$3.9 billion worth of Facebook stock in the IPO. All three of
21 these defendants signed the improper Registration Statement which helped artificially inflate
22 Facebook's stock, just in time for these wayward fiduciaries to line their pockets at the expense of
23 hundreds of thousands of unsuspecting shareholders.

24

25

26 ¹ A road show is the time before an IPO during which the underwriters travel to various locations to
27 generate interest in the stock that is subject to the IPO, and attempt to determine what the demand for
28 the stock would be at different price points. The targets of road shows are usually large institutional
investors, mutual funds, and pension funds.

1 8. The defendants' improprieties devastated Facebook's credibility as reflected by the
2 Company's \$15.3 billion, or nearly 20%, market capitalization loss less than one week after its IPO.
3 As a direct result of the defendants' unlawful course of conduct, the Company is now the subject of
4 multiple securities class action lawsuits filed on behalf of investors who purchased Facebook shares.
5 The securities fraud lawsuits have exposed the Company to potentially billions of dollars in
6 damages.

7 **JURISDICTION AND VENUE**

8 9. This Court has jurisdiction over all causes of action asserted herein pursuant to the
9 California Constitution, Article VI, section 10, because this case is a cause not given by statute to
10 other trial courts, as this derivative action is brought pursuant to section 800 of the California
11 Corporations Code to remedy defendants' violations of law.

12 10. This Court retains general jurisdiction over each named defendant who is a resident of
13 California. Additionally, this Court has specific jurisdiction over each named non-resident
14 defendant because these defendants maintain sufficient minimum contacts with California to render
15 jurisdiction by this Court permissible under traditional notions of fair play and substantial justice. In
16 addition, because the allegations contained herein are brought derivatively on behalf of Facebook, a
17 company that maintains its principal executive offices in California, defendants' conduct was
18 purposefully directed at California. Therefore, exercising jurisdiction over any non-resident
19 defendants is reasonable under these circumstances.

20 11. Venue is proper in this Court because one or more of the defendants either resides in
21 or maintains executive offices in this County, a substantial portion of the transactions and wrongs
22 complained of herein, including the defendants' primary participation in the wrongful acts detailed
23 herein and aiding and abetting and conspiracy in violation of fiduciary duties owed to Facebook
24 occurred in this County, and defendants have received substantial compensation in this County by
25 doing business here and engaging in numerous activities that had an effect in this County.

26 **PARTIES**

27 12. Plaintiff Hal Hubuschman is and was, at times relevant hereto, an owner and holder
28 of Facebook stock.

1 13. Nominal Defendant Facebook is a Delaware corporation with principal executive
2 offices located at 1601 Willow Road, Menlo Park, California. Facebook is a social networking
3 website that purportedly enables faster, easier, and richer communication between users. Facebook
4 is also a platform that allows developers to build applications and websites that integrate with
5 Facebook to reach its global network of users. The substantial majority of Facebook's revenue is
6 currently generated from third party advertising. In 2009, 2010, and 2011, and the first quarters of
7 2011 and 2012, advertising accounted for 98%, 95%, 85%, 87%, and 82%, respectively, of
8 Facebook's revenue.

9 14. Defendant Zuckerberg is Facebook's Chief Executive Officer ("CEO") and a director
10 and has been since July 2004, and Chairman of the Board and has been since January 2012.
11 Zuckerberg is also Facebook's founder. Zuckerberg signed Facebook's Registration Statement filed
12 with the SEC on May 16, 2012. Zuckerberg is named as a defendant in numerous securities class
13 action complaints that allege he violated sections 11, 12(a)(2), and 15 of the Securities Act of 1933
14 (the "Securities Act") for making improper statements in the Registration Statement. Zuckerberg
15 knowingly, recklessly, or with gross negligence: (i) caused or allowed Facebook to disseminate an
16 improper Registration Statement; and (ii) failed to maintain adequate disclosure controls with respect
17 to Facebook's IPO. While in possession of material, non-public information concerning Facebook's
18 true business health, Zuckerberg sold 30,200,000 shares of his stock for \$1,134,916,000 in proceeds.
19 Facebook paid Zuckerberg the following compensation as an executive:

	Fiscal			All Other	
	Year	Salary	Bonus	Compensation	Total
20					
21	2011	\$483,333	\$445,500	\$783,529	\$1,712,362

22 15. Defendant David A. Ebersman ("Ebersman") is Facebook's Chief Financial Officer
23 ("CFO") and has been since September 2009. Ebersman also signed Facebook's Registration
24 Statement. Ebersman is named as a defendant in securities class action complaints that allege he
25 violated sections 11, 12(a)(2), and 15 of the Securities Act for making improper statements in the
26 Registration Statement. Ebersman knowingly, recklessly, or with gross negligence: (i) caused or
27 allowed Facebook to disseminate an improper Registration Statement; and (ii) failed to maintain
28

1 adequate disclosure controls with respect to Facebook's IPO. Facebook paid Ebersman the following
2 compensation as an executive:

3	Fiscal	Salary	Bonus	Stock	Total
4	Year			Awards	
	2011	\$295,833	\$170,508	\$18,294,952	\$18,761,293

5 16. Defendant Sheryl K. Sandberg ("Sandberg") is Facebook's Chief Operating Officer
6 and has been since March 2008. Sandberg is named as a defendant in a securities class action
7 complaint that alleges she violated sections 11 and 15 of the Securities Act. Sandberg knowingly,
8 recklessly, or with gross negligence: (i) caused or allowed Facebook to disseminate an improper
9 Registration Statement; and (ii) failed to maintain adequate disclosure controls with respect to
10 Facebook's IPO. Facebook paid Sandberg the following compensation as an executive:

11	Fiscal	Salary	Bonus	Stock	Total
12	Year			Awards	
	2011	\$295,833	\$170,508	\$30,491,613	\$30,957,954

13 17. Defendant David M. Spillane ("Spillane") is Facebook's Chief Accounting Officer
14 and has been since January 2009. Spillane also signed Facebook's Registration Statement. Spillane
15 is named as a defendant in securities class action complaints that allege he violated sections 11,
16 12(a)(2), and 15 of the Securities Act for making improper statements in the Registration Statement.
17 Spillane knowingly, recklessly, or with gross negligence: (i) caused or allowed Facebook to
18 disseminate an improper Registration Statement; and (ii) failed to maintain adequate disclosure
19 controls with respect to Facebook's IPO.

20 18. Defendant Thiel is a Facebook director and has been since April 2005. Thiel is also a
21 member of Facebook's Audit Committee and has been since at least February 2012. Thiel signed
22 Facebook's Registration Statement. Thiel is also named as a defendant in securities class action
23 complaints that allege he violated sections 11, 12(a)(2), and 15 of the Securities Act for making
24 improper statements in the Registration Statement. Thiel was an early Facebook investor through his
25 Founders Fund and Rivendell One LLC ("Rivendell") venture capital firms. While in possession of
26 material, non-public information concerning Facebook's true business health, Thiel directed
27 Founders Fund and Rivendell to sell 16,844,315 shares of Facebook stock for \$633,009,357.70 in
28 proceeds. Thiel knowingly or recklessly: (i) caused or allowed Facebook to disseminate an improper

1 Registration Statement; and (ii) failed to maintain adequate disclosure controls with respect to
2 Facebook's IPO. Facebook paid Thiel the following compensation as a director:

3	Fiscal Year	Fees Paid in Cash	Total
4	2011	\$16,667	\$16,667

5 19. Defendant Breyer is a Facebook director and has been since April 2005. Breyer also
6 signed Facebook's Registration Statement. Breyer is named as a defendant in securities class action
7 complaints that allege he violated sections 11, 12(a)(2), and 15 of the Securities Act for making
8 improper statements in the Registration Statement. In May 2005, Breyer invested \$12.7 million in
9 Facebook as a partner at Accel Partners for a 10.7% ownership stake, and Breyer himself invested an
10 additional \$1 million. While in possession of material non-public information concerning
11 Facebook's true business health, Breyer directed Accel Partners to sell 57,726,901 shares of its
12 Facebook stock for \$2,169,376,939.58 in proceeds. Breyer knowingly or recklessly: (i) caused or
13 allowed Facebook to disseminate an improper Registration Statement; and (ii) failed to maintain
14 adequate disclosure controls with respect to Facebook's IPO. Facebook paid Breyer the following
15 compensation as a director:

16	Fiscal Year	Fees Paid in Cash	Total
17	2011	\$16,667	\$16,667

18 20. Defendant Marc L. Andreessen ("Andreessen") is a Facebook director and has been
19 since June 2008. Andreessen is also a member of Facebook's Audit Committee and has been since at
20 least February 2012. Andreessen signed Facebook's Registration Statement. Andreessen is also
21 named as a defendant in securities class action complaints that allege he violated sections 11,
22 12(a)(2), and 15 of the Securities Act for making improper statements in the Registration Statement.
23 Andreessen knowingly or recklessly: (i) caused or allowed Facebook to disseminate an improper
24 Registration Statement; and (ii) failed to maintain adequate disclosure controls with respect to
25 Facebook's IPO. Facebook paid Andreessen the following compensation as a director:

26	Fiscal Year	Fees Paid in Cash	Total
27	2011	\$16,667	\$16,667

28

1 21. Defendant Donald E. Graham ("Graham") is Facebook's Lead Independent Director
2 and has been since at least February 2012 and a director has been since March 2009. Graham also
3 signed Facebook's Registration Statement. Graham is named as a defendant in securities class action
4 complaints that allege he violated sections 11, 12(a)(2), and 15 of the Securities Act for making
5 improper statements in the Registration Statement. Graham knowingly or recklessly: (i) caused or
6 allowed Facebook to disseminate an improper Registration Statement; and (ii) failed to maintain
7 adequate disclosure controls with respect to Facebook's IPO. Facebook paid Graham the following
8 compensation as a director:

	Fiscal Year	Fees Paid in Cash	Total
9			
10	2011	\$16,667	\$16,667

11 22. Defendant Reed Hastings ("Hastings") is a Facebook director and has been since June
12 2011. Hastings also signed Facebook's Registration Statement. Hastings is named as a defendant in
13 securities class action complaints that allege he violated sections 11, 12(a)(2), and 15 of the
14 Securities Act for making improper statements in the Registration Statement. Hastings knowingly or
15 recklessly: (i) caused or allowed Facebook to disseminate an improper Registration Statement; and
16 (ii) failed to maintain adequate disclosure controls with respect to Facebook's IPO. Facebook paid
17 Hastings the following compensation as a director:

	Fiscal Year	Fees Paid in Cash	Stock Awards	Total
18				
19	2011	\$16,667	\$593,400	\$610,067

20 23. Defendant Erskine B. Bowles ("Bowles") is a Facebook director and has been since
21 September 2011. Bowles is also Chairman of Facebook's Audit Committee and has been since at
22 least February 2012. Bowles signed Facebook's Registration Statement. Bowles is named as a
23 defendant in securities class action complaints that allege he violated sections 11, 12(a)(2), and 15 of
24 the Securities Act for making improper statements in the Registration Statement. Bowles knowingly
25 or recklessly: (i) caused or allowed Facebook to disseminate an improper Registration Statement;
26 and (ii) failed to maintain adequate disclosure controls with respect to Facebook's IPO. Facebook
27 paid Hastings the following compensation as a director:

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Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2011	\$16,667	\$601,400	\$618,067

24. The defendants identified in ¶¶14-17 are referred to herein as the "Officer Defendants." The defendants identified in ¶¶14, 18-23 are referred to herein as the "Director Defendants." The defendants identified in ¶¶18, 20, 23 are referred to herein as the "Audit Committee Defendants." The defendants identified in ¶¶14, 18-20 are referred to herein as the "Insider Selling Defendants." Collectively, the defendants identified in ¶¶14-23 are referred to herein as the "Individual Defendants."

25. The true names and capacities of the defendants sued herein under California Code of Civil Procedure section 474 as Does 1 through 25, inclusive, are presently not known to plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this complaint and include these Doe defendants' true names and capacities when they are ascertained. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein and for the injuries suffered by the Company as a result of the defendants' wanton and illegal conduct.

DUTIES OF THE INDIVIDUAL DEFENDANTS

26. By reason of their positions as officers, directors, and/or fiduciaries of Facebook and because of their ability to control the business and corporate affairs of Facebook, the Individual Defendants owed Facebook and its shareholders fiduciary obligations of trust, loyalty, good faith, and due care, and were and are required to use their utmost ability to control and manage Facebook in a fair, just, honest, and equitable manner. The Individual Defendants were and are required to act in furtherance of the best interests of Facebook and its shareholders so as to benefit all shareholders equally and not in furtherance of their personal interest or benefit.

27. Each officer and director of the Company owes to Facebook and its shareholders the fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing. In addition, the Individual Defendants had a duty to promptly disseminate accurate and truthful information with regard to the Company's revenue, margins, operations, performance,

1 management, projections, and forecasts so that the market valuation of the Company's stock would
2 be based on truthful and accurate information.

3 28. The Individual Defendants, because of their positions of control and authority as
4 officers and/or directors of Facebook, were able to and did, directly and/or indirectly, exercise
5 control over the wrongful acts complained of herein, as well as the contents of the various public
6 statements issued by the Company. Because of their advisory, executive, managerial, and directorial
7 positions with Facebook, each of the Individual Defendants had access to adverse, non-public
8 information about the financial condition, operations, and improper representations of Facebook.

9 29. At all times relevant hereto, each of the Individual Defendants was the agent of each
10 of the other Individual Defendants and of Facebook, and was at all times acting within the course
11 and scope of such agency.

12 30. To discharge their duties, the officers and directors of Facebook were required to
13 exercise reasonable and prudent supervision over the management, policies, practices, and controls
14 of the financial affairs of the Company. By virtue of such duties, the officers and directors of
15 Facebook were required to, among other things:

16 (a) refrain from acting upon material, inside corporate information to benefit
17 themselves;

18 (b) ensure that the Company complied with its legal obligations and requirements,
19 including acting only within the scope of its legal authority and disseminating truthful and accurate
20 statements to the investing public;

21 (c) conduct the affairs of the Company in an efficient, business-like manner so as
22 to make it possible to provide the highest quality performance of its business, to avoid wasting the
23 Company's assets, and to maximize the value of the Company's stock;

24 (d) properly and accurately guide investors and analysts as to the true financial
25 condition of the Company at any given time, including making accurate statements about the
26 Company's business prospects, and financial results and ensuring that the Company maintained an
27 adequate system of financial controls such that the Company's financial reporting would be true and
28 accurate at all times;

1 (e) remain informed as to how Facebook conducted its operations, and, upon
2 receipt of notice or information of imprudent or unsound conditions or practices, make a reasonable
3 inquiry in connection therewith, and take steps to correct such conditions or practices and make such
4 disclosures as necessary to comply with securities laws; and

5 (f) ensure that the Company was operated in a diligent, honest, and prudent
6 manner in compliance with all applicable laws, rules, and regulations.

7 31. Each Individual Defendant, by virtue of his or her position as an officer and/or
8 director, owed to the Company and to its shareholders the fiduciary duties of loyalty, good faith, and
9 the exercise of due care and diligence in the management and administration of the affairs of the
10 Company, as well as in the use and preservation of its property and assets. The conduct of the
11 Individual Defendants complained of herein involves a knowing and culpable violation of their
12 obligations as officers and directors of Facebook, the absence of good faith on their part, and a
13 reckless disregard for their duties to the Company and its shareholders that the Individual
14 Defendants were aware or should have been aware posed a risk of serious injury to the Company.

15 32. The Individual Defendants breached their duties of loyalty and good faith by allowing
16 defendants to cause, or by themselves causing, the Company to misrepresent its business prospects,
17 as detailed herein, and by failing to prevent the Individual Defendants from taking such illegal
18 actions. In addition, as a result of defendants' illegal actions and course of conduct, the Company is
19 now the subject of at least eight class action lawsuits that allege violations of securities laws. As a
20 result, Facebook has expended, and will continue to expend, significant sums of money.

21 **CONSPIRACY, AIDING AND ABETTING AND CONCERTED ACTION**

22 33. In committing the wrongful acts alleged herein, the Individual Defendants have
23 pursued, or joined in the pursuit of, a common course of conduct, and have acted in concert with and
24 conspired with one another in furtherance of their common plan or design. In addition to the
25 wrongful conduct herein alleged as giving rise to primary liability, the Individual Defendants further
26 aided and abetted and/or assisted each other in breaching their respective duties.

27 34. During all times relevant hereto, the Individual Defendants, collectively and
28 individually, initiated a course of conduct that was designed to and did: (i) conceal harmful

1 information relating to Facebook's financial condition that rendered statements in the Registration
2 Statement improper; (ii) enhance the Individual Defendants' executive and directorial positions at
3 Facebook and the profits, power, and prestige that the Individual Defendants enjoyed as a result of
4 holding these positions; (iii) allow certain defendants and their affiliates to sell billions of dollars of
5 their personally held shares through the IPO; and (iv) deceive the investing public regarding the
6 Individual Defendants' management of Facebook's operations, the Company's financial health and
7 stability, and its future business prospects. In furtherance of this plan, conspiracy, and course of
8 conduct, the Individual Defendants, collectively and individually, took the actions set forth herein.

9 35. The Individual Defendants engaged in a conspiracy, common enterprise, and/or
10 common course of conduct. The Individual Defendants caused the Company to conceal the true fact
11 that Facebook was misrepresenting its business prospects.

12 36. The purpose and effect of the Individual Defendants' conspiracy, common enterprise,
13 and/or common course of conduct was, among other things, to disguise the Individual Defendants'
14 violations of law, breaches of fiduciary duty, waste of corporate assets, and unjust enrichment and to
15 conceal adverse information concerning the Company's operations, financial condition, and future
16 business prospects.

17 37. The Individual Defendants accomplished their conspiracy, common enterprise, and/or
18 common course of conduct by causing the Company to purposefully, recklessly, or negligently
19 release improper statements. Because the actions described herein occurred under the authority of
20 the Board, each of the Individual Defendants was a direct, necessary, and substantial participant in
21 the conspiracy, common enterprise, and/or common course of conduct complained of herein.

22 38. Each of the Individual Defendants aided and abetted and rendered substantial
23 assistance in the wrongs complained of herein. In taking such actions to substantially assist the
24 commission of the wrongdoing complained of herein, each Individual Defendant acted with
25 knowledge of the primary wrongdoing, substantially assisted the accomplishment of that
26 wrongdoing, and was aware of his or her overall contribution to and furtherance of the wrongdoing.

27

28

1 **SUBSTANTIVE ALLEGATIONS**

2 **Facebook's Improper Registration Statement and Prospectus**

3 39. On February 1, 2012, Facebook filed a Registration Statement with the SEC.
4 Throughout the next several months, Facebook repeatedly amended this Registration Statement. In
5 addition, during the same time period, Facebook employees and underwriters involved in the IPO
6 went on a road show whereby they had a series of meetings with potential investors. Notably, during
7 these road shows, no Facebook employee ever publicly issued any earnings guidance.

8 40. Then, on May 16, 2012, Facebook filed its final Registration Statement in connection
9 with its IPO. Two days later, on May 18, 2012, the Prospectus, which forms part of the Registration
10 Statement, became effective and 421 million shares of Facebook common stock were sold to the
11 public at \$38 per share. This price per share valued the Company as a whole at more than \$104
12 billion. Facebook had gone public and its fiduciaries, many of whom are Individual Defendants in
13 this action, raked in billions of dollars by selling their shares. All the while, hundreds of thousands
14 of unsuspecting investors, who bought into the hype the Individual Defendants created, were left
15 with artificially inflated shares.

16 41. The shares sold in the IPO were artificially inflated because the Registration
17 Statement and Prospectus contained improper statements and were not prepared in accordance with
18 the rules and regulations governing their preparation.

19 42. Facebook's unsuspecting investors relied on the Registration Statement's assurances,
20 touting that Facebook will: "reflect in the prospectus any facts or events arising after the effective
21 date of the Registration Statement (or the most recent post-effective amendment thereof) which,
22 individually or in the aggregate, represent a fundamental change in the information set forth in the
23 Registration Statement."

24 43. The Registration Statement, which was signed by defendants Zuckerberg, Ebersman,
25 Spillane, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel, improperly represented that
26 Facebook's critical metrics, including the Company's MAUs, are trending upwards. For instance, the
27 Registration Statement stated:

28

1 Monthly Active Users (MAUs). We define a monthly active user as a registered
2 Facebook user who logged in and visited Facebook through our website or a mobile
3 device, or took an action to share content or activity with his or her Facebook friends
4 or connections via a third-party website that is integrated with Facebook, in the last
5 30 days as of the date of measurement. *MAUs are a measure of the size of our
6 global active user community, which has grown substantially in the past several
7 years.*

8 * * *

9 *As of March 31, 2012, we had 901 million MAUs, an increase of 33% from March
10 31, 2011.* We experienced growth across different geographies, with users in Brazil,
11 India, and the United States representing key sources of growth. We had 45 million
12 MAUs in Brazil as of March 31, 2012, an increase of 180% from the same period in
13 the prior year, and we had 51 million MAUs in India as of March 31, 2012, an
14 increase of 107% from the same period in the prior year. Additionally, we had 169
15 million MAUs in the United States as of March 31, 2012, an increase of 15% from
16 the same period in the prior year.

17 44. Similarly, in the Registration Statement spectus, defendants Zuckerberg, Ebersman,
18 Spillane, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel touted growing daily active
19 users ("DAUs"), crediting "increased mobile usage" as a "key contributor to this growth."
20 Zuckerberg, Ebersman, Spillane, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel failed to
21 mention, however, that increased mobile usage caused negative trends in the Company's advertising
22 business and would not "positively affect [the Company's] revenue." The Registration Statement
23 stated, in part:

24 Daily Active Users (DAUs). We define a daily active user as a registered Facebook
25 user who logged in and visited Facebook through our website or a mobile device, or
26 took an action to share content or activity with his or her Facebook friends or
27 connections via a third-party website that is integrated with Facebook, on a given
28 day. We view DAUs, and DAUs as a percentage of MAUs, as measures of user
engagement.

* * *

Worldwide DAUs increased 41% to 526 million on average during March 2012 from
372 million during March 2011. *We experienced growth in DAUs across major
markets including the United States, Brazil, and India. Increased mobile usage was
a key contributor to this growth. DAUs as a percentage of MAUs increased from
55% in March 2011 to 58% in March 2012, which we believe was driven entirely
by increased mobile usage of Facebook. We believe that increases in DAUs and in
DAUs as a percentage of MAUs generally positively affect our revenue because
increases in user engagement may enable us to deliver more relevant commercial
content to our users and may provide us with more opportunities for monetization.*

1 45. In describing the risks related to Facebook's business and industry, defendants
2 Zuckerberg, Ebersman, Spillane, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel
3 purported to warn that the Company's revenues could be negatively affected by the rate of growth in
4 mobile users of its site or app. These defendants failed to disclose, however, that Facebook was
5 already experiencing a severe and pronounced reduction in revenue growth due to an increase of
6 users of its Facebook app or website through mobile devices rather than a traditional PC.
7 Zuckerberg, Ebersman, Spillane, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel's
8 purported warning was layered and confusing, and did not provide an accurate and intelligible
9 portrayal of the Company's then-existing financial health. The Registration Statement stated in
10 pertinent part:

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

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

30 46. In the Registration Statement, defendants Zuckerberg, Ebersman, Spillane,
31 Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel also purported to warn investors that the
32 Company's revenues from advertising could be adversely affected by, among other things, the
33 "increased user access to and engagement with Facebook" through mobile devices. This warning
34 however was misleading because Facebook was already suffering from a noticeable reduction in
35 revenue growth due to an increase of users of its Facebook app or website through mobile devices

1 rather than a traditional PC. Instead of disclosing the full truth, Zuckerberg, Ebersman, Spillane,
2 Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel stated:

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

6 The substantial majority of our revenue is currently generated from third parties
7 advertising on Facebook. In 2009, 2010, and 2011 and the first quarter of 2011 and
8 2012, advertising accounted for 98%, 95%, 85%, 87%, and 82%, respectively, of our
9 revenue. As is common in the industry, our advertisers typically do not have long-
10 term advertising commitments with us. Many of our advertisers spend only a
11 relatively small portion of their overall advertising budget with us. In addition,
12 advertisers may view some of our products, such as sponsored stories and ads with
13 social context, as experimental and unproven. Advertisers will not continue to do
14 business with us, or they will reduce the prices they are willing to pay to advertise
15 with us, if we do not deliver ads and other commercial content in an effective
16 manner, or if they do not believe that their investment in advertising with us will
17 generate a competitive return relative to other alternatives. Our advertising revenue
18 could be adversely affected by a number of other factors, including:

- 19 • decreases in user engagement, including time spent on Facebook;
- 20 • *increased user access to and engagement with Facebook through*
21 *our mobile products, where we do not currently directly generate*
22 *meaningful revenue, particularly to the extent that mobile*
23 *engagement is substituted for engagement with Facebook on*
24 *personal computers where we monetize usage by displaying ads and*
25 *other commercial content;*
- 26 • product changes or inventory management decisions we may make
27 that reduce the size, frequency, or relative prominence of ads and
28 other commercial content displayed on Facebook;
- our inability to improve our analytics and measurement solutions that
demonstrate the value of our ads and other commercial content;
- decisions by advertisers to use our free products, such as Facebook
Pages, instead of advertising on Facebook;
- loss of advertising market share to our competitors;
- adverse legal developments relating to advertising, including
legislative and regulatory developments and developments in
litigation;
- adverse media reports or other negative publicity involving us, our
Platform developers, or other companies in our industry;

- 1 • our inability to create new products that sustain or increase the value
2 of our ads and other commercial content;
- 3 • the degree to which users opt out of social ads or otherwise limit the
4 potential audience of commercial content;
- 5 • changes in the way online advertising is priced;
- 6 • the impact of new technologies that could block or obscure the
7 display of our ads and other commercial content; and
- 8 • the impact of macroeconomic conditions and conditions in the
9 advertising industry in general.

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

15 47. In spite of the negative trends the Company was experiencing, defendants
16 Zuckerberg, Ebersman, Spillane, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel
17 announced that Facebook, "in consultation with the underwriters," increased the IPO price range
18 from between \$28 and \$35 to \$34 and \$38 per share. The Registration Statement explained that the
19 assumptions supporting the increased offering price "represented management's best estimates."
20 With respect to the offering price, the Registration Statement stated:

21 In early May 2012, in consultation with the underwriters, we determined the
22 anticipated initial public offering price range to be \$28.00 to \$35.00 per share.
23 Subsequently, in mid-May 2012 we *increased the anticipated initial public offering
24 price range to \$34.00 to \$38.00 per share*. The assumptions supporting the *revised
25 anticipated initial public offering price range represented management's best
26 estimates* and discussions between us and the underwriters about indications of
27 interest from potential investors after approximately one week of marketing of the
28 offering, and involved complex and subjective judgments.

48. The statements referenced above were improper. The true facts at the time of the IPO
were that Facebook was experiencing a serious reduction in revenue growth due to an increase of
users of its Facebook app or website through mobile devices rather than a traditional PC such that
the Company told its underwriters to materially lower their revenue forecasts for 2012. The
Registration Statement failed to disclose that during the IPO road show, the lead underwriters,
including, Morgan Stanley, JPMorgan, and Goldman Sachs, all cut their earnings forecasts and that

1 news of the estimate cut was passed to only a handful of large investor clients, thereby keeping the
2 public in the dark.

3 49. The reduced expectations were disseminated to select clients just before the IPO was
4 priced at \$38 a share, the high end of an already upwardly revised projected range of \$34 to \$38, and
5 before defendants increased the number of shares being sold by 25%.

6 50. After the IPO, it has been reported that Morgan Stanley's consumer internet analyst
7 Scott Devitt, lowered his second quarter revenue estimate from \$1.175 billion to \$1.111 billion, and
8 cut his FY2012 revenue forecast from more than \$5 billion to \$4.85 billion. Other analysts
9 interpreted this cut to suggest that the Company's year-over-year revenue growth might slow from
10 the first quarter of 2012 as well.

11 51. On May 19, 2012, Henry Blodget ("Blodget") published an article entitled, "If This
12 Really Happened During The Facebook IPO, Buyers Should Be Mad As Hell...." The article
13 highlighted the unfair and illegal actions taken by Facebook in anticipation for its IPO. The article
14 analyzed the materiality of the improper statements in the Registration Statement, stating, in relevant
15 part:

16 *Part way through the Facebook IPO roadshow, scattered reports appeared that*
17 *Facebook had reduced the earnings guidance it was giving research analysts.*

18 This seemed bizarre on a number of levels.

19 First, I was unaware that Facebook had ever *issued* any earnings guidance—to
20 research analysts or anyone else.

21 *Earnings guidance is highly material information* (meaning that any investor
22 considering an investment decision would want to know it). It represents a future
23 forecast made by the company. Any time any company gives any sort of forecast,
24 stocks move--because the forecast offers a very well informed view of the future by
25 those who have the most up-to-date information about a company's business.

26 So if Facebook had issued any sort of guidance, even quietly, this should have been
27 made very public by the company and its bankers--especially because millions of
28 individual investors were thinking of buying the stock.

29 Second, if Facebook really had "reduced guidance" mid-way through a series of
30 meetings designed for the sole purpose of selling the stock this would have been *even*
31 *more highly material information.*

32 Why?

1 *Because such a late change in guidance would mean that Facebook's business was*
2 *deteriorating rapidly--between the start of the roadshow and the middle of the*
3 *roadshow.*

4 *Any time a business outlook deteriorates that rapidly, alarm bells start going off on*
5 *Wall Street, and stocks plunge.*

6 So the report that Facebook had "reduced earnings guidance" during the roadshow
7 just seemed like a typical misunderstanding between Wall Street and the public-
8 something lost in translation between what a reporter was hearing from sources and
9 what actually made it into print.

10 But now Reuters has just reported the same thing again. Here's a sentence from a
11 story Reuters just published on the IPO:

12 Facebook also altered its guidance for research earnings last week,
13 during the roadshow, a rare and disruptive move.

14 Hmmm.

15 If this really happened, *anyone who placed an order for Facebook who was*
16 *unaware that 1) Facebook had issued any sort of earnings guidance, and 2)*
17 *reduced that guidance during the roadshow, has every right to be furious.*

18 Because this would have been *highly material information that some investors had*
19 *and others didn't--the exact sort of unfair asymmetry that securities laws are*
20 *designed to prevent.*

21 52. On this news, Facebook's market capitalization plunged nearly 11%, erasing more
22 than \$8.9 billion in market capitalization since its IPO, just three days earlier.

23 53. On May 22, 2012, Blodget published another article entitled, "Facebook: Bankers
24 Secretly Cut Facebook's Revenue Estimates in Middle of IPO Roadshow." This second article
25 published by Blodget confirmed many of the fears and theories mentioned in his earlier May 19th
26 article. This May 22nd article stated, in relevant part:

27 *And now comes some news about the Facebook (FB) IPO that buyers deserve to be*
28 *outraged about.*

Reuters' Alistair Barr is reporting that *Facebook's lead underwriters, Morgan*
Stanley (MS), JP Morgan (JPM), and Goldman Sachs (GS) all cut their earnings
forecasts for the company in the middle of the IPO roadshow.

This by itself is highly unusual (I've never seen it during 20 years in and around the
tech IPO business).

1 But, just as important, *news of the estimate cut was passed on only to a handful of*
2 *big investor clients*, not everyone else who was considering an investment in
3 Facebook.

4 This is a huge problem, for one big reason:

- 5 • *Selective dissemination.* Earnings forecasts are material information,
6 especially when they are prepared by analysts who have had
7 privileged access to company management. As lead underwriters on
8 the IPO, these analysts would have had much better information
9 about the company than anyone else. So the fact that these analysts
10 suddenly all cut their earnings forecasts at the same time, during the
11 roadshow, and then this information was not passed on to the broader
12 public, is a huge problem.

13 Any investor considering an investment in Facebook would consider an estimate cut
14 from the underwriters' analysts "material information."

15 What's more, it's likely that news of these estimate cuts dampened interest in the IPO
16 among those who heard about them. (Reuters reported exactly this--that some
17 institutions were "freaked out" by the estimate cuts, as anyone would have been.)

18 In other words, *during the marketing of the Facebook IPO, investors who did not*
19 *hear about these underwriter estimate cuts were placed at a meaningful and unfair*
20 *information disadvantage. They did not know what a lot of other investors knew,*
21 *and they suffered for it.*

22 Selective dissemination of this sort could be a direct violation of securities laws.
23 Irrespective of its legality, it is also grossly unfair. *The SEC should investigate this*
24 *immediately.*

25 We first heard rumblings about this last week, and we were so startled that we
26 assumed the reports were wrong. Then, over the weekend, when Reuters reported the
27 basic story again, we said that if it was true, Facebook IPO buyers deserved to be
28 "mad as hell" about it. And now Reuters has the details, and they sound as bad as we
had feared.

There are a couple of possibilities for what happened.

The first one is bad news for Morgan Stanley and the other lead underwriters on the deal.

The second is also bad news for Facebook.

According to Reuters, the underwriter analysts cut their estimates after Facebook issued an amended IPO prospectus in which the company mentioned, vaguely, that recent trends in which users were growing faster than revenue had continued into the second quarter.

1 To those experienced in reading financial statements, this language was unnerving,
2 because its mere existence could have been taken to mean that Facebook's revenue in
3 the second quarter wasn't coming in as strong as Facebook had hoped (why else
4 would the language have suddenly been added at the 11th hour?)

5 To those who aren't experienced at reading filings, however, the real meaning of this
6 language could easily have been missed. Facebook's users have been growing faster
7 than revenue for a while, so why would it be news that this was continuing?

8 In response to the amendment, meanwhile, all three lead underwriter analysts
9 suddenly cut their estimates.

10 Now, regardless of why the analysts cut their estimates (and this will be important),
11 estimate cuts of any sort are material information, so if this news was given to some
12 institutional clients, it also obviously should have been given to everyone.

13 That's the first problem.

14 The second potential question and problem is whether Facebook told the
15 underwriters to cut their estimates--either by directly telling them to, or, more likely,
16 by "suggesting" that the analysts might want to revisit their estimates in light of the
17 new disclosures in the prospectus.

18 If there was any communication at all between Facebook and its underwriters
19 regarding the analysts' estimates, Facebook will likely be on the hook for this, too.

20 Speaking as a former analyst, *it seems highly unlikely to me that the vague*
21 *language in the final IPO amendment would prompt all three underwriter analysts*
22 *to immediately cut estimates without some sort of nod and wink from someone who*
23 *knew how Facebook's second quarter was progressing.* (To get this message from
24 the language, you really have to read between the lines). But even if this is what
25 happened, it is still unfair that news of the estimate cut wasn't disseminated quickly
26 and clearly to everyone considering buying Facebook's IPO.

27 The bottom line is that, even if dissemination laws were followed to the letter (which
28 frankly seems unlikely), *the selective disclosure here was grossly unfair.*

The SEC needs to look into this.

54. On this news, Facebook's market capitalization plummeted another 9%, erasing more
than \$6.4 billion in market capitalization in a single day.

INSIDER SELLING

55. The Individual Defendants' knowledge of the Company's operations and financial
health, stability, and future business prospects, specifically related to the negative impact of the
increase in users of its Facebook app or website through mobile devices rather than a traditional PC,

1 is also shown in certain Facebook officers' and directors' sales of Facebook stock. The Insider
2 Selling Defendants, Zuckerberg, Breyer, and Thiel, were privy to adverse, non-public information
3 which they exploited for their own benefit, to the exclusion of other shareholders. While
4 continuously making or causing the Company to make improper statements touting Facebook's
5 purported positive growth, and effectively concealing negative trends in its advertising business,
6 certain officers and directors sold massive amounts of Company stock in order to capitalize on the
7 Company's inflated stock price that they had helped improperly create.

8 56. As the Company's founder, CEO, and Chairman of the Board, defendant Zuckerberg
9 was a member of Company management and the Board. He was privy to material, non-public
10 information about negative trends affecting the Company's advertising business and lowered
11 guidance expectations. Zuckerberg was responsible for his statements in the Registration Statement,
12 which included disclosures concerning Facebook's purported positive growth but omitted material,
13 negative information affecting the Company's current and future business prospects. Zuckerberg
14 engaged in insider trading activity at a time when he knew adverse material, non-public information.

15 57. While in possession of this knowledge, defendant Zuckerberg sold 30,200,000 shares
16 of his personally held Facebook stock for proceeds of \$1,134,916,000. Zuckerberg's sales were
17 timed to maximize profit from Facebook's then artificially inflated stock price.

18 58. As a director since April 2005, defendant Breyer was privy to material, non-public
19 information about negative trends affecting the Company's advertising business and lowered
20 guidance expectations. Breyer was responsible for his statements in the Registration Statement,
21 which included disclosures concerning Facebook's purported positive growth but omitted material,
22 negative information affecting the Company's current and future business prospects. Breyer engaged
23 in insider trading activity at a time when he knew adverse material, non-public information.

24 59. While in possession of this knowledge, defendant Breyer directed Accel Partners, a
25 venture capital firm he is a partner of, to sell 57,726,901 shares of its Facebook stock for proceeds of
26 \$2,169,376,939.58. These sales were timed to maximize profit from Facebook's then artificially
27 inflated stock price.

28

1 65. Moreover, these actions have irreparably damaged Facebook's corporate image and
2 goodwill. For at least the foreseeable future, Facebook will suffer from what is known as the "liar's
3 discount," a term applied to the stocks of companies who have been implicated in improper behavior
4 and have misled the investing public, such that Facebook's ability to raise equity capital or debt on
5 favorable terms in the future is now impaired.

6 **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

7 66. Plaintiff brings this action derivatively in the right and for the benefit of Facebook to
8 redress injuries suffered, and to be suffered, by Facebook as a direct result of breaches of fiduciary
9 duty, waste of corporate assets, and gross mismanagement, as well as the aiding and abetting thereof,
10 by the defendants. Facebook is named as a nominal defendant solely in a derivative capacity. This
11 is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

12 67. Plaintiff will adequately and fairly represent the interests of Facebook in enforcing
13 and prosecuting its rights.

14 68. Plaintiff is and was, at times relevant hereto, an owner and holder of Facebook stock,
15 and remains a shareholder of the Company.

16 69. The current Board of Facebook consists of the following seven individuals:
17 defendants Zuckerberg, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel. Plaintiff has not
18 made any demand on the present Board to institute this action because such a demand would be a
19 futile, wasteful, and useless act, as set forth below.

20 **Demand Is Excused Because All the Members of the Current Board Face a Substantial**
21 **Likelihood of Liability for Their Misconduct**

22 70. Defendants Zuckerberg, Breyer, and Thiel sold and/or directed their affiliates to sell
23 Facebook stock under highly suspicious circumstances. As explained above, these defendants
24 possessed material, non-public Company information and used that information to benefit
25 themselves and their affiliates. They sold and/or directed their affiliates to sell stock based on this
26 knowledge of material, non-public Company information regarding negative trends affecting the
27 Company's current and future business prospects and the resulting decrease in the value of their
28 holdings of Facebook stock. Accordingly, Zuckerberg, Breyer, and Thiel face a substantial

1 likelihood of liability for breach of their fiduciary duty of loyalty. Any demand upon Zuckerberg,
2 Breyer, and Thiel is futile.

3 71. Defendants Zuckerberg, Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel
4 (comprising the entire current Board) face a substantial likelihood of liability for their misconduct.
5 As more fully detailed herein, Zuckerberg, Andreessen, Bowles, Breyer, Graham, Hastings, and
6 Thiel participated in and approved the improper Registration Statement in their capacity as Facebook
7 directors. As a result of their access to and review of internal corporate documents, conversations
8 and connections with other corporate officers, employees, and directors, and attendance at
9 management and Board meetings, each of the Director Defendants knew the adverse, non-public
10 information regarding Facebook's business prospects and financial results before the issuance of the
11 Registration Statement, yet each failed to prevent its release or correct the misleading and
12 incomplete information contained therein. Moreover, as directors of Facebook, Zuckerberg,
13 Andreessen, Bowles, Breyer, Graham, Hastings, and Thiel each had the duty and opportunity to
14 discuss material information with management and fellow directors at any of the Board meetings
15 that occurred before the IPO, as well as at meetings of committees of the Board. Despite these
16 duties, these defendants caused or allowed, by their actions or inactions, the improper statements to
17 be disseminated by Facebook to the investing public and the Company's shareholders in connection
18 with the IPO.

19 72. Defendants Andreessen, Bowles, and Thiel, as members of the Audit Committee, face
20 a substantial likelihood of personal liability for the issuance of Facebook's Registration Statement.
21 Andreessen, Bowles, and Thiel were responsible for monitoring and directly participating in the
22 dissemination of Facebook's improper Registration Statement. Indeed, Andreessen, Bowles, and
23 Thiel each signed the Registration Statement in their capacity as directors of Facebook.
24 Accordingly, Andreessen, Bowles, and Thiel breached their fiduciary duties of due care, loyalty, and
25 good faith because they participated in the preparation of improper offering documents that
26 contained improper information.

27 73. Moreover, defendants Andreessen, Bowles, and Thiel failed to correct Facebook's
28 improper statements described above in violation of the Audit Committee Charter effective as of

1 May 17, 2012, even after the Registration Statement was finalized and the IPO was completed.

2 According to the Audit Committee Charter:

3 *The Committee will discuss generally with the Company's management and the*
4 *independent auditor, as appropriate, the type of information to be disclosed and*
5 *type of presentation to be made regarding the Company's press releases and other*
6 *financial information released to analysts and rating agencies.*

7 * * *

8 *Review of Processes, Systems, Controls and Procedures. The Committee will review*
9 *and discuss with the independent auditor and the Company's management their*
10 *periodic reviews of the Company's accounting and financial reporting processes,*
11 *systems of internal control (including any significant deficiencies and material*
12 *weaknesses identified in their design or operation), and disclosure controls and*
13 *procedures (and management's reports thereon).*

14 * * *

15 *Other Risk Assessment and Risk Management. The Committee will discuss with the*
16 *Company's management the Company's major financial risk and enterprise*
17 *exposures and the steps management has taken to monitor and control such*
18 *exposures, including the Company's procedures and any related policies with*
19 *respect to risk assessment and risk management.*

20 Andreessen, Bowles, and Thiel failed to meet each of these heightened duties as members of
21 Facebook's Audit Committee and, thus, face a sufficiently substantial likelihood of liability for their
22 breach of fiduciary duties. As a result, any demand upon them is futile.

23 **Demand Is Excused Because a Majority of the Board Lacks Independence**

24 74. All seven members of the current Board lack the adequate independence necessary to
25 vigorously prosecute the wrongdoing alleged herein. As eloquently stated by Columbia Law School
26 Professor John Coffee, "[p]retending that Facebook will have an independent board ... is like putting
27 rouge on a corpse." Like others following Facebook's developments, Mr. Coffee did not agree with
28 Facebook's "brazen insistence that they are not going to let Wall Street impose their rules"
concerning the seating of a truly independent board.

75. Defendant Zuckerberg is not an independent director because he is currently serving
as the Company's Chairman and CEO, and before the IPO, was a 25% owner of Facebook.
Immediately after the IPO, Zuckerberg sold 30.2 million shares for \$1.1 billion and, thus, had an

1 interest in keeping the IPO price artificially inflated. Accordingly, Zuckerberg is not disinterested
2 and cannot fairly evaluate a demand.

3 76. The Board is beholden to defendant Zuckerberg as he maintains majority voting
4 control over Facebook. As such, the Board would be unable and unwilling to pursue any claims
5 against Zuckerberg arising from unlawful conduct in connection with the IPO. Following the IPO,
6 Zuckerberg controls approximately 55.9% of the voting power of Facebook's outstanding capital
7 stock. Facebook acknowledges that Zuckerberg "will have the ability to control the outcome of
8 matters submitted to our stockholders for approval, including the election of our directors, as well as
9 the overall management and direction of [the] company."

10 77. Facebook expressly acknowledges this lack of independence in its Prospectus, stating:
11 Because Mr. Zuckerberg controls a majority of our outstanding voting power, *we are*
12 *a "controlled company"* under the corporate governance rules for NASDAQ-listed
13 companies. Therefore, we are not required to have a majority of our board of
14 directors be independent, nor are we required to have a compensation committee or
15 an independent nominating function. In light of our status as a controlled company,
16 our board of directors has determined not to have an independent nominating
17 function and to have the full board of directors be directly responsible for nominating
18 members of our board.

19 78. Moreover, defendant Zuckerberg retained his majority voting control over Facebook
20 even though he sold more than \$1 billion worth of Company shares through its IPO. He was able to
21 maintain this control by utilizing shareholder voting agreements, and because he owns Class B stock.
22 Facebook's Class B stock is identical to its other form of stock (Class A) except that holders of Class
23 B stock are entitled to ten votes per share, instead of one vote per share as the Class A stockholders
24 receive. At the time of the IPO, 96% of the voting power of Facebook's stock was held by Class B
25 shareholders, including:

- 26 • 2 million shares held by Glate LLC, an entity owned by Zuckerberg's
27 father;
- 28 • 2,399,999 shares held by defendant Ebersman;
- 6,607,131 shares held by defendant Andreessen;
- 201,378,349 shares held by defendant Breyer; and
- 44,724,100 share held by defendant Thiel.

79. In addition, defendant Zuckerberg controls all of Facebook's operations, and has a
history of independently running the Company without any real monitoring from the Board. Most

1 recently, in April 2012, Zuckerberg caused Facebook to purchase a photo-sharing company called
2 Instagram, Inc. ("Instagram") for \$1 billion, without providing the Board with any advance notice or
3 any real opportunity for examination and due diligence, let alone rebuttal. According to a *Wall*
4 *Street Journal* report, the negotiation period was a mere weekend at Zuckerberg's house, where he
5 and Kevin Systrom, Instagram's, co-founder and CEO, thrashed out a mutually agreeable valuation
6 for the photo-sharing service. The *Wall Street Journal* report goes on to say that Zuckerberg
7 informed Facebook's Board that he intended to spend \$1 billion on Instagram approximately twenty-
8 four hours before the takeover became official. The Board reportedly did vote on whether to
9 approve the decision, but sources close to these proceedings describe them as "largely symbolic."

10 80. This recent display of defendant Zuckerberg's dominance over the Board is not
11 surprising given Zuckerberg's position on the nominating committee, the committee that determines
12 the composition of the Board. Because Zuckerberg is on this committee, he has significant control
13 of the composition of the Board, and can either entrench the current members that act in accordance
14 with his wishes, or appoint new members to do his bidding. For this reason as well, the whole Board
15 is not disinterested and cannot fairly evaluate a demand. Because the Board is dependent upon the
16 goodwill of Zuckerberg to retain their positions on the Board and have entangling financial alliances,
17 interests, and dependencies, they are unable to exercise independent judgment and vigorously
18 prosecute any derivative action on behalf of Facebook. In fact, the Registration Statement reveals
19 that defendants Andreessen, Graham, and Hastings were "elected as designees" of Zuckerberg. As a
20 result, any demand on the Board that it bring this derivative action would be a futile act - the Board
21 cannot and will not prosecute this action against itself and, specifically, Zuckerberg.

22 81. The rest of the current Board also lacks independence for reasons outside of its
23 loyalties to defendant Zuckerberg. For example, in May 2005, defendant Breyer invested \$12.7
24 million in Facebook as a partner at Accel Partners for a 10.7% ownership stake, and Breyer himself
25 invested an additional \$1 million. Accel Partners and Breyer then unloaded forty-nine million shares
26 in connection with the offering and, thus, had an interest in keeping the IPO price artificially
27 inflated. Accordingly, Breyer is not disinterested and cannot fairly evaluate a demand.

28

1 82. Defendant Thiel was an early Facebook investor through his Founders Fund venture
2 capital firm, and before the IPO had a 3% stake in Facebook. Immediately after the IPO, Thiel sold
3 \$16.8 million shares for \$633 million and, thus, had an interest in keeping the IPO price artificially
4 inflated. Accordingly, Thiel is not disinterested and cannot fairly evaluate a demand.

5 83. Defendant Bowles sits on the Board of Morgan Stanley, the lead underwriter that
6 selectively disseminated non-public information it received from a Facebook executive. As a result,
7 Morgan Stanley is currently subject to regulatory and governmental investigations. Bowles cannot
8 be expected to take any action, on behalf of Facebook, that would harm Morgan Stanley.
9 Accordingly, Bowles is not disinterested and cannot fairly evaluate a demand.

10 84. Defendant Andreessen is conflicted because he is the co-founder of the venture
11 capital firm Andreessen Horowitz, which had a significant private investment in Facebook before it
12 went public. Andreessen Horowitz also made \$78 million from a \$250,000 seed investment in
13 Instagram, the photo-sharing company that was recently acquired by Facebook for \$1 billion. The
14 Federal Trade Commission is reportedly investigating this acquisition. Accordingly, Andreessen is
15 not disinterested and cannot fairly evaluate a demand.

16 85. The acts complained of constitute violations of the fiduciary duties owed by
17 Facebook's officers and directors and these acts are incapable of ratification.

18 86. Each of the Director Defendants of Facebook authorized and/or permitted the
19 issuance of various of the improper statements in the IPO and are principal beneficiaries of the
20 wrongdoing alleged herein and, thus, could not fairly and fully prosecute such a suit even if such suit
21 was instituted by them.

22 87. Facebook has been and will continue to be exposed to significant losses due to the
23 wrongdoing complained of herein, yet the Individual Defendants and current Board have not filed
24 any lawsuits against themselves or others who were responsible for that wrongful conduct to attempt
25 to recover for Facebook any part of the damages Facebook suffered and will suffer thereby.

26 88. If Facebook's current and past officers and directors are protected against personal
27 liability for their acts of mismanagement and breach of fiduciary duty alleged in this complaint by
28 directors and officers' liability insurance, they caused the Company to purchase that insurance for

1 their protection with corporate funds, i.e., monies belonging to the stockholders of Facebook.
2 However, the directors' and officers' liability insurance policies covering the defendants in this case
3 contain provisions that eliminate coverage for any action brought directly by Facebook against these
4 defendants, known as the "insured versus insured exclusion." As a result, if these directors were to
5 cause Facebook to sue themselves or certain of the officers of Facebook, there would be no directors
6 and officers' insurance protection and, thus, this is a further reason why they will not bring such a
7 suit. On the other hand, if the suit is brought derivatively, as this action is brought, such insurance
8 coverage exists and will provide a basis for the Company to effectuate recovery. If there is no
9 directors and officers' liability insurance, then the current directors will not cause Facebook to sue
10 the defendants named herein, since they will face a large uninsured liability and lose the ability to
11 recover for the Company from the insurance.

12 89. Moreover, despite the Individual Defendants having knowledge of the claims and
13 causes of action raised by plaintiff, the current Board has failed and refused to seek to recover for
14 Facebook for any of the wrongdoing alleged by plaintiff herein.

15 90. A true and correct copy of this complaint was delivered to Facebook prior to being
16 filed with this Court.

17 **FIRST CAUSE OF ACTION**

18 **Against the Individual Defendants and Does 1-25 for Breach of Fiduciary Duty**

19 91. Plaintiff incorporates by reference and realleges each and every allegation contained
20 above, as though fully set forth herein.

21 92. The Individual Defendants and Does 1-25 owed and owe Facebook fiduciary
22 obligations. By reason of their fiduciary relationships, the Individual Defendants owed and owe
23 Facebook the highest obligation of good faith, fair dealing, loyalty, and due care.

24 93. The Individual Defendants and Does 1-25, and each of them, violated and breached
25 their fiduciary duties of candor, good faith, and loyalty. More specifically, the Individual
26 Defendants violated their duty of good faith by creating a culture of lawlessness within Facebook,
27 and/or consciously failing to prevent the Company from engaging in the unlawful acts complained of
28 herein.

1 94. As alleged herein, the Individual Defendants and Does 1-25 breached their fiduciary
2 duties of good faith and due care, consciously and purposely abdicating their responsibilities as
3 directors and/or officers, by allowing, producing, approving, or disseminating to Facebook
4 shareholders and the public improper statements through the Company's Registration Statement.

5 95. Additionally, defendants Zuckerberg, Breyer, and Thiel breached their duty of loyalty
6 by selling and/or directing affiliates to sell Facebook stock on the basis of the knowledge of the
7 improper information described above before that information was revealed to the Company's
8 shareholders. The information described above was proprietary, non-public information concerning
9 the Company's current and future business prospects. It was a proprietary asset belonging to the
10 Company, which Zuckerberg, Breyer, and Thiel used for their own benefit when they sold and/or
11 directed their affiliate funds to sell Facebook common stock.

12 96. The Individual Defendants and Does 1-25 further breached their fiduciary duties to
13 the Company because their actions exposed the Company to lawsuits by investors alleging violations
14 of federal securities laws. As a direct and proximate result of the Individual Defendants' and Does 1-
15 25's breaches of their fiduciary obligations, Facebook has sustained significant damages, as alleged
16 herein. As a result of the misconduct alleged herein, these defendants are liable to the Company.

17 97. Plaintiff, on behalf of Facebook, has no adequate remedy at law.

18 SECOND CAUSE OF ACTION

19 Against the Individual Defendants and Does 1-25 for Waste of Corporate Assets

20 98. Plaintiff incorporates by reference and realleges each and every allegation contained
21 above, as though fully set forth herein.

22 99. As a result of the Individual Defendants' failure to implement adequate internal
23 controls to ensure that the Company's Registration Statement was accurate, Facebook is now subject
24 to at least eight securities fraud class action lawsuits. The Individual Defendants have caused
25 Facebook to waste its assets by forcing it to defend itself in the ongoing litigation, in addition to any
26 ensuing costs from a potential settlement or adverse judgment.

27 100. In addition, the Individual Defendants have caused Facebook to waste its assets by
28 paying improper compensation and bonuses to certain of its executive officers and directors that

1 breached their fiduciary duty.

2 101. As a result of the waste of corporate assets, the Individual Defendants and Does 1-25
3 are liable to the Company.

4 102. Plaintiff, on behalf of Facebook, has no adequate remedy at law.

5 **THIRD CAUSE OF ACTION**

6 **Against the Individual Defendants and Does 1-25 for Unjust Enrichment**

7 103. Plaintiff incorporates by reference and realleges each and every allegation contained
8 above, as though fully set forth herein.

9 104. By their wrongful acts and omissions, the Individual Defendants were unjustly
10 enriched at the expense of and to the detriment of Facebook. The Individual Defendants were
11 unjustly enriched as a result of the compensation and director remuneration they received while
12 breaching fiduciary duties owed to Facebook.

13 105. Defendants Zuckerberg, Breyer, and Thiel sold and/or directed affiliates to sell
14 Facebook stock while in possession of material, adverse, non-public information that artificially
15 inflated the price of Facebook stock. As a result, Zuckerberg, Breyer, and Thiel, and their affiliates,
16 profited from their misconduct and were unjustly enriched through their exploitation of material and
17 adverse inside information.

18 106. Plaintiff, as a shareholder and representative of Facebook, seeks restitution from these
19 defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits, and
20 other compensation obtained by these defendants, and each of them, from their wrongful conduct
21 and fiduciary breaches.

22 107. Plaintiff, on behalf of Facebook, has no adequate remedy at law.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, plaintiff, on behalf of Facebook, demands judgment as follows:

25 A. Against all of the defendants and in favor of the Company for the amount of damages
26 sustained by the Company as a result of the defendants' breaches of fiduciary duties, waste of
27 corporate assets, and unjust enrichment;

28

1 B. Directing Facebook to take all necessary actions to reform and improve its corporate
2 governance and internal procedures to comply with applicable laws and to protect Facebook and its
3 shareholders from a repeat of the damaging events described herein, including, but not limited to,
4 putting forward for shareholder vote, resolutions for amendments to the Company's By-Laws or
5 Articles of Incorporation and taking such other action as may be necessary to place before
6 shareholders for a vote of the following Corporate Governance Policies:

7 1. a provision to effectively control insider selling;

8 2. a proposal to strengthen Facebook's oversight of its disclosure procedures,
9 including specific reforms policing improper selective disclosures;

10 3. a proposal to strengthen the internal controls within the Company in order to
11 maintain adequate checks and balances to ensure that the Board can effectively monitor defendant
12 Zuckerberg's actions, and avoid Zuckerberg from continuing to independently run Facebook as a
13 private company;

14 4. a proposal to strengthen the Board's supervision of operations and develop
15 and implement procedures for greater shareholder input into the policies and guidelines of the
16 Board; and

17 5. a provision to permit the shareholders of Facebook to nominate at least three
18 candidates for election to the Board;

19 C. Extraordinary equitable and/or injunctive relief as permitted by law, equity, and state
20 statutory provisions sued hereunder, including attaching, impounding, imposing a constructive trust
21 on, or otherwise restricting the proceeds of defendants' trading activities or their other assets so as to
22 assure that plaintiff on behalf of Facebook has an effective remedy;

23 D. Awarding to Facebook restitution from defendants, and each of them, and ordering
24 disgorgement of all profits, benefits, and other compensation obtained by defendants, including all
25 ill-gotten gains from the Insider Selling Defendants;

26 E. Awarding to plaintiff the costs and disbursements of the action, including reasonable
27 attorneys' fees, accountants' and experts' fees, costs, and expenses; and

28 F. Granting such other and further relief as the Court deems just and proper.

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JURY DEMAND

Plaintiff demands a trial by jury.

DATED: May 30, 2012

ROBBINS UMEDA LLP
BRIAN J. ROBBINS
FELIPE J. ARROYO
SHANE P. SANDERS
GINA STASSI


BRIAN J. ROBBINS

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MICHAEL I. FISTEL JR.
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Atlanta, GA 30338
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Attorneys for Plaintiff

737325

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.

Page 1 of 3

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

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

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
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 <i>(if different from the address above):</i> _____ <input type="checkbox"/> Notice of Intent to Appear by Telephone, by <i>(name):</i> _____	

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:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

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):*

6. **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 (<i>check all that apply</i>):	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 (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

PLAINTIFF/PETITIONER:	CASE NUMBER: CM-110
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>
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- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER:	CM-110
DEFENDANT/RESPONDENT:	CASE NUMBER:

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.

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

**SUPERIOR COURT
OF
CALIFORNIA
COUNTY OF
SAN MATEO**



**LOCAL COURT
RULES**

**As Amended
Effective January 1, 2012**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN MATEO
Hall of Justice and Records
400 County Center, 2nd Floor
Redwood City, California 94063

CHAPTER 6. CIVIL TRIAL RULES

Rule 2.20 Trial Motions, Briefs, Statements, and Witness Lists

Upon assignment to a trial department for trial by a jury, each party shall file with that department the following:

- (1) Any in limine motions and response thereto;
- (2) Any trial briefs;
- (3) A concise non-argumentative statement of the case to be read to the jury; and
- (4) A list of possible witness who may testify in the trial to be read to the jury panel by the court.

(Adopted, effective January 1, 2002)

Rule 2.21 In Limine Motions

Any in limine motions shall be served upon opposing counsel not less than five (5) days prior to trial. Any response shall be served upon the proponent of the motion not later than the first appearance in the Department of the Presiding Judge for trial assignment.

(Adopted, effective January 1, 2002)

Rule 2.22 Production of Exhibits

Any party intending to offer any exhibit at the time of trial shall be prepared, by the time of assignment to a trial department, with an original and sufficient copies of each such exhibit for all other parties and the court. The court may make, in its discretion, any orders it deems appropriate regarding the exchange and presentations of exhibits.

(Adopted, effective January 1, 2002)

RULE NUMBERS 2.23 TO 2.29 ARE RESERVED

CHAPTER 7. COMPLEX CASES

Rule 2.30 Determination of Complex Case Designation.

A. Decision of Complex Case to be Made by Presiding Judge

The Presiding Judge shall decide whether an action is a complex case within the meaning of California Rules of Court, Rule 3.400, subdivision (a), and whether it should be assigned to a single judge for all purposes. All status conferences or other hearings regarding whether an action should be designated as complex and receive a singly assigned judge shall be set in the Presiding Judge's department.

B. Provisional Designation.

An action is provisionally a complex case if it involves one or more of the following types of claims: (1) antitrust or trade regulation claims; (2) construction defect claims involving many parties or structures; (3) securities claims or investment losses involving many parties; (4) environmental or toxic

tort claims involving many parties; (5) claims involving massive torts; (6) claims involving class actions; or (7) insurance coverage claims arising out of any of the claims listed in subdivisions (1) through (6).

The Court shall treat a provisionally complex action as a complex case until the Presiding Judge has the opportunity to decide whether the action meets the definition in California Rules of Court, Rule 3.400, subdivision (a).

C. Application to Designate or Counter-Designate an Action as a Complex Case.

Any party who files either a Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 3.401) or a counter or joinder Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 3.402, subdivision (b) or (c)), designating an action as a complex case in Items 1, 2 and/or 5, must also file an accompanying Certificate Re: Complex Case Designation in the form prescribed by the Court. The certificate must include supporting information showing a reasonable basis for the complex case designation being sought. Such supporting information may include, without limitation, a brief description of the following factors as they pertain to the particular action:

- (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.

A copy of the Certificate Re: Complex Case Designation must be served on all opposing parties. Any certificate filed by a plaintiff shall be served along with the initial service of copies of the Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 3.401), summons, and complaint in the action. Any certificate filed by a defendant shall be served together with the service of copies of the counter or joinder Civil Case Cover Sheet (pursuant to California Rules of Court, Rule 3.402, subdivision (b) or (c)) and the initial first appearance pleading(s).

D. Noncomplex Counter-Designation.

If a Civil Case Cover Sheet designating an action as a complex case and the accompanying Certificate Re: Complex Case Designation has been filed and served and the Court has not previously declared the action to be a complex case, a defendant may file and serve no later than its first appearance a counter Civil Case Cover Sheet designating the action as not a complex case. Any defendant who files such a noncomplex counter-designation must also file and serve an accompanying Certificate Re: Complex Case Designation in the form prescribed by this Court and setting forth supporting information showing a reasonable basis for the noncomplex counter-designation being sought.

Once the Court has declared the action to be a complex case, any party seeking the Presiding Judge's decision that the action is not a complex case must file a noticed motion pursuant to Section H below.

E. Decision by Presiding Judge on Complex Case Designation; Early Status Conference.

If a Civil Case Cover Sheet designating an action as a complex case and the accompanying Certificate Re: Complex Case Designation have been filed and served, the Presiding Judge shall decide as soon as reasonably practicable, with or without a hearing, whether the action is a complex case and should be assigned to a single judge for all purposes.

Upon the filing of a Civil Case Cover Sheet designating an action as a complex case and the accompanying Certificate Re: Complex Case Designation, the Clerk of the Court shall set a status conference at which the Presiding Judge shall decide whether or not the action is a complex case. This status conference shall be held no later than (a) 60 days after the filing of a Civil Case Cover Sheet by a plaintiff (pursuant to California Rules of Court, Rule 3.401) or (b) 30 days after the filing of a counter Civil Case Cover Sheet by a defendant (pursuant to California Rules of Court, Rule 3.402, subdivision (a) or (b)), whichever date is earlier.

Alternatively, in his or her sole discretion, the Presiding Judge may make the decision on complex case designation and single assignment, without a status conference, based upon the filed Civil Case Cover Sheet and accompanying Certificate Re: Complex Case Designation alone.

F. Notice.

The party who seeks a complex case designation or a noncomplex counter-designation must give reasonable notice of the status conference to the opposing party or parties in the action even if they have not yet made a first appearance in the action. Such notice of the status conference shall be given in the same manner as is required for ex parte applications pursuant to California Rule of Court, Rule 379.

G. Representations to the Court.

By presenting to the Court a Certificate Re: Complex Case Designation, an attorney or unrepresented party is certifying to the best of that person's knowledge, information, and belief, formed after reasonable inquiry under the circumstances:

- (1) That the complex case designation or noncomplex counter-designation is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) That the claims, defenses, or other legal contentions referenced therein are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) That the statement of supporting information relevant to the complex case designation or noncomplex counter-designation have evidentiary support or are believed, in good faith, likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) That there is a reasonable basis for that party's complex case designation or noncomplex counter-designation.

If, after notice and a reasonable opportunity to be heard, the Court determines that this subpart has been violated, the Court may impose an appropriate sanction upon the attorneys, law firms, or self-represented parties that have violated this subpart.

H. The Presiding Judge's Continuing Power.

With or without a hearing, the Presiding Judge may decide, on his or her own motion or on a noticed motion by any party, that a civil action is a complex case or that an action previously declared to be a complex case is not a complex case.

I. Pilot Program; Sunset Provision. (Repealed, effective 1/1/2007).

(Adopted, effective July 1, 2004)(Amended, effective July 1, 2005) (Amended, effective January 1, 2006)(Amended, effective January 1, 2007)

RULE NUMBERS 2.31 TO 2.35 ARE RESERVED

CHAPTER 8. ACCESS TO COURT RECORDS

Rule 2.36 Public Access and Privacy

Please reference. California Rules of Court, Rule 1.20.

(Adopted, effective January 1, 2008)

Rule 2.37 Public Access.

Exhibits or attachments to a document that are filed or lodged with or otherwise presented to the court, that are not otherwise marked as confidential or sealed, may be subject to public viewing and access either at the courthouse or electronically on-line (California Rules of Court, Rule 2.503, et seq.).

(Adopted, effective January 1, 2008)

Rule 2.38 Electronic Access.

Documents that are part of a court record are reasonably made available to the public electronically under the Court's Electronic Imaging program as permitted by California Rules of Court, Rules 2.500, et seq. Documents that are not properly protected by being marked confidential or sealed by court order may be subject to public access as discussed in Rule 2.38.

(Adopted, effective January 1, 2008)