

FILED

JUN 23 2017

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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[Additional counsel appear on signature page.]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CAMPBELL, et al.,

Plaintiffs,

vs.

FACEBOOK, INC.,

Defendant.

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

) CLASS ACTION

) STATEMENT OF INTENTION NOT TO
) OBJECT TO CLASS ACTION
) SETTLEMENT

1 **STATEMENT OF INTENTION NOT TO OBJECT TO CLASS ACTION SETTLEMENT**

2 The undersigned counsel represent plaintiffs in a number of pending cases against Facebook,
3 Inc. (“Facebook”) – see, e.g., *In re Facebook Biometric Info. Privacy Litig.*, 3:15-cv-3747-JD (N.D.
4 Cal.); *Gullen v. Facebook, Inc.*, No. 3:16-cv-0937-JD (N.D. Cal.); *Holt v. Facebook, Inc.*, No. 3:16-
5 cv-2266-JST (N.D. Cal.) (collectively, “Facebook Plaintiffs”) – who may also be members of the
6 Settlement Class, certified by the Court (Dkt. Nos. 192, 235 at ¶4), in the above-captioned case,
7 *Campbell, et al. v. Facebook, Inc.*, No. 4:13-cv-5996-PJH-SK (N.D. Cal.) (the “Action”). After
8 reviewing the proposed settlement agreement (the “Settlement”) in the Action, we reached out to the
9 parties in the Action because we had concerns about the breadth of the Settlement’s release provision
10 (see, e.g., Dkt. 227-3 at ¶49), and whether that provision could be interpreted to encompass the
11 Facebook Plaintiffs’ claims in their ongoing litigation and investigations. Facebook’s counsel in the
12 Action confirmed that because the Facebook Plaintiffs’ claims do not “concern[] the practices at
13 issue in [the Action],” they do not interpret the Settlement’s release to “extend to the claims at issue
14 in the unrelated cases.” See Exhibit 1. In other words, their position is that the release in this case
15 “plainly does not apply to the claims in [Facebook Plaintiffs’] lawsuits.” *Id.*

16 Based on Facebook’s confirmation that Facebook Plaintiffs’ claims are not subject to or
17 impacted by the Settlement’s release, Facebook Plaintiffs do not intend to object to the Settlement.
18 Indeed, they express no position with respect to the Settlement or its terms.

19 DATED: June 23, 2017

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EXHIBIT 1

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April 10, 2017

VIA ELECTRONIC MAIL

Rafey S. Balabanian
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Re: Campbell v. Facebook

Dear Rafey:

We are in receipt of your letter of April 4, 2017, regarding the release contained in paragraph 49 of the Settlement Agreement in *Campbell v. Facebook, Inc.*, Case No. 13-cv-05996 PJH-SK (N.D. Cal.). We can confirm that the release does not encompass the separate lawsuits cited in your letter.

By its express terms, the release does not extend to the claims at issue in the unrelated cases cited in your letter (*In re Facebook Biometric Privacy Litigation*, *Gullen*, or *Holt*), which—as we understand it—make no allegations at all concerning the practices at issue in *Campbell*. As paragraph 1 of the Settlement Agreement makes clear, the *Campbell* complaint alleged that “Facebook ‘read[] its users’ personal, private Facebook messages without their consent’” in purported violation of federal and state wiretapping law, and the Settlement Class (whose members’ non-monetary claims are being released in paragraph 49) is limited to Facebook users “who have sent, or received from a Facebook user, private messages that included URLs in their content (and from which Facebook generated a URL attachment).” (Dkt. 227-3 ¶¶ 1, 36.) As your letter acknowledges, the release in *Campbell* extends to claims “**that result from, arise out of, are based on, or relate in any way to the practices and claims that were alleged in, or could have been alleged in, the Action . . .**” (*Id.* ¶ 49; emphasis added.) Thus, it plainly does not apply to the claims in your lawsuits.

Sincerely,



Christopher Chorba

CC/jkf

GIBSON DUNN

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April 10, 2017
Page 2

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DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and employed in the City and County of San Francisco, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is Post Montgomery Center, One Montgomery Street, Suite 1800, San Francisco, California 94104.

2. That on June 23, 2017, declarant served the STATEMENT OF INTENTION NOT TO OBJECT TO CLASS ACTION SETTLEMENT by depositing a true copy thereof in a United States mailbox at San Francisco, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed below:

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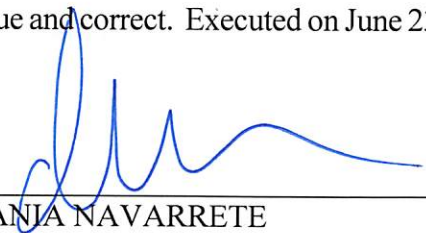
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3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 23, 2017, at San Francisco, California.



IVANIA NAVARRETE