

LATHAM & WATKINS LLP  
Elizabeth L. Deeley (CA Bar No. 230798)  
*elizabeth.deeley@lw.com*  
Nicole C. Valco (CA Bar No. 258506)  
*nicole.valco@lw.com*  
505 Montgomery Street, Suite 2000  
San Francisco, CA 94111-6538  
Telephone: +1.415.391.0600  
Facsimile: +1.415.395.8095

Susan E. Engel (*pro hac vice*)  
*susan.engel@lw.com*  
555 Eleventh Street, N.W., Suite 1000  
Washington, D.C. 20004-1304  
Telephone: +1.202.637.2200  
Facsimile: +1.202.637.2201

Hilary H. Mattis (CA Bar No. 271498)  
*hilary.mattis@lw.com*  
140 Scott Drive  
Menlo Park, CA 94025-1008  
Telephone: +1.650.328.4600  
Facsimile: +1.650.463.2600

*Attorneys for Defendant Facebook, Inc.*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

DZ RESERVE and CAIN MAXWELL (d/b/a  
MAX MARTIALIS), individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

Case No. 3:18-cv-04978 JD

**FACEBOOK, INC.'S NOTICE OF MOTION  
AND MOTION TO DISMISS THE THIRD  
AMENDED CONSOLIDATED CLASS  
ACTION COMPLAINT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN SUPPORT**

Date: July 30, 2020  
Time: 10:00 a.m.  
Court: Courtroom 11, 19th Floor  
Hon. James Donato

**NOTICE OF MOTION AND MOTION TO DISMISS****TO PLAINTIFFS AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on July 30, 2020, at 10:00 a.m. in Courtroom 11 of the United States District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, California, Defendant Facebook, Inc. (“Facebook”) will and hereby does move for an order dismissing Plaintiffs’ Third Amended Consolidated Class Action Complaint (“Third Amended Complaint” or “TAC”), Dkt. 166. This motion is made pursuant to Federal Rules of Civil Procedure Rules 9(b) and 12(b)(6), on the grounds that (1) the breach of the implied covenant of good faith and fair dealing and quasi-contract claims in the TAC fail to state a claim as a matter of law under Federal Rule of Civil Procedure 12(b)(6); (2) the breach of the implied covenant of good faith and fair dealing claim is time-barred to the extent it is based on ad campaigns begun before August 15, 2014; (3) Plaintiffs fail to state a claim for fraudulent misrepresentation or fraudulent concealment under Federal Rule of Civil Procedure 9(b) or 12(b)(6); (4) the quasi-contract claim is time-barred to the extent it is based on ad campaigns begun before August 15, 2016; and (5) the fraudulent misrepresentation and fraudulent concealment claims are time-barred to the extent they are based on ad campaigns begun before April 15, 2017.

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities, Facebook, Inc.’s Request for Judicial Notice in Support of Its Motion to Dismiss the Third Amended Consolidated Class Action Complaint (“Request for Judicial Notice”) and the Declaration of Nicole C. Valco Support of Facebook, Inc.’s Motion to Dismiss the Third Amended Consolidated Class Action Complaint (“Valco Decl.”) filed therewith, the pleadings and papers on file in this action, the arguments of counsel, and any other matter that the Court may properly consider.

**STATEMENT OF RELIEF SOUGHT**

Facebook seeks an order pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6) dismissing with prejudice Plaintiffs’ claims for breach of the implied covenant of good faith and fair dealing, quasi-contract, fraudulent concealment, and fraudulent misrepresentation in their entirety and for failure to state a claim upon which relief can be granted.

1 Dated: May 14, 2020

LATHAM & WATKINS LLP

2 By: /s/ Elizabeth L. Deeley  
3 Elizabeth L. Deeley (CA Bar No. 230798)  
4 Nicole C. Valco (CA Bar No. 258506)  
5 505 Montgomery Street, Suite 2000  
6 San Francisco, CA 94111-6538  
7 Telephone: +1.415.391.0600  
8 Facsimile: +1.415.395.8095  
9 *elizabeth.deeley@lw.com*  
10 *nicole.valco@lw.com*

11 Susan E. Engel (*pro hac vice*)  
12 555 Eleventh Street, N.W., Suite 1000  
13 Washington, D.C. 20004-1304  
14 Telephone: +1.202.637.2200  
15 Facsimile: +1.202.637.2201  
16 *susan.engel@lw.com*

17 Hilary H. Mattis (CA Bar No. 271498)  
18 140 Scott Drive  
19 Menlo Park, CA 94025-1008  
20 Telephone: +1.650.328.4600  
21 Facsimile: +1.650.463.2600  
22 *hilary.mattis@lw.com*

23 *Attorneys for Defendant Facebook, Inc.*  
24  
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26  
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