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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 MAXIMILIAN KLEIN and SARAH)
14 GRABERT, individually and on behalf)
15 of all others similarly situated,)

16 Plaintiff,

17 v.

18 FACEBOOK, INC., a Delaware)
19 corporation headquartered in California,)

20 Defendant.)

21 This document relates to:)

22 *Banks Kupcho v. Facebook, Inc.*, No.)
23 4:20-cv-08815-JSW;)

24 *Steinberg v. Facebook, Inc.*, No. 3:20-cv-)
25 09130-VC;)

26 *Dames v. Facebook, Inc.*, No. 3:20-cv-)
27 08817-TSH.)

Case No. 5:20-cv-08570-LHK

**PLAINTIFF BANKS KUPCHO'S
RESPONSE TO KLEIN PLAINTIFFS'
MOTION FOR ADMINISTRATIVE
RELIEF TO CONSIDER WHETHER
CONSUMER CASES SHOULD BE
RELATED PURSUANT TO CIVIL
LOCAL RULE 3-12**

1 Plaintiff Rachel Banks Kupcho (“Plaintiff” or “Banks Kupcho”) submits her response to
2 Klein Plaintiffs’ administrative motion to relate their case to other consumer cases (“*Klein*
3 Motion”). Banks Kupcho believes that the motion to relate is premature given the pendency of a
4 motion to relate in the *Real Chat* matter, but does not generally oppose the relation or any necessary
5 coordination among the cases.

6 ARGUMENT

7 The requested relief in the *Klein* Motion is premature at this time. As discussed in the *Klein*
8 Motion, there are already pending motions filed by Facebook in *Reveal Chat Holdco LLC et al. v.*
9 *Facebook, Inc.*, Case No. 5:20-cv-00363-BLF (“*Reveal Chat*”) that seek to relate *Klein et al. v.*
10 *Facebook, Inc.*, Case No. 5:20-cv-08570- LHK; *Banks Kupcho v. Facebook, Inc.*, No. 4:20-cv-
11 08815-JSW; *Dames et al. v. Facebook, Inc.*, No. 3:20-cv-08817-HSG; *Steinberg v. Facebook, Inc.*
12 3:20-cv-09130-VC (collectively, the “Consumer Cases”).¹ Thus, the *Reveal Chat* Court’s decision
13 on the pending motions may grant the relief sought in the *Klein* Motion.
14

15 If this Court does find that that *Klein* Motion is timely, formal consolidation and a
16 leadership structure would be necessary for the Consumer Cases and Plaintiff Banks Kupcho
17 requests that a future briefing schedule be set to allow the parties to confer and file any respective
18 motions. Finally, Plaintiff Banks Kupcho does not oppose any future relation of the Consumer
19 Cases, including assigning a single Magistrate Judge to oversee discovery and other pre-trial
20 matters as proposed by the *Klein* Motion.
21

22
23
24 ¹ While Plaintiff Banks Kupcho opposed consolidation of the Consumer Cases with *Reveal Chat*
25 based upon differences between the consumer and commercial case facts and allegations, she did
26 not oppose coordination, including for discovery purposes.
27

CONCLUSION

For the reasons stated above, this Court should deny the *Klein* Motion as premature without prejudice.

Dated: January 07, 2021

HAGENS BERMAN SOBOL SHAPIRO LLP

s/ Steve W. Berman

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