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14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SAN MATEO

CIV 5 14 171

16 ELBITA ALFONSO, on behalf of herself and all
others similarly situated,

17 Plaintiff,

18 v.

19 FACEBOOK, INC., MARK ZUCKERBERG,
20 DAVID A. EBERSMAN, DAVID M. SPILLANE,
21 MARC L. ANDREESSEN, ERSKINE B. BOWLES,
22 JAMES W. BREYER, DONALD E. GRAHAM,
23 REED HASTINGS, PETER A. THIEL, MORGAN
24 STANLEY & CO. LLC, J.P. MORGAN
SECURITIES LLC, GOLDMAN, SACHS & CO.,
25 MERRILL LYNCH, PIERCE, FENNER & SMITH
26 INCORPORATED, BARCLAYS CAPITAL INC.,
ALLEN & COMPANY LLC, CITIGROUP
GLOBAL MARKETS INC., CREDIT SUISSE
SECURITIES (USA) LLC, DEUTSCHE BANK
SECURITIES INC., RBC CAPITAL MARKETS,
27 LLC, and WELLS FARGO SECURITIES, LLC,

28 Defendants.

) Case No.

) **CLASS ACTION**

) **COMPLAINT**

) **JURY TRIAL DEMANDED**

1 Plaintiff below, individually and on behalf of the class described below, alleges this class
2 action complaint based upon her own personal knowledge, as to her own acts and the acts and
3 statements of Defendants in which Plaintiff participated directly (the communications with,
4 representations made, and documentation and information provided to her by Defendants in the
5 ordinary course of business), and upon the investigation of her counsel (and counsel's information
6 and belief only to the extent expressly stated herein). Counsel's investigation conducted on
7 Plaintiff's behalf, included, among other things: (i) an analysis of publicly-available news articles
8 and reports; (ii) a review and analysis of public filings, including but not limited to Securities and
9 Exchange Commission ("SEC") filings by Defendants; (iii) press releases issued by Defendants;
10 (iv) research of facts and the applicable law with respect to the claims asserted herein including
11 the use of sophisticated investigatory tools such as *Bloomberg* subscription services, *Lexis Nexis*
12 and other subscription services; and (v) other matters of public record.

13 SUMMARY OF THE ACTION

14 1. This is a securities class action brought by Plaintiff alleging claims under sections
15 11, 12, and 15 of the Securities Act of 1933, 15 U.S.C. § 77 *et seq.* ("Securities Act") against
16 Defendants, seeking to recover damages caused to the Class by Defendants' violations of the
17 Securities Act.

18 2. On May 18, 2012, Facebook, Inc. ("Facebook" or the "Company") floated its initial
19 public offering ("IPO") of 421,233,615 shares of its common stock at a price to the public of \$38
20 per share on the NASDAQ Global Select Market under the symbol "FB." Under the terms of the
21 offering, Facebook sold 180,000,000 shares of Class A common stock and selling stockholders
22 sold 241,233,615 shares of Class A common stock.

23 3. In addition, Facebook and the selling stockholders granted the underwriters a
24 30-day option to purchase up to 63,185,042 additional shares of Class A common stock to cover
25 over-allotments, if any. As discussed below, Morgan Stanley, J.P. Morgan, Goldman, Sachs,
26 BofA Merrill Lynch, Barclays, Allen & Co. LLC, Citigroup, Credit Suisse and Deutsche Bank (all
27 defined *infra*) served as book runners for the offering, and RBC Capital Markets and Wells Fargo
28 Securities (defined *infra*) are serving as active co-managers.

1 9. Moreover, subject matter jurisdiction is vested in this Court by section 22(a) of the
2 Securities Act, 15 U.S.C. § 77v(a). As section 22(a) states:

3 The district courts of the United States and the United States courts of any Territory
4 shall have jurisdiction of offenses and violations under this title and under the rules
5 and regulations promulgated by the Commission in respect thereto, and,
6 **concurrent with State and Territorial courts**, except as provided in section 16
7 with respect to covered class actions, of all suits in equity and actions at law
8 brought to enforce any liability or duty created by this title. Any such suit or action
9 may be brought in the district wherein the defendant is found or is an inhabitant or
10 transacts business, or in the district where the offer or sale took place, if the
11 defendant participated therein, and process in such cases may be served in any
12 other district of which the defendant is an inhabitant or wherever the defendant may
13 be found. Judgments and decrees so rendered shall be subject to review as provided
14 in sections 1254, 1291, 1292, and 1294 of title 28, United States Code. **Except as
15 provided in section 16(c), no case arising under this title and brought in any
16 State court of competent jurisdiction shall be removed to any court of the
17 United States. No costs shall be assessed for or against the Commission in any
18 proceeding under this title brought by or against it in the Supreme Court or
19 such other courts.**

20 15 U.S.C. § 77v(a) (emphasis added). Section 16 of the Securities Act, 15 U.S.C. § 77p(b),
21 provides that actions involving certain categories of claims shall not be brought in state court:

22 No covered class action based upon the statutory or common law of any State or
23 subdivision thereof may be maintained in any State or Federal court by any private
24 party alleging--

- 25 (1) an untrue statement or omission of a material fact in connection with
26 the purchase or sale of a covered security; or
27 (2) that the defendant used or employed any manipulative or deceptive
28 device or contrivance in connection with the purchase or sale of a
covered security.

29 15 U.S.C. § 77p(b). Because none of the claims herein are based on the "statutory or common law
30 of any state," this action is not removable pursuant to section 22(a) and is properly filed in this
31 Court.

32 10. This Court has personal jurisdiction over each defendant named herein because
33 each defendant is either a corporation that does sufficient business in California, or an individual
34 who has sufficient minimum contacts with California to render the exercise of jurisdiction by the
35 California courts permissible under traditional notions of fair play and substantial justice. All of

1 the defendants conduct business and/or maintain offices in California, and Facebook's
2 headquarters are located at 1601 Willow Road, Menlo Park, California 94025.

3 11. Venue is proper in this Court because a substantial portion of the wrongs
4 complained of herein, including the defendants' primary participation in the wrongful acts detailed
5 herein (violation of the Securities Act), occurred in this County, and the Defendants have received
6 substantial compensation in this County by doing business here and engaging in numerous
7 activities which had an effect in this County. Venue is also proper in this Court because many of
8 those affected by Defendants' conduct reside in this County, and many of the potential witnesses
9 reside or work in this County.

10 PARTIES

11 12. Plaintiff Elbita Alfonso purchased shares of Facebook pursuant to the Offering
12 Documents on the IPO and was damaged thereby.

13 13. Defendant **Facebook, Inc.** ("Facebook" or the "Company") is located in Menlo
14 Park, California, within this judicial district, and is incorporated under the laws of the State of
15 Delaware. Facebook operates a social networking website that allows people to communicate and
16 share information with friends and family. It also develops technologies that facilitate the sharing
17 of information.

18 Individual Defendants

19 14. Defendant **Mark Zuckerberg** ("Zuckerberg") is the Chairman and Chief Executive
20 Officer of the Company and signed the Final Registration Statement dated May 21, 2012.
21 Facebook, Inc., Registration Statement (Form S-8) (May 21, 2012) ("Final Registration
22 Statement").

23 15. Defendant **David A. Ebersman** ("Ebersman") is the Chief Financial Officer of the
24 Company and signed the Final Registration Statement dated May 21, 2012.

25 16. Defendant **David M. Spillane** ("Spillane") is the Chief Accounting Officer of the
26 Company and signed the Final Registration Statement dated May 21, 2012.

27 17. Defendant **Marc L. Andreessen** ("Andreessen") is a director of the Company and
28 signed the Final Registration Statement dated May 21, 2012.

1 18. Defendant **Erskine B. Bowles** ("Bowles") is a director of the Company and signed
2 the Final Registration Statement dated May 21, 2012.

3 19. Defendant **James W. Breyer** ("Breyer") is a director of the Company and signed
4 the Final Registration Statement dated May 21, 2012.

5 20. Defendant **Donald E. Graham** ("Graham") is a director of the Company and
6 signed the Final Registration Statement dated May 21, 2012.

7 21. Defendant **Reed Hastings** ("Hastings") is a director of the Company and signed the
8 Final Registration Statement dated May 21, 2012.

9 22. Defendant **Peter A. Thiel** ("Thiel") is a director of the Company and signed the
10 Final Registration Statement dated May 21, 2012.

11 23. These nine individual Defendants are collectively referred to as the "Individual
12 Defendants."

13 **Underwriter Defendants**

14 24. The following underwriter Defendants were the underwriters "on the cover" of the
15 Facebook prospectus.

16 25. Defendant **Morgan Stanley & Co. LLC** ("Morgan Stanley"), the lead underwriter,
17 is located at 1585 Broadway, New York, NY 10036.

18 26. Defendant **J.P. Morgan Securities LLC** ("J.P. Morgan") is located at 270 Park
19 Ave., New York, NY 10017.

20 27. Defendant **Goldman, Sachs & Co.** ("Goldman Sachs") is located at 200 West
21 Street, 29th Floor, New York, NY 10282.

22 28. Defendant **Merrill Lynch, Pierce, Fenner & Smith Incorporated** ("BoFA Merrill
23 Lynch") is located at Bank of America Corporate Center, 100 N. Tryon Street, Charlotte, North
24 Carolina 28255.

25 29. Defendant **Barclays Capital Inc.** ("Barclays Capital") is located at 200 Park Ave.,
26 New York, NY 10166.

27 30. Defendant **Allen & Company LLC** ("Allen & Co.") is located at 711 Fifth Ave.,
28 New York, NY 10022.

1 43. Plaintiff's claims are typical of the claims of the other members of the Class.
2 Plaintiff and the other members of the Class, by virtue of their purchases of shares of Facebook on
3 or pursuant to the IPO, have sustained damages as a result of Defendants' unlawful activities as
4 alleged herein. Plaintiff has retained counsel competent and experienced in class and securities
5 litigation and intends to prosecute this action vigorously. The interests of the Class will be fairly
6 and adequately protected by Plaintiff. Plaintiff has no interests which are contrary to or in conflict
7 with those of the Class which Plaintiff seeks to represent.

8 44. A class action is superior to all other available methods for the fair and efficient
9 adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in the
10 management of this action that would preclude its maintenance as a class action.

11 45. Common questions of law and fact exist as to all members of the Class and
12 predominate over any questions solely affecting individual members of the Class. Among the
13 questions of law and fact common to the Class are:

- 14 a. Whether the Securities Act was violated by Defendants' acts;
15 b. Whether each Defendant participated in the course of conduct complained of
16 herein; and
17 c. Whether members of the Class have sustained damages as a result of Defendants'
18 conduct, and the proper measure of such damages including but not limited to recessionary
19 damages.

20 **THE PROSPECTUS CONTAINED MATERIAL MISSTATEMENTS**
21 **AND OMITTED MATERIAL INFORMATION**

22 46. Facebook, through its underwriters, sold over 421 million shares of common stock
23 on May 18, 2012. The IPO was priced at \$38 per share and resulted in the Company raising \$16
24 billion for itself and the selling stockholders, including Defendant Zuckerberg.

25 47. The IPO was marketed through the issuance of the Offering Documents and the
26 presentation of numerous "road shows" to various investment banks and potential investors that
27 senior Facebook executives attended along with underwriters.

28 48. The Prospectus contained material misstatements and statements made materially
inaccurate through the omission of material facts. These include the following statements

1 contained in the Prospectus:

2 We believe this increased usage of Facebook on mobile devices has contributed to
3 the recent trend of our daily active users (DAUs) increasing more rapidly than the
4 increase in the number of ads delivered.

4 * * *
5 As an example, we believe that the recent trend of our DAUs increasing more
6 rapidly than the increase in the number of ads delivered has been due in part to
7 certain pages having fewer ads per page as a result of these kinds of product
8 decisions.

7 * * *
8 Based upon our experience in the second quarter of 2012 to date, the trend we saw
9 in the first quarter of DAUs increasing more rapidly than the increase in number of
10 ads delivered has continued. We believe this trend is driven in part by increased
11 usage of Facebook on mobile devices where we have only recently begun showing
12 an immaterial number of sponsored stories in News Feed, and in part due to certain
13 pages having fewer ads per page as a result of product decisions. For additional
14 information on factors that may affect these matters, see "Risk Factors – Growth in
15 use of Facebook through our mobile products, where our ability to monetize is
16 unproven, as a substitute for use on personal computers may negatively affect our
17 revenue and financial results" and "Risk Factors – Our culture emphasizes rapid
18 innovation and prioritizes user engagement over short-term financial results."

14 Facebook, Inc., Prospectus (Form 424B4), at 14, 17, 57 (May 18, 2012) ("Prospectus").

15 49. Each of these statements in the Prospectus contained material misstatements,
16 omitted to state a material fact required to be stated therein, or failed to disclose certain material
17 facts necessary to make the statements therein not misleading, because each failed to materially
18 disclose that Facebook's revenue and revenue growth rate would be substantially lower than that
19 originally disclosed and forecast.

20 50. It is absolutely clear that the statements in the Prospectus were materially
21 inaccurate and materially incomplete disclosures concerning the fact that Facebook's revenue and
22 revenue growth rate would be lower, and that these facts were not being completely and accurately
23 disclosed in the Prospectus. This is so based upon the following facts.

24 51. The actionable statements from the Prospectus quoted above were originally added
25 by prospectus dated May 9, 2012. Facebook, Inc., Amendment No. 6 to Form S-1 Registration
26 Statement (Form S-1/A), at 14, 17, 57 (May 9, 2012) ("Amendment No. 6").

27 52. Thereafter, during the time period between May 9, 2012 and May 17, 2012, which
28 included the Company's roadshow, the Underwriter Defendants materially lowered their estimates

1 of Facebook's future revenue and revenue growth rate.

2 53. Prior to the May 18, 2012 effective date of the Company's IPO, however, the
3 Underwriter Defendants only disclosed their materially lowered estimates of Facebook's revenue
4 and revenue growth rate privately *to select major clients* who were potential investors in the IPO
5 and did not disclose their lowered estimates to the investing public at large.

6 54. The fact that the Underwriter Defendants lowered their revenue and revenue
7 growth rate estimates demonstrates that the statements added to the prospectus by prospectus
8 Amendment No. 6, which were subsequently contained in the effective Prospectus of May 18,
9 2012, were material. The fact that the revised revenue and revenue growth rate estimates were
10 only privately disseminated by the Underwriter Defendants demonstrates that these additional
11 Amendment No. 6 disclosures were materially deficient – they contained material misstatements,
12 omitted to state material facts required to be stated therein, or failed to disclose certain material
13 facts necessary to make the statements therein not misleading. This is so because otherwise there
14 would have been no reason for the Underwriter Defendants to limit disclosure of their revised and
15 lowered estimates to private disclosure to select potential investors in the IPO, without full and
16 complete disclosure in the Prospectus.

17 55. Defendant Morgan Stanley was the lead investment bank for the Facebook IPO.

18 56. Morgan Stanley's consumer Internet analyst, Scott Devitt, materially "cut his
19 revenue estimate for the current second quarter significantly, and also cut his full-year 2012
20 revenue forecast." But, prior to the Company's IPO, Morgan Stanley only disclosed its materially
21 lowered estimates privately to select major clients who were potential investors in the IPO and did
22 not disclose its lowered estimates to the general investing public, according to a May 22, 2012
23 Reuters article entitled, "*Morgan Stanley Shocked Investors By Cutting Facebook Estimates Just*
24 *Before IPO.*" Barr, Alistair, *Morgan Stanley Shocked Investors By Cutting Facebook Estimates*
25 *Just Before IPO*, REUTERS, May 22, 2012 ("*Reuters Article*")

26 57. Scott Sweet, senior managing partner at the research firm IPO Boutique, said he
27 was aware of the reduced estimates, according to the *Reuters* article. He went on to say, however,
28 that he learned of the lowered estimates from "[m]y biggest hedge fund client [who] told me they

1 [Morgan Stanley] lowered their numbers right around mid-roadshow,” according to the *Reuters*
2 Article.

3 58. Upon information and belief, another of the three top-line investment banks on the
4 cover of the prospectus, J.P. Morgan, prior to the Company’s IPO also materially lowered its
5 estimates of the Company’s revenue and revenue growth rate. Similarly, prior to the IPO, J.P.
6 Morgan only disclosed its materially lowered estimates privately to select major clients who were
7 potential investors in the IPO and did not disclose its lowered estimates to the general public at
8 large. *See Reuters Article.*

9 59. Upon information and belief, another of the three top-line investment banks on the
10 cover of the prospectus, Goldman Sachs, prior to the Company’s IPO also materially lowered its
11 estimates of the Company’s revenue and revenue growth rate. Similarly, prior to the IPO,
12 Goldman Sachs only disclosed its materially lowered estimates privately to select major clients
13 who were potential investors in the IPO and did not disclose its lowered estimates to the public at
14 large. *See Reuters Article.*

15 60. At the same time that the Underwriter Defendants were privately *lowering* their
16 estimates of the Company’s revenues and revenue growth rate, the Company and the Underwriter
17 Defendants were publicly *upwardly revising* the projected IPO price to the effective price of \$38
18 per share.

19 61. This type of selective dissemination of material information has damaged the Class
20 by artificially inflating the initial price of Facebook stock.

21 62. First, in the days leading up to the IPO, Facebook and the Underwriter Defendants
22 elected to issue millions of additional shares in an exceeding 60 million shares. Many large hedge
23 funds were unwilling to accept additional allocations because they were aware that analysts at the
24 lead underwriters had privately lowered their revenue and revenue growth rate estimates. Those
25 additional shares, instead, found their way to the accounts of thousands of small, retail customers
26 who had requested small allocations but given prior experience in other “hot” IPOs like Google,
27 were surprised to receive their requested allocations or allocations larger than those requested.
28

1 These investors did not know however that they were buying shares in an IPO that the lead
2 underwriters' analysts thought was overvalued.

3 63. Second, many hedge funds which were told that analysts had slashed projections
4 were able to quickly sell their allocated position and short the stock, thereby causing downward
5 pressure on the IPO.

6 64. Third, the fact that the Underwriter Defendants' research analysts only privately
7 disclosed their lowered revenue and revenue growth rate estimates for Facebook demonstrates that
8 the separation of those investment banks' research and investment function did not exist and had
9 been breached for this IPO because the private only dissemination of the lowered estimates helped
10 the Underwriter Defendants' investment bankers sell the public offering.

11 65. The Facebook IPO went public on May 18, 2012 at a price of \$38 per share. It
12 reached its high of \$45 per share just a few minutes later.

13 66. On May 22, 2012, the price of Facebook shares further declined to close at \$31.00.

14 67. Had Plaintiff and the members of the Class known of the facts not disclosed in the
15 Offering Documents, they would not have purchased their Facebook shares or would have
16 purchased them only at substantially reduced prices.

17 68. The Company raised billions of dollars which it would not have been able to raise
18 if the Offering Documents had not contained material misstatements and material omissions.

19 69. Similarly, the Underwriter Defendants made over \$150 million in underwriting fees
20 from sales of Facebook shares in the IPO, fees that they would not have made if the Offering
21 Documents had not contained material misstatements and material omissions.

22 **NO SAFE HARBOR**

23 70. The statutory safe harbor provided for forward-looking statements under certain
24 circumstances does not apply to any of the allegedly false statements pled in this complaint.
25 Virtually all of the specific statements pled herein were not forward-looking or were not identified
26 as "forward-looking statements" when made. To the extent there were any forward-looking
27 statements upon which Plaintiff bases her claims, there were no meaningful cautionary statements
28 identifying important factors that could cause actual results to differ materially from those in the

1 purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor
2 does apply to any forward-looking statements pled herein, Defendants are liable for those false
3 forward-looking statements because at the time each of those forward-looking statements was
4 made, the particular speaker knew that the particular forward-looking statement was false, and/or
5 the forward-looking statement was authorized and/or approved by an executive officer of
6 Defendants who knew that those statements were false when made.

7 71. The safe harbor does not apply to statements made, as here, in connection with an
8 initial public offering.

9 **FIRST CAUSE OF ACTION**
10 **Class Claim For Violations Of Section 11 Of The Securities Act**
11 **(Against All Defendants)**

12 72. Plaintiff repeats and realleges each and every allegation above as if fully set forth
13 herein.

14 73. Plaintiff does not allege that the material omissions and material misstatements set
15 forth herein were made intentionally, knowingly or recklessly by Defendants.

16 74. Plaintiff brought this action within one year after the discovery of the materially
17 incorrect statements and omissions, and within three years after the shares were offered to the
18 public through the Offering Documents.

19 75. This claim is brought by Plaintiff against all Defendants.

20 76. The Company was the issuer of the Offering Documents and sold the shares
21 pursuant to the Offering Documents.

22 77. Each of the Individual Defendants signed the Prospectus.

23 78. Each of the Underwriter Defendants served as a co-managing underwriter of the
24 Offering, and is identified as such by, among other things, their listing "on the cover" of the
25 Prospectus. Each of the Underwriter Defendants is also liable for the material misstatements and
26 material omissions in the Offering Documents and is therefore also liable to Plaintiff and the
27 members of the Class under section 11.

28 79. Each of the Individual Defendants participated in the preparation of, caused to be
issued and/or participated in the issuance of the Offering Documents, and signed the Registration

1 Statement, each of which was inaccurate and contained material misstatements; omitted to state a
2 material fact required to be stated therein, or failed to disclose certain material facts necessary to
3 make the statements therein not misleading, as set forth herein.

4 80. Each of the Underwriter Defendants participated in the preparation of, caused to be
5 issued and/or participated in the issuance of the Offering Documents, each of which was
6 inaccurate and contained material misstatements; omitted to state a material fact required to be
7 stated therein, or failed to disclose certain material facts necessary to make the statements therein
8 not misleading, as set forth herein.

9 81. The Individual Defendants did not make a reasonable investigation, failed to
10 exercise reasonable due diligence, and/or had no reasonable grounds to believe, that the Offering
11 Documents issued by the Company were free of material misstatements and material omissions at
12 the time those documents were filed, and they are therefore also liable to Plaintiff and the
13 members of the Class under section 11.

14 82. Plaintiff alleges that all statutory affirmative defenses available to only Underwriter
15 Defendants under sections 11 and 12 are affirmative defenses which those Defendants must plead
16 and prove and which Plaintiff need not allege. Nevertheless, Plaintiff addresses the underwriter
17 affirmative defenses below.

18 83. While the following concerns an affirmative defense which can be raised by the
19 Underwriter Defendants only, and concerning which each of them bears the burden of proof,
20 nevertheless, Plaintiff alleges that each Underwriter Defendant did not make a reasonable
21 investigation, did not possess reasonable grounds to believe, and did not believe, that the
22 statements contained in the Offering Documents were true, were without omissions of any
23 material facts and were not misleading. Each Underwriter Defendant participated in the
24 preparation of the Offering Documents, and was required to investigate with due diligence the
25 statements contained therein to confirm that they did not contain material misstatements or
26 omitted to state material facts, but each of the Underwriter Defendants did not perform this
27 investigation with due diligence. (Indeed, the underwriter Defendant had a substantial direct
28 interest in the success of the offering, as detailed above).

1 84. Each Underwriter Defendant, as the result of engaging in the routine conduct of its
2 business or through common sense, was negligent (without limitation) as follows:

3 (a) in not knowing that its misstatements and omissions were material;

4 (b) in not knowing that the statements concerning the Company's future revenue
5 and revenue growth rates were materially inaccurate.

6 85. The Offering Documents, at the time they became effective, were inaccurate and
7 contained material misstatements of fact, omitted to state material facts required to be stated
8 therein, or failed to disclose certain material facts necessary to make the statements therein not
9 misleading, as set forth herein.

10 86. The facts misstated and omitted would have been material to a reasonable person
11 reviewing the Offering Documents.

12 87. Plaintiff and the other Class members did not know and, in the exercise of
13 reasonable diligence, could not have known of the material misstatements and material omissions
14 contained in the Offering Documents at the time of their purchases during the Class Period.

15 88. During the Class Period, Plaintiff and the other members of the Class purchased in
16 the IPO over five hundred million shares of Facebook common stock.

17 89. Although not required to be alleged with respect to this claim because it is an
18 affirmative defense to be alleged and proven by Defendants, nevertheless, Plaintiff alleges that
19 Plaintiff and the other members of the Class purchased their Facebook shares as a direct and
20 proximate result of, and/or without knowledge of, the material misstatements and omissions in the
21 Offering Documents. Plaintiff and/or other members of the class would not have purchased their
22 Facebook shares from Defendants if the material misstatements and material omissions in the
23 Offering Documents had not been made by Defendants.

24 90. By virtue of the foregoing, each of the Defendants on this section 11 claim violated
25 section 11 of the Securities Act, and is liable to Plaintiff and the other members of the Class.

26 91. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
27 Plaintiff and the other members of the Class sustained damages in connection with their purchase
28 of Facebook shares during the Class Period pursuant to or traceable to the Offering Documents in

1 an amount in excess of \$500 million and possibly in excess of \$1 billion, the exact amount to be
2 proven at trial.

3 92. Plaintiff and the members of the Class acquired their shares pursuant or traceable to
4 the Company's Offering Documents which were rendered materially inaccurate as a result of
5 Defendants' misstatements and omissions.

6 **SECOND CAUSE OF ACTION**
7 **Class Claim For Control Person Liability Under Section 15 For Violation Of Section 11**
8 **(Against The Individual Defendants)**

9 93. Plaintiff repeats and realleges each and every allegation above as if fully set forth
10 herein.

11 94. Plaintiff does not allege that the material omissions and material misstatements set
12 forth herein were made intentionally, knowingly or recklessly by Defendants.

13 95. The Defendants in this claim for control person liability under section 15 of the
14 Securities Act, for violation of section 11 of the Securities Act, are all of the Individual
15 Defendants.

16 96. The Individual Defendants, individually and jointly, were control persons under
17 section 15 by virtue of their senior executive officer and/or directorial positions at the Company.

18 97. As senior officers and/or directors of the Company, the Individual Defendants had
19 a duty to have the controlled persons issue materially accurate information in the Offering
20 Documents.

21 98. The Individual Defendants at all relevant times were able to and did control the
22 Company's day-to-day operations, financial statements, and public filings.

23 99. The Individual Defendants at all relevant times were able to and did control the
24 contents of the Offering Documents, which contained material misstatements and material
25 omissions. The Individual Defendants had (and did exercise) the power and influence to cause the
26 Company to engage in the unlawful conduct complained of herein, and correspondingly were able
27 to cause some or all of the other Defendants to refrain from the conduct complained of herein.

28 100. The Individual Defendants were a control person of at least one primary violator of
section 11, the Company. By virtue of their positions as controlling persons of a primary violator,

1 each of the Individual Defendants is also liable pursuant to section 15 of the Securities Act.

2 101. While the following concerns an affirmative defense that can be raised by only
3 these control person Defendants, and concerning which they bear the burden of proof,
4 nevertheless, Plaintiff alleges that each of these Defendants, as a controlling person, cannot prove
5 that he: (a) had no knowledge of the existence of the facts by reason of which the liability of the
6 controlled person is alleged to exist; or (b) had no reasonable grounds to believe in the existence
7 of the facts by reason of which the liability of the controlled person is alleged to exist.

8 102. As set forth above, each of the Defendants named in this Complaint violated
9 section 11 of the Securities Act.

10 103. The Individual Defendants, individually and jointly, are each liable under section
11 15 as a control person of the other Defendants who are primarily liable under section 11, and each
12 Defendant on this claim is liable to Plaintiff and the other members of the Class, in an amount to
13 be proved at trial.

14 **THIRD CAUSE OF ACTION**
15 **Class Claim For Violations Of Section 12(a)(2) Of The Securities Act**
16 **(Against All Defendants)**

17 104. Plaintiff repeats and realleges each and every allegation above as if fully set forth
18 herein.

19 105. Plaintiff does not allege that the material omissions and material misstatements set
20 forth herein were made intentionally, knowingly or recklessly by Defendants.

21 106. Plaintiff brought this action within one year after the discovery of the materially
22 incorrect statements and omissions, and within three years after the shares were offered to the
23 public through the Offering Documents.

24 107. This claim is brought by Plaintiff against all Defendants.

25 108. The Company, as the issuer of the shares, reaped over \$6.8 billion from the IPO.

26 109. The Individual Defendants were sellers and offerors and/or solicitors of purchasers
27 of the Facebook shares offered pursuant to the Offering Documents.

28 110. Defendant Zuckerberg was not only Chairman and CEO of the Company, but was
the public face of the Company. Defendant Zuckerberg became a billionaire many times over as a

1 result of the IPO.

2 111. The Underwriter Defendants made over \$150 million in underwriting fees from
3 sales of Facebook shares in the IPO, fees that they would not have made if the Offering
4 Documents had not contained material misstatements and material omissions.

5 112. Each of the Defendants was a seller, offerer and/or solicitor of purchases of the
6 Company's shares, pursuant to the Offering Documents, for their own financial benefit.

7 113. Each of the Defendants' acts of selling, offering and/or soliciting included but were
8 not limited to the preparation of the Offering Documents which contained the material
9 misstatements and material omissions, and their issuance and dissemination to public investors.

10 114. Each of the Defendants' acts of selling, offering and/or soliciting was a substantial
11 factor with respect to the purchase of the Company's shares by Plaintiff and the members of the
12 Class.

13 115. But for the Defendants' selling and/or solicitation activities by means of the
14 materially incorrect Offering Documents, Plaintiff and the members of the Class would not have
15 purchased their Facebook shares or would have acquired their shares at a price less than they
16 actually paid.

17 116. While the following concerns an affirmative defense which can be raised by only
18 the section 12 Defendants, and concerning which they bear the burden of proof, nevertheless,
19 Plaintiff alleges that each of these Defendants cannot prove that it: (a) did not know of such
20 material misstatement or omission; and (b) in the exercise of reasonable care could not have
21 known of such material misstatement or omission.

22 117. Plaintiff and the other members of the Class purchased their shares in the IPO
23 which makes all shares purchased in and of themselves directly traceable to the offering.

24 118. Plaintiff and the other members of the Class purchased their Facebook shares
25 pursuant to the written Offering Documents herein, and without knowledge of the material
26 misstatements and omissions in those Offering Documents.

27 119. The Facebook shares sold to Plaintiff and the other members of the Class during
28 the Class Period lost at least hundreds of millions of dollars, and possible billions of dollars, in

1 value.

2 120. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
3 Plaintiff and the other members of the Class suffered damages in connection with their purchases
4 of Facebook shares during the Class Period.

5 121. By virtue of the foregoing, each of the Defendants on this section 12 claim is
6 primarily liable under section 12(a)(2) of the Securities Act, and each is primarily liable to
7 Plaintiff and other members of the class.

8 122. Plaintiff, individually and representatively, hereby elects to rescind and tender
9 those securities that Plaintiff and the other members of the Class continue to own, in return for the
10 consideration paid for those securities together with interest thereon. Plaintiff and members of the
11 Class who have sold their Facebook shares are entitled to rescissory damages, in an amount to be
12 proved at trial.

13 **FOURTH CAUSE OF ACTION**
14 **Class Claim For Control Person Liability Under Section 15 For Violation Of Section 12**
15 **(Against The Individual Defendants)**

16 123. Plaintiff repeats and realleges each and every allegation above as if fully set forth
17 herein.

18 124. Plaintiff does not allege that the material omissions and material misstatements set
19 forth herein were made intentionally, knowingly or recklessly by Defendants.

20 125. The Defendants in this claim for control person liability under section 15 of the
21 Securities Act, for violation of section 12 of the Securities Act, are all of the Individual
22 Defendants.

23 126. For the reasons stated in the Second Claim above, each of the Individual
24 Defendants is a control person pursuant to section 15 of the Securities Act.

25 127. While the following concerns an affirmative defense that can be raised by only
26 these control person Defendants, and concerning which they bear the burden of proof,
27 nevertheless, Plaintiff alleges that each of these Defendants, as a controlling person, cannot prove
28 that he: (a) had no knowledge of the existence of the facts by reason of which the liability of the
controlled person is alleged to exist; or (b) had no reasonable grounds to believe in the existence

1 of the facts by reason of which the liability of the controlled person is alleged to exist.

2 128. As set forth above, each of the Defendants on the section 12 claim violated section
3 12 of the Securities Act.

4 129. The Individual Defendants, individually and jointly, are each liable under section
5 15 as a control person of the other Defendants who are primarily liable under section 12, and each
6 Defendant on this claim is liable to Plaintiff and the other members of the Class, in an amount to
7 be proved at trial.

8 **REQUEST FOR RELIEF**

9 130. **WHEREFORE**, Plaintiff demands judgment individually and on behalf of the
10 Class against Defendants, jointly and severally, as follows:

11 a. An order declaring this action to be a class action properly maintained pursuant to
12 section 382 of the California Code of Civil Procedure, certifying the Class, and certifying her
13 counsel as Class Counsel;

14 b. Against Defendants, jointly and severally, for damages suffered as a result of
15 Defendants' violations of the Securities Act, and/or awarding rescission under section 12 of the
16 Securities Act, in an amount to be proven at trial;

17 c. Awarding Plaintiff and the other members of the Class pre-judgment and post-
18 judgment interest, as well as her reasonable attorneys' fees, accountants' fees and experts' fees
19 and other costs and disbursements; and

20 d. Awarding Plaintiff and the Class such other and further relief as may be just and
21 proper under the circumstances.

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JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all issues so triable.

DATED: May 25, 2012

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