



FORM 33
(RULE 8-1) (10))

No. VLC-S-S-122316

Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DEBORAH LOUISE DOUEZ

PLAINTIFF

AND:

FACEBOOK, INC.

DEFENDANT

Brought pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

APPLICATION RESPONSE

Application Response of: Facebook, Inc. (the "**Application Respondent**" or "**Facebook**")

THIS IS A RESPONSE TO the notice of application of Deborah Louise Douez filed July 5, 2012 for certification of the action as a class proceeding.

Part 1: ORDERS CONSENTED TO

The Application Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application on the following terms: **NIL**.

Part 2: ORDERS OPPOSED

The Application Respondent opposes the granting of the orders set out in **ALL** paragraphs of Part 1 of the notice of application.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Application Respondent takes no position on the granting of the orders set out in paragraphs **NIL** of Part 1 of the notice of application.

Part 4: FACTUAL BASIS

1. On March 29, 2012, the plaintiff, Deborah Louise Douez (“**Douez**”), filed a Notice of Civil Claim.
2. On July 5, 2012, Douez filed a Notice of Application an order to certify this action as a class proceeding (the “**Certification Application**”).
3. Douez seeks to certify a class of British Columbia residents who are or have been members of the social networking website Facebook.com and were featured in a “Sponsored Story” (the “**Proposed Class**”). Douez alleges Facebook breached her privacy rights by using her name, portrait or both without her consent. She claims under section 3(2) of the *Privacy Act*, RSBC 1996, c 373.

Part 5: LEGAL BASIS

1. Facebook opposes the Certification Application on the basis that certain requirements of section 4(1) of the *Class Proceedings Act*, RSBC 1996 c 50 (the “**CPA**”) are not met. Specifically:
 - (a) The pleadings do not disclose a cause of action;
 - (b) There is no identifiable class of two or more persons;
 - (c) The claims of the Proposed Class do not raise common issues;
 - (d) A class proceeding is not the preferable procedure for the fair and efficient resolution of the common issues;
 - (e) Douez is not a suitable or appropriate Representative Plaintiff; and

- (f) Such further and other grounds as counsel may advise.

Part 6: MATERIALS TO BE RELIED ON

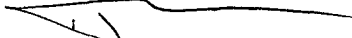
1. The pleadings and proceedings filed herein;
2. Affidavit #1 of James C. Squires, sworn on March 26, 2013.
3. Affidavit #1 of Catherine Tucker, sworn on March 26, 2013.
4. Affidavit #2 of Sandeep N. Solanki, sworn on March 26, 2013.
5. Affidavit #1 of Christopher Plambeck, sworn on March 26, 2013.
6. Affidavit #1 of Katherine Mulherin, affirmed on March 26, 2013.
7. *Privacy Act*, RSBC 1996, c 373.
8. *Class Proceedings Act*, RSBC 1996, c 50.

The Application Respondent estimates that the application will take 3 days.

- The Application Respondent has filed in this proceeding a document that contains the Application Respondent's address for service.
- The Application Respondent has not filed in this proceeding a document that contains an address for service. The Application Respondent's ADDRESS FOR SERVICE IS: N/A

Dated: April 3, 2013

OSLER, HOSKIN & HARCOURT LLP

By: 
Tristram J. Mallett
Kelly Osaka
Signature of lawyer for Application
Respondent

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