

No. S230051

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
FACEBOOK, INC., et al.,
Petitioners,
v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
SAN FRANCISCO
Respondent.

DERRICK D. HUNTER and LEE SULLIVAN,
Real Parties in Interest.

SUPREME COURT
FILED

FEB - 7 2017

Jorge Navarrete Clerk

Deputy

**NOTICE OF ERRATA IN REAL PARTIES LEE SULLIVAN AND
DERRICK HUNTER'S REPLY TO PETITIONERS' SUPPLEMENTAL BRIEF**

From the Published Opinion of the Court of Appeal,
First Appellate District, Division Five, No. A144315

San Francisco San Francisco Superior Court Nos. 13035657,
13035658.) The Honorable Bruce Chan, Judge, Dept. 22

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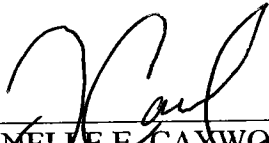
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TO THE HONORABLE TANIA CANTIL-SAKAUYE, CHIEF JUSTICE, AND THE
HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE
OF CALIFORNIA AND TO COUNSEL:

Defendants and Real Parties in Interest, Lee Sullivan and Derrick Hunter, hereby
give notice of errata to the Court and all parties with respect to page 7 (seven) of *Real
Parties Lee Sullivan and Lee Hunter's Reply to Petitioners' Supplemental Brief* filed on
February 6, 2017, which was omitted from some photocopies of the brief. Page seven is
attached is Exhibit A. Defendants and Real Parties respectfully request that the Court
include Exhibit A in their Reply to Petitioners' Supplemental Brief.

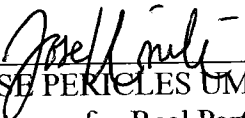
Respectfully submitted this 7th day of February, 2017.



JANELLE E. CAYWOOD
Associate Attorney for Real Party
LEE SULLIVAN



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DERRICK HUNTER

EXHIBIT A

change his or her privacy settings from “public” to “private” and then back to “public” an unlimited number of times. (*Ibid.*) Instagram also lets users send direct messages to any number of “followers.”

(<https://help.instagram.com/400205900081854?helpref=breadcrumb>)

Given that social media users can change their privacy settings from “public” to “private,” or from “public” to any number of “followers/friends,” an unlimited number of times, providers’ argument that changing the privacy settings on a post from public to private revokes consent to disseminate under to § 2702(b)(3) is absurd and based on outdated technology. Every teenager knows that once information is publicly posted in the internet, it is never really gone even if the post is thereafter deleted or configured to private. (See generally *The Web Means the End of Forgetting*, Rosen, Jeffrey; New York Times Magazine, January 21, 2010.)

Moreover, the fact that a user can change his or her privacy settings hundreds of times per day undercuts the argument that consent to disclose to the public under § 2702(b)(3) can be retracted and records need only produced based on the privacy settings in place at the *exact moment* the providers receive and process a subpoena regardless of whether the user has previously made the information publicly available for an extended period

PROOF OF SERVICE BY U.S. MAIL

Re: Facebook v. Superior Court

No. S230051

I, JANELLE CAYWOOD, declare that I am over 18 years of age and not a party to the within cause; my business address is 3223 Webster Street, San Francisco, California 94123. On February 7, 2017, I served **NOTICE OF ERRATA IN REAL PARTIES LEE SULLIVAN AND DERRICK HUNTER'S REPLY TO PETITIONERS' SUPPLEMENTAL BRIEF** on each of the following by placing a true copy thereof enclosed in a sealed envelope with postage fully prepaid and deposited in United States mail addressed as follows:

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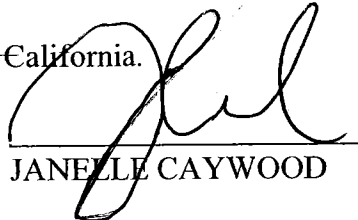
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I declare under penalty that the foregoing is true and correct. Executed this 7th
day of February, 2017, at San Francisco, California.


JANELLE CAYWOOD