

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DENISE E. FINKEL,

Plaintiff,

-against-

FACEBOOK, INC., MICHAEL DAUBER,
JEFFREY SCHWARTZ, MELINDA DANOWITZ,
LEAH HERZ, RICHARD DAUBER, AMY
SCHWARTZ, ELLIOTT SCHWARTZ, MARTIN
DANOWITZ, BARI DANOWITZ, ALAN HERZ and
ELLEN HERZ,

Defendants.
-----X

Index No.:102578/09

MS#002

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the annexed affirmation of LINA
C. ROSSILLO, duly affirmed on the 23rd day of April, 2009, and upon
all the pleadings and proceedings heretofore had herein, the
undersigned will move this Court in Room 130, at the Courthouse
located at 60 Centre Street, New York, New York, on the 20th day of
May, 2009, at 9:30 o'clock in the forenoon of that day, or as soon
thereafter as counsel can be heard, for an Order: (1) pursuant to
CPLR §3211(a)(5) dismissing the plaintiff's first cause of action
in the Complaint for defamation as barred by the Statute of
Limitations, (2) pursuant to CPLR §3212 dismissing the plaintiff's
second cause of action as alleged against ELLIOTT and AMY SCHWARTZ
in the Complaint and dismissing any and all cross claims and
counter claims, and for such other and further relief as this Court
may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 2214(b) of the Civil Practice Law and Rules, answering Affidavits, if any, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: New York, New York
April 23, 2009

Yours, etc.,

MORRIS DUFFY ALONSO & FALEY

By

LINA C. ROSSILLO

Attorneys for Defendants

ELLIOT SCHWARTZ, JEFFREY SCHWARTZ
AND AMY SCHWARTZ

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ORRICK HERRINGTON & SUTCLIFFE
Attorneys for Defendant
FACEBOOK, INC.
666 Fifth Avenue
New York, New York 10103
(212) 506-5000

UPON INFORMATION AND BELIEF MICHAEL DAUBER, MELINDA DANOWITZ, LEAH HERZ, RICHARD DAUBER, MARTIN DANOWITZ, BARI DANOWITZ, ALAN HERZ and ELLEN HERZ HAVE NOT YET APPEARED IN THIS ACTION.

