

Case Nos. 08-16745, 08-16849, 08-16873 (consolidated),
09-15133, 09-15021, 09-17050

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

THE FACEBOOK, INC., et al.,
Plaintiffs-Appellees-Cross-Appellants,

v.

CONNECTU, INC. (formerly known as CONNECTU LLC), CAMERON
WINKLEVOSS, TYLER WINKLEVOSS, DIVYA NARENDRA,
Defendants-Appellants-Cross-Appellees,

Appeal from the United States District Court Northern District of California,
Case No. CV 07-01389-JW, The Honorable James Ware

**DECLARATION OF THERESA A. SUTTON IN SUPPORT OF
APPELLEES-CROSS APPELLANTS' RESPONSE AND OPPOSITION TO
THE FOUNDERS' MOTION TO CONSOLIDATE APPEALS AND
MOTION TO SET BRIEFING SCHEDULE**

I. NEEL CHATTERJEE (CA Bar 173985)
MONTE COOPER (CA Bar 196746)
THERESA A. SUTTON (CA Bar 211857)
YVONNE P. GREER (CA Bar 214072)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: 650-614-7400
Facsimile: 650-614-7401

THEODORE W. ULLYOT (CA Bar 801092)
MARK S. HOWITSON (CA Bar 190308)
Facebook, Inc.
1601 California Avenue
Palo Alto, CA 94304

E. JOSHUA ROSENKRANZ (NY Bar 2224889)
ORRICK, HERRINGTON & SUTCLIFFE LLP
666 Fifth Avenue
New York, NY 10103-0001
Telephone: (212) 506 5380
Facsimile: (212) 506-5151

Attorneys for Appellees-Cross-Appellants Facebook, Inc. and Mark Zuckerberg

I, Theresa A. Sutton, declare as follows:

1. I am an Associate with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel for Facebook, Inc. and Mark Zuckerberg. I am a member of the State Bar of California and the Ninth Circuit. I make this declaration in support of Appellees-Cross Appellants' Response and Opposition to the Founders' Motion to Consolidate Appeals and Motion to Set Briefing Schedule. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. Attached hereto as **Exhibit A** is a true and correct copy of the Order Granting ConnectU's Motion to Disqualify Counsel; Granting in Part and Denying in Part Motion for Delivery of Client Files; Referring the Parties to Chief Magistrate Judge James for an *In Camera* Review of ConnectU's Client Files entered by the Honorable Judge Ware in the District Court, Case No. CV-07-01389-JW (N.D. Cal.), filed on September 2, 2009.

3. Attached hereto as **Exhibit B** is a true and correct copy of the Founders' Notice of Appeal from the Order Granting ConnectU's Motion to Disqualify Counsel; Granting in Part and Denying in Part Motion for Delivery of Client Files; Referring the Parties to Chief Magistrate Judge James for an *In Camera* Review of ConnectU's Client Files, filed on September 14, 2009.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 28th day of September, 2009 at Menlo Park, California.

/s/ Theresa A. Sutton

Theresa A. Sutton

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2009, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ I. Neel Chatterjee

I. Neel Chatterjee

OHS West:260735633.1