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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

FILED
DOCKETED

DATE INITIA

THE FACEBOOK, INC., ET AL.,
Plaintiffs/Appellees/Cross-Appellants,

v.

CONNECTU, INC.,
Defendant/Appellee,

and

CAMERON WINKLEVOS, TYLER WINKLEVOS
and DIVYA NARENDRA,
Defendants/Appellants/Cross-Appellees.

Appeal From Judgment Of The United States District Court
For The Northern District Of California
(Hon. James Ware, Presiding)

**APPELLANTS' MOTION TO (1) FILE OVER-LENGTH REPLY
BRIEF; AND (2) FILE REPLY BRIEF AND MOTION TO STRIKE
UNDER SEAL; AND DECLARATION OF SEAN M. SELEGUE**

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I.

**APPELLANTS SEEK PERMISSION TO FILE A REPLY
BRIEF THAT EXCEEDS THE 7,000-WORD LIMIT.**

Pursuant to Circuit Rule 32-2, Appellants Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra (the “Founders”) hereby move this Court for permission to file a reply brief containing 9,325 words, in excess of the 7,000 word limit set forth in Federal Rule of Appellate Procedure 32(a)(7)(B). The grounds for this Motion are set forth in detail in the accompanying Declaration of Sean M. SeLegue. The accompanying brief contains the certification as to the word count required by Circuit Rules 32-1 and 32-2.

II.

**THE REPLY BRIEF AND MOTION TO STRIKE SHOULD
BE FILED UNDER SEAL.**

The Founders also request leave pursuant to Ninth Circuit Rule 27-13 to file their proposed Reply Brief under seal because the Reply Brief and the Motion to Strike refer to and quote from matters that were sealed below. Appellants request that the brief and motion be maintained by the Court under seal. Neither the names of the parties nor this motion need be sealed.

The Founders will prepare a redacted version for public filing of their proposed Reply Brief and the Motion to Strike and will seek agreement with Appellees and Cross-Appellants The Facebook, Inc. and Mark Zuckerberg (collectively, “Facebook”) concerning what limited portions of the brief and

motion should be redacted for the Court's public file. Should the parties be unable to agree on the appropriate form of a redacted brief, the Founders will present the issue for determination by the Court.

DATED: August 5, 2010.

Respectfully,

JEROME B. FALK, JR.
SEAN M. SELEGUE
SHAUDY DANAYE-ELMI
NOAH S. ROSENTHAL
HOWARD RICE NEMEROVSKI CANADY
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By 
SEAN M. SELEGUE

*Attorneys for Appellants and Cross-
Appellees Cameron Winklevoss, Tyler
Winklevoss and Divya Narendra*

DECLARATION OF SEAN M. SELEGUE

I, Sean M. SeLegue, declare as follows:

1. I am an attorney licensed to practice law in the State of California, a certified specialist in appellate law certified by the State Bar of California Board of Legal Specialization and a member of the bar of this Court. I am a director at the law firm of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, counsel to Appellants Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra (the “Founders”). I make this Declaration based upon my personal knowledge of the matters stated herein, except where otherwise indicated (thereupon testifying from information and belief). If called as a witness, I could and would testify competently to the facts stated herein.

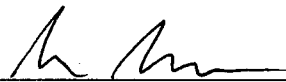
2. The Court has previously granted the parties permission to file overlength briefs in this case. The Founders were permitted to file an opening brief of up to 17,500 words, and Appellees were permitted to file two briefs totaling 17,381 words. In drafting our reply brief, we used as a benchmark the usual rule that a reply brief is permitted to be half as long (7,000 words) as an opening brief (14,000 words). Applied here, the benchmark for the Founders’ reply brief would be 8,750 words (one-half of 17,500 words).

3. The accompanying brief is slightly longer than the 8,750 benchmark, and this was necessary to respond to all of the points Appellees raised.

Appellees made numerous points, often in very succinct fashion and without a true point heading. *See, e.g.*, Confidential Brief of Appellees (“AB”) 64-70. While it is easy to toss out points without elaborating on them, actually responding substantively takes additional space. In addition, as the draft brief points out, Facebook’s brief often misdescribes cases or cites them for inapposite points (*see, e.g.*, Appellants’ Reply Brief 6-7), a practice that requires clarification and entails some additional length. Our first draft of the accompanying brief totaled more than 14,000 words, and we have worked very hard to trim the brief to its current length without eliminating substance.

4. For the reasons given above, lead counsel on this case, Jerome B. Falk, Jr. (also a certified specialist in appellate law) and I respectfully believe that the additional length of the proposed brief is justified. As noted above, we made significant efforts to shorten the reply brief while responding fairly to the points Facebook asserts in its brief.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 5th day of August 2010, in San Francisco, California.



SEAN M. SELEGUE

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PROOF OF SERVICE BY FEDERAL EXPRESS

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen (18) years and not a party to the within action; my business address is Three Embarcadero Center, Seventh Floor, San Francisco, California 94111-4024.

I am readily familiar with the practice for collection and processing of documents for delivery by overnight service by Federal Express of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, and that practice is that the document(s) are deposited with a regularly maintained Federal Express facility in an envelope or package designated by Federal Express fully prepaid the same day as the day of collection in the ordinary course of business.

On August 5, 2010, I served the following document(s) described as **APPELLANTS' MOTION TO (1) FILE OVER-LENGTH REPLY BRIEF; AND (2) FILE REPLY BRIEF AND MOTION TO STRIKE UNDER SEAL; AND DECLARATION OF SEAN M. SELEGUE** on the persons listed below by placing the document(s) for deposit with Federal Express through the regular collection process at the law offices of Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, located at Three Embarcadero Center, Seventh Floor, San Francisco, California, to be served by overnight Federal Express delivery addressed as follows:

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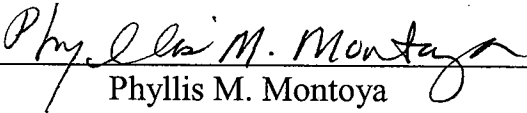
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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at San Francisco, California on August 5, 2010.



Phyllis M. Montoya

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