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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

10

SAN JOSE DIVISION

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12 THE FACEBOOK, INC. and MARK
 13 ZUCKERBERG,

Plaintiffs,

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v.

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16 CONNECTU, INC. (formerly known as
 17 CONNECTU, LLC) PACIFIC
 NORTHWEST SOFTWARE, INC.
 18 WINSTON WILLIAMS, and WAYNE
 CHANG,

Defendants.

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Case No. 5:07-CV-01389-JW (MEJ)

**CONNECTU'S RENEWED REQUEST
 FOR HEARING DATE RELATING
 TO PRODUCTION OF CONNECTU'S
 DOCUMENTS**

Chief Magistrate Judge Maria-Elena
 James (San Francisco Division)

1 ConnectU, Inc. ("ConnectU") requests that this Court set a hearing date and briefing
2 schedule based on the following:

3 **Procedural History**

4 In January 2009 ConnectU filed a Motion to Disqualify Founders' Counsel and for
5 Production of ConnectU's Files. On September 2, 2009, the Honorable Judge James Ware
6 entered an Order Granting ConnectU's Motion to Disqualify Counsel; Granting in Part and
7 Denying in Part Motion for Delivery of Client Files; Referring the Parties to Chief Magistrate
8 James for an *In Camera* Review of ConnectU's Client Files. A true and correct copy of the
9 Court's Order is attached as **Exhibit A** to the Declaration of Alison P. Buchanan, filed
10 simultaneously with this request.

11 In its September 2, 2009 Order, the Court specifically found that "the Founders and their
12 attorneys cannot obstruct access to ConnectU's general business documents," and that "ConnectU
13 is entitled to all documents pertaining to ConnectU's general business, including but not limited
14 to documents relating to ConnectU's financials, assets, and liabilities." (Ex. A to the Decl. of A.
15 Buchanan, 17:21-23, 18:1-2). The Court referred the parties "to Chief Magistrate Judge James
16 for further proceedings with respect to which documents should be turned over to the current
17 owners." (Ex. A to the Decl. of A. Buchanan, 18:22; 19:1-2).

18 Following the Court's September 2, 2009 Order, on or about September 14, 2009, the
19 Founders filed a Notice of Appeal relating to the Court's Order. A true and correct copy of the
20 Founders' Notice of Appeal is attached as **Exhibit B** to the Declaration of Alison P. Buchanan,
21 filed simultaneously with this request.

22 On October 9, 2009, the Ninth Circuit *sua sponte* issued an Order stating that the Ninth
23 Circuit "may lack jurisdiction over the appeal because orders disqualifying counsel are not
24 immediately appealable orders." The Ninth Circuit held that "[w]ithin 21 days after the date of
25 this order, appellants shall move for voluntary dismissal of the appeal or show cause why it
26 should not be dismissed for lack of jurisdiction." A true and correct copy of the Ninth Circuit's
27 October 9, 2009 Order is attached as **Exhibit C** to the Declaration of Alison P. Buchanan, filed
28 simultaneously with this request.

1 The parties filed extensive briefs in response to the Ninth Circuit's October 9, 2009 Order.
2 The Founders argued that the Ninth Circuit had jurisdiction over the Founders' appeal; ConnectU
3 argued that the Ninth Circuit did not have jurisdiction over the Founders' appeal.

4 On December 14, 2009, the Ninth Circuit issued an Order wherein the Ninth Circuit:

- 5 1. Discharged the October 9, 2009 order to show cause;
- 6 2. Dismissed the appeal "as unnecessary because the order appealed herein was issued by
7 the district court on a limited remand pursuant to this court's July 1, 2009 order ...";
8 and
- 9 3. Denied all pending motions relating to the appeal on the basis that they are moot.

10 A true and correct copy of the Ninth Circuit's December 14, 2009 Order is attached as
11 **Exhibit D** to the Declaration of Alison P. Buchanan, filed simultaneously with this request.

12 **Request for Hearing and Briefing Schedule**

13 Based on this Court's September 2, 2009 Order and the Ninth Circuit's December 14,
14 2009 Orders, ConnectU respectfully requests that the Court schedule a hearing date within forty-
15 five days, at which time the Court can address any and all issues relating to the production of
16 ConnectU's documents. ConnectU further respectfully requests that the Court set a briefing
17 schedule in advance of the hearing so that the parties can address, in writing, their respective
18 positions relating to the production of ConnectU's documents.

19 DATED: December 22, 2009

20 /s/

21 _____
22 Alison P. Buchanan
23 HOGE, FENTON, JONES & APPEL, INC.
24 Attorneys for ConnectU, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on December 22, 2009.

DATED: December 22, 2009

/s/

Alison P. Buchanan
HOGE, FENTON, JONES & APPEL, INC.
Attorneys for ConnectU, Inc.

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