

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 7 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

In re: FACEBOOK, INC. INTERNET
TRACKING LITIGATION,

PERRIN AIKENS DAVIS; et al.,

Plaintiffs-Appellants,

v.

FACEBOOK, INC.,

Defendant-Appellee.

No. 17-17486

D.C. No. 5:12-md-02314-EJD
Northern District of California,
San Jose

ORDER

Before: Peter L. Shaw, Appellate Commissioner.

On March 26, 2018, appellants filed a notice of intent to file previously sealed documents publicly pursuant to Interim Ninth Circuit Rule 27-13(f), and submitted the opening brief and volume VII of the excerpts of record provisionally under seal. *See* Docket Entry No. 11. On April 13, 2018, appellee filed a motion to maintain under seal “any and all documents that were sealed by the district court, and requests that the Court direct plaintiffs to redact all portions of their opening brief that quote from or make reference to such documents.” *See* Docket Entry No. 16. On April 26, 2018, appellants filed an opposition to appellee’s motion to maintain the seal. *See* Docket Entry No. 18. On May 3, 2018, appellee filed a reply to the opposition. *See* Docket Entry No. 19.

PK/Sealed Documents

Appellee's motion to maintain the seal is inadequate because it does not specifically identify which portions of the opening brief and volume VII of the excerpts of record that appellee seeks to maintain under seal. *See* Interim Ninth Circuit Rule 27-13(e) (a motion to seal shall request the least restrictive scope of sealing and shall be limited in scope to only the specific documents or portions of documents that merit sealing). Accordingly, appellee's motion to maintain the seal is denied without prejudice to appellee filing a renewed motion to seal within 14 days after the date of this order. The opening brief and volume VII of the excerpts of record shall remain provisionally sealed for 14 days after the date of this order, to allow appellee to file a renewed motion to seal. If appellee does not file a renewed motion to seal within 14 days after the date of this order, the Clerk shall unseal the opening brief and volume VII of the excerpts of record, and file it publicly with volumes I through VI of the excerpts of record.

The existing briefing schedule shall continue in effect.