

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CONNECTU, INC., CAMERON)	
WINKLEVOSS, TYLER WINKLEVOSS,)	
AND DIVYA NARENDRA,)	CIVIL ACTION NO. 1:07-cv-10593 (DPW)
)	
Plaintiffs,)	Related Action 1:04-cv-11923 (DPW)
)	
v.)	
)	
FACEBOOK, INC., MARK ZUCKERBERG,)	
EDUARDO SAVERIN, DUSTIN)	
MOSKOVITZ, ANDREW MCCOLLUM,)	
AND THEFACEBOOK LLC,)	
)	
Defendants.		

**PLAINTIFFS' MOTION FOR SANCTION OF NON-DISMISSAL OR IN THE
ALTERNATIVE TO VACATE FINAL JUDGMENT PURSUANT TO F.R.C.P. 60**

For the reasons more fully set forth in the accompanying memorandum¹, Plaintiffs move this Court to do the following:

- Decline to dismiss this action or, if judgment is entered, vacate such judgment under Fed. R. Civ. P. 60;
- Order discovery of Zuckerberg's and the other Defendants' suppression of evidence described in the attached memorandum;
- Allow Mr. Parmet to search for and report any relevant information found on Defendants' hard drives (except privileged information); and

¹ Plaintiffs' Confidential Memorandum in Support of Their Motion for Sanction of Non-Dismissal or In the Alternative to Vacate Final Judgment Pursuant F.R.C.P. 60 will be filed with the Court and served on counsel for Defendants on Monday, November 24, 2008.

- Order Defendants to produce Zuckerberg’s instant messages, currently in the custody of the Court (Dkt. 204).

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Plaintiffs hereby certify that counsel for Plaintiffs made several attempts to arrange a teleconference to meet and confer no later than today with counsel for Zuckerberg and Facebook, regarding this motion, so that Plaintiffs could file this motion on or before the date that the Special Master appointed by the Court in *Facebook, Inc. v. ConnectU, Inc.*, Civ. No. C 07-01389 (JW) (N.D. Cal.), files motions to dismiss this case on Monday November 24, 2008, as required by a November 3, 2008 “Judgment Ordering Specific Performance of Settlement Agreement and Declaratory Judgment of Release” issued by the U.S. District Court for the Northern District of California in that case. Zuckerberg’s and Facebook’s counsel did not agree to meet and confer with counsel for Plaintiffs, as Plaintiffs’ counsel repeatedly requested. Also, in view of statements made by Zuckerberg’s and Facebook’s counsel in response to Plaintiffs’ requests to meet and confer, Plaintiffs believe that meeting and conferring regarding this motion would have been futile.

DATED: November 21, 2008

/s/ John F. Hornick

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CERTIFICATE OF SERVICE

I hereby certify that this document 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 November 21, 2008.

/s/ John F. Hornick _____
John F. Hornick