

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU, INC., CAMERON  
WINKLEVOSS, TYLER WINKLEVOSS,  
AND DIVYA NARENDRA,

Plaintiff,

v.

FACEBOOK, INC., MARK ZUCKERBERG,  
EDUARDO SAVERIN, DUSTIN  
MOSKOVITZ, ANDREW MCCOLLUM, and  
FACEBOOK, LLC,

Defendants.

Civil Action No. 1:07-CV-10593-DPW

CONNECTU LLC,

Plaintiffs,

v.

MARK ZUCKERBERG, EDUARDO  
SAVERIN, DUSTIN MOSKOVITZ, ANDREW  
MCCOLLUM, CHRISTOPHER HUGHES, and  
FACEBOOK, INC.,

Defendants.

Civil Action No. 1:04-CV-11923 (DPW)

MARK ZUCKERBERG, and FACEBOOK,  
INC.,

Counterclaimants,

v.

CONNECTU LLC, Counterdefendant, and  
CAMERON WINKLEVOSS, TYLER  
WINKLEVOSS, and DIVYA NARENDRA,  
Additional Counterdefendants.

**DECLARATION OF THERESA A. SUTTON IN SUPPORT OF FACEBOOK INC. AND  
MARK ZUCKERBERG'S OPPOSITION TO PLAINTIFFS' MOTION FOR SANCTION  
OF NON-DISMISSAL, OR IN THE ALTERNATIVE TO VACATE FINAL JUDGMENT  
PURSUANT TO F.R.C.P. 60**

I, Theresa A. Sutton, declare as follows:

1. I am an associate at the law firm of Orrick, Herrington & Sutcliffe, counsel for Defendants Facebook, Inc., Mark Zuckerberg, Dustin Moskovitz, Andrew McCollum, and TheFacebook, LLC in this action. I make this declaration in support of in support of Facebook Inc. and Mark Zuckerberg's Opposition to Plaintiffs' Motion for Sanction of Non-Dismissal, or in the Alternative to Vacate Final Judgment Pursuant to F.R.C.P. 60.

2. Attached as **Exhibit A** is a true and correct copy of ConnectU, Inc.'s Surreply in Opposition to Facebook, Inc and Mark Zuckerberg's Confidential Motion to Enforce Settlement Agreement filed in the Northern District of California in the *Facebook, Inc et al. v. ConnectU et al.*, Case No. 5:07-CV-01389-JW on June 19, 2008. [CONFIDENTIAL DOCUMENT SUBMITTED SEPARATELY UNDER SEAL]

3. Attached as **Exhibit B** is a true and correct copy of the Ninth Circuit docket reflecting activity related to Plaintiffs' appeals of Judge Ware's Order enforcing the Settlement Agreement.

4. Attached as **Exhibit C** is true and correct copy of the Case Management Scheduling Order entered in the Northern District of California in the *Facebook, Inc et al. v. ConnectU et al.*, Case No. 5:07-CV-01389-JW on January 22, 2008.

5. Attached as **Exhibit D** is a true and correct copy of the Joint Case Management Statement filed in the Northern District of California in the *Facebook, Inc et al. v. ConnectU et al.*, Case No. 5:07-CV-01389-JW on June 29, 2007.

6. Attached as **Exhibit E** is a true and correct copy of Facebook's September 2007 Supplemental Response to Interrogatory No. 25.

7. Attached as **Exhibit F** is a true and correct copy of a February 15, 2006, letter

from Robert Nagel to John Hornick.

8. On July 29, 2005, Facebook produced a CD, labeled TFB000001, containing Facebook source code. The CD did not contain anything other than code.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th day of December 2008, at Menlo Park, California.

/s/ Theresa S. Sutton/s/

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Theresa S. Sutton

**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 12, 2008.

Dated: December 12, 2008

Respectfully submitted,

/s/ Theresa A. Sutton /s/

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Theresa A. Sutton