

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CONNECTU, INC.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO. 07-10593-DPW
)	(CONSOLIDATED WITH
)	04-11923-DPW)
FACEBOOK, INC., ET AL)	
)	
Defendants,)	

MEMORANDUM AND ORDER

September 30, 2009

These two cases are branches of extended and heavily lawyered litigation as to which Judge Ware of the United States District Court for the Northern District of California has entered a judgment directing dismissal pursuant to what he has found to be an enforceable settlement agreement among the interested parties. *Facebook Inc. v. ConnectU, Inc.*, Civil Action No. 07-01389-JW (N.D.Cal. July 2, 2008). The question of the enforceability of the settlement agreement embodied in the judgment has generated multiple appeals to the United States Court of Appeals for the Ninth Circuit. Earlier this month new counsel for the principal appellants was engaged after earlier counsel were ordered disqualified upon a limited remand to the District Court by the Ninth Circuit. New counsel has filed a status report in the Ninth Circuit seeking to consolidate the six appeals and establish an appellate briefing schedule.

In this lawyer-rich environment, the parties have filed parallel pleadings and motions in this court attempting to conduct a second front to their conflict, which at this point is governed by the judgment of the Northern District of California to which I am obligated to give preclusive effect despite the pendency of appeal. *See generally* WRIGHT, MILLER & COOPER, FEDERAL PRACTICE AND PROCEDURE 2d § 4433 at 78-94 (2002) (noting rule and the substantial difficulties which result from the rule that a final trial-court judgment operates as res judicata while an appeal is pending). I am unwilling to indulge the parties in their multiplication of proceedings, at least until the validity of the judgment entered in the Northern District of California has been resolved. Now that the engagement of new counsel in the Ninth Circuit appeals offers the promise that the orderly conduct of the litigation will be back on track for appellate review, there is no need to keep these cases active in this Court while the fundamental question of the enforceability of the settlement agreement moves toward resolution elsewhere.

Accordingly, in order to avoid further needless proliferation of litigation in this court pending the outcome of the challenge to the judgment of the Northern District of California, I direct the Clerk to stay these cases and terminate all outstanding motions without prejudice to the motion of any party to reassert them no later than 30 days after the issuance

of any mandate of the United States Court of Appeals for the Ninth Circuit concerning the judgment entered by the United States District Court for the Northern District of California in Civil Action No. 07-01389-JW. Counsel in these cases are ORDERED to notify this Court with a status report within 10 days of any material developments concerning the continued vitality of the Northern District of California judgment.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE