

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU LLC, CAMERON WINKLEVOSS, TYLER WINKLEVOSS, and DIVYA NARENDRA,)	
)	
)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	1:07-cv-10593-DPW
)	
FACEBOOK, INC., MARK ZUCKERBERG, EDUARDO SAVERIN, DUSTIN MOSKOVITZ, ANDREW MCCOLLUM, CHRISTOPHER HUGHES, and THE FACEBOOK, LLC.,)	(CONSOLIDATED WITH CIVIL ACTION NO. 1:04-cv-11923-DPW)
)	
)	
Defendants.)	

NOTICE REGARDING DISCOVERY MATERIALS AND PROTECTIVE ORDERS

Finnegan Henderson Farabow Garrett & Dunner LLP (“Finnegan”), through counsel, submit this Notice Regarding Discovery Materials and Protective Orders.

As former counsel for the Founders in the above litigation, Finnegan is in possession of discovery materials governed by the Second Stipulated Protective Order issued by this Court. Pursuant to that Order, discovery materials, including deposition transcripts, marked “Confidential” are to be returned or destroyed within “thirty (30) calendar days after the completion of the litigation and all appeals” except that trial counsel may retain one archival copy of such materials and any copies integrated into working files.

Pursuant to the dismissal entered by this Court on July 21, 2011, Facebook has asserted that the discovery materials that it provided must be returned or destroyed by August 21, 2011. The Founders have taken the opposite position in their Motion to Preserve Information Needed

for Rule 60(b) Motion, filed yesterday in this Court. In their Motion, the Founders state that proceedings in this matter are not complete and that they intend to move for relief in this Court under Federal Rule of Civil Procedure 60(b). The Founders ask for an order “compelling all parties to preserve all evidence produced in or relating to this action until all proceedings under Rule 60 have concluded.” Founders Motion at 1.

Additionally, at least some of the confidential materials at issue have been sought by a *subpoena duces tecum* served by the plaintiff in *Chang v. Winklevoss*, Civil Action No. 09-5397-B.L.S. 1, an action pending in the Suffolk County Massachusetts Superior Court. Finnegan has objected to the subpoena based on the Second Stipulated Protective Order, among other reasons. The proponent of that subpoena asserts that it would be improper for Finnegan to destroy any potentially responsive documents. Finnegan will serve a copy of this Notice on the plaintiff in the *Chang* matter so he may take such action as he deems warranted to apprise the Court of his position.

Given the conflicting positions of the parties, Finnegan submits this Notice to advise the Court that until further Order of this Court it intends to preserve the status quo and not return or destroy any discovery materials.

Respectfully submitted,

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP

By their attorneys,

/s/ Erin K. Higgins

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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 or before August 16, 2011.

/s/ Erin K. Higgins

Erin K. Higgins