

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TIMELINES, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 11 CV 6867
)	
FACEBOOK, INC.,)	Jury Trial Demanded
)	
Defendant.)	

PLAINTIFF TIMELINES, INC.'S MOTION TO CLARIFY AND COMPEL

Plaintiff, Timelines, Inc. (“Timelines”), through its counsel, moves to clarify the discovery schedule in this case, to compel Defendant Facebook, Inc. to produce the requested documents, and, specifically, to provide Timelines with a particular date by which Facebook will make its final document production in the case. In support of this motion, Timelines explains as follows:

Basis for Motion

On or about January 11, 2012, Timelines served document requests on Facebook. Based on the parties’ agreed-upon extension, Facebook served its document responses on or about March 19, 2012.¹ In between those two dates, on January 24, 2012, the parties appeared in open court and proposed their agreed discovery schedule to the Court. Specifically, the parties agreed to the following schedule:

¹ The parties previously agreed to extend the dates for serving responses to the other side’s discovery requests, which were served in January 2012, in anticipation of a settlement conference in early 2012. When the parties realized that the settlement conference would not occur until April 17, 2012, the parties agreed to serve discovery responses to the other side’s requests on specific dates in mid-March 2012.

Fact discovery completed by August 31, 2012
Plaintiff's expert reports due by September 28, 2012
Defendant's expert reports due by October 26, 2012
Rebuttal expert reports due by November 23, 2012
Expert discovery completed by December 28, 2012
Dispositive motions to be filed by January 31, 2013

(See Dkt. 36 at p. 2.)

Facebook has seemingly paid little attention to this case since that January 24th hearing. On May 28th, after two months of delay (resulting, in part, from Facebook's holdup in agreeing to a protective order), Timelines received Facebook's initial document production. Facebook's document production consisted of approximately 663 pages of documents and 3 video files in response to Timelines's 74 document requests. While this production was wholly inadequate (and largely irrelevant), Facebook had previously indicated that it would produce its documents on a rolling basis.² So Timelines expected Facebook's responsive and relevant documents to be produced in subsequent productions.

After two weeks passed with nothing more from Facebook, on or about the afternoon of June 11th, Timelines's counsel reached out to Facebook's counsel to inquire about Facebook's remaining document production and, specifically, when Facebook's document production in the case would be complete.³ Due to the schedule of Facebook's counsel, the parties waited to discuss the issue by phone until June 14th. During that telephone call (at 10:00 a.m. CDT), Facebook's counsel indicated that Facebook would make another rolling production on or before June 22nd, but that Facebook's production would not be complete on that date. In response,

² Among the irrelevant documents that Facebook produced were newspaper articles on Queen Elizabeth's plans to launch a Facebook page and the Golden Globe awards given to the *Social Network* movie (which is based on Facebook CEO Mark Zuckerberg's life).

³ All communications relating to this discovery issue were had/exchanged between Timelines's counsel, Raven Moore, and Facebook's counsel, Brendan Hughes.

Timelines's counsel requested that Facebook provide a date certain for Facebook's final production in the case. Timelines's counsel further explained that the parties agreed to August 31, 2012 as the closing date for fact discovery and intended to comply with that schedule; and, therefore, required Facebook's remaining production without delay. Facebook's counsel indicated that he would discuss the issue internally and get back to Timelines' counsel with a response.

The following week, on June 18th (at 9:14 a.m. CDT), Timelines's counsel followed up with Facebook's counsel to find out when Facebook will make its final production. Timelines's counsel left a voicemail message asking that Facebook's counsel get back to her by the close of business on June 18th with a response regarding a production date for Facebook's final document production. At 6:07 p.m. CDT that evening, Facebook's counsel sent an email message to Timelines's counsel explaining that Facebook expects to complete its production by the end of July. Facebook's counsel also noted that the Court did not set the deadlines noted above (*see* Dkt. 36 at p. 2), but rather chose to set only one deadline for the close of all discovery (December 28, 2012); so that if necessary, the parties can decide to modify the schedule. Timelines disagrees with Facebook's position and intends to comply with the schedule noted above (and expects Facebook to comply as well).

To attempt to further discuss these issues and reach resolution, Timelines's counsel repeatedly contacted Facebook's counsel during the week of June 18th, including voicemail/phone messages on June 18th at 9:14 .a.m. and June 21st at 9:09 a.m. and an email message on June 21st at 11:29 a.m. But Facebook's counsel is difficult to reach (and has been since discovery was initiated in January 2012). Assistants regularly field calls from Timelines's counsel and either take messages or put counsel into voicemail (which is what happened on June

21st). And when calls are returned, Facebook's counsel calls well after the close of business or resorts to pithy email responses (which is what happened on the evening of June 19th). Pursuant to Local Rule 37.2, on the issue of a date certain for document production, Timelines' counsel has consulted with Facebook's counsel by telephone and made a good faith attempt to resolve this issue. And on the issue of the discovery schedule in the case, Timelines's counsel's attempts to engage in such consultation were unsuccessful due to no fault of counsel.

Relief Requested

Timelines requests that the Court clarify the discovery schedule in the case and, specifically, indicate whether the schedule set forth in the Joint Initial Status Report is controlling. (Dkt. 36 at p. 2.) Timelines requests that the Court order Facebook to provide a date certain for its final document production. Further, Timelines requests that Facebook's date certain for its final document production be no later than the end of this month, or June 29, 2012. Production by this date will help to ensure that Timelines has sufficient time to review the production, raise potential issues with Facebook, and take all necessary fact depositions before the fact discovery close date on August 31, 2012.

WHEREFORE, Timelines moves to compel Facebook's final document production on or before June 29, 2012 and any further relief as the Court deems just and appropriate.

Dated: June 21, 2012

Respectfully submitted,

TIMELINES, INC.

By: /s/ Raven Moore
One of its Attorneys

James T. Hultquist (#6204320)
Douglas Alan Albritton (#6228734)
Raven Moore (#6280665)
REED SMITH LLP
10 South Wacker Drive, 40th Floor
Chicago, Illinois 60606-7507
(312) 207-1000
(312) 207-6400 (facsimile)
jhultquist@reedsmith.com
dalbritton@reedsmith.com
rmoore@reedsmith.com

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that she filed the foregoing Plaintiff Timelines, Inc.'s Motion to Clarify and Compel by means of the Court's CM/ECF System, which causes a true and correct copy of the same to be served electronically on all CM/ECF registered counsel of record, on June 21, 2012.

/s/ Raven Moore _____
Raven Moore