

EXHIBIT D

Sutton, Theresa A.

From: Sutton, Theresa A.
Sent: Monday, October 18, 2010 2:00 PM
To: 'Jonathan B. Goldsmith'
Cc: Dalton, Amy
Subject: RE: Goldsmith v. Cooper

Mr. Goldsmith-

If you persist in pressing your meritless claims against Facebook, in light of clear, undisputed precedent, Facebook will seek sanctions, including its attorneys' fees and costs.

Please read the cases I sent to you and then read Rule 11 and the obligations it places on attorneys. Facebook will not settle this case by paying you, as you do not have claims against it.

Theresa

-----Original Message-----

From: Jonathan B. Goldsmith [mailto:JGoldsmith@lawrosen.com]
Sent: Friday, October 15, 2010 5:07 PM
To: Sutton, Theresa A.
Subject: Re: Goldsmith v. Cooper

Thanks. Is your firm facebook's Nevada counsel?

I would need to fully read these cases to form an opinion of the relation if any to the case at hand, and I will do so. However, I am not inclined to stipulate to any type of dismissal solely on the basis of non-binding case law.

I would at the very least want to argue the issue of dismissal, if Facebook brought it, in front of the Nevada state court. If I received an unfavorable ruling I could appeal directly to the Nevada Supreme Court.

On the other hand, I am open to discuss settlement possibilities. I would stipulate to dismiss with prejudice for a settlement of \$25,000.00, which could be kept confidential and without facebook admitting any liability. Please let me know if this offer is acceptable. If not, I will likely file an offer of judgment, which in Nevada, if you don't know, allows me to obtain attorney's fees by statute if not accepted and I receive a more favorable ruling at trial.

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On Oct 15, 2010, at 4:48 PM, "Sutton, Theresa A." <tsutton@orrick.com> wrote:

> Mr. Goldsmith-

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> I am writing to follow up on our phone conversation this afternoon in which I asked that you dismiss Facebook from the Goldsmith v. Cooper matter, currently pending in the Clark County District Court. As I also mentioned, the Communications Decency Act, 47 U.S.C. § 230, immunizes Facebook from liability for the types of activity alleged in the Goldsmith complaint. I have attached several decisions related to the CDA immunity. I also have attached a decision from a New York Supreme Court, in which the Court specifically found that Facebook is a provider of interactive computer services and, thus, immune from

liability pursuant to the CDA under circumstances analgous to those asserted here.

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> While I understand that you disagree with the outcome in these cases, courts have treated Section 230(c)(1) immunity as "quite robust, adopting a relatively expansive definition of 'interactive computer service' and a relatively restrictive definition of 'information content provider.'" Carafano v. Metrosplash.com, Inc., 339 F.3d 1119, 1123 (9th Cir. 2003). Facebook is confident the Clark County District Court will follow well-established precedent and encourages you to dismiss Facebook from this case, as there is no basis for asserting claims against it.

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> I look forward to resolving this expeditiously.

> Theresa

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> O
> O R R I C K
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