

3. At the time Plaintiff filed his Motion to Compel on July 20, 2011, I was not aware nor did I believe that Alexander Southwell had emailed to me Defendant Zuckerberg's Certification of Good-faith Efforts.

4. After discussions with Mr. Southwell on July 26, 2011, I discovered that on July 15, 2011, Mr. Southwell did in fact email to me electronic copies of the Declaration of Mark Elliot Zuckerberg Concerning Handwriting Samples and the Declaration of Alexander H. Southwell Concerning Handwriting Samples.

5. Subsequently, I personally apologized to Mr. Southwell for the oversight and acknowledged receipt of the Certification to Mr. Southwell by email. A true and correct copy of that email is attached hereto as Exhibit A.

THE ELECTRONIC ASSETS

6. On July 15, 2011, Plaintiff filed a declaration identifying, "An electronic image of a [*sic*] one (1) Seagate 120GB internal hard drive SN: 3JT1JQF6." (Declaration of Paul D. Ceglia, dated July 15, 2011 (Doc. No. 88) at 1, ¶ 2(A)(i).)

7. On July 15, 2011, I was in Buffalo, New York. I coordinated by telephone with Rafey Balabanian, Esq., a partner at the law firm of Edelson McGuire, LLC (Edelson McGuire), located in Chicago, Illinois, to ensure that all electronic assets were to be produced according to the Court's July 1, 2011 Order (Doc. No. 83) and the Electronic Asset Inspection Protocol (Doc. No. 85).

8. On July 14, 2011, based on the information available to me at the time, I filed a declaration certifying that all electronic assets in Plaintiff's possession, custody, or control were being produced to Defendants for inspection pursuant to the Order. (*See* Declaration of Jeffrey A. Lake, dated July 14, 2011 (Doc. No. 87).)

9. On July 16, 2011, Mr. Southwell informed me by email that the image of the Seagate hard drive had not been produced to Stroz Friedberg, LLC (Stroz Friedberg) on July 15, 2011. A true and correct copy of that email is attached hereto as Exhibit B.

10. Mr. Southwell requested that the image of the Seagate hard drive be made available to Stroz Friedberg on Monday, July 18, 2011. (*See Exhibit B.*)

11. That same day, I learned from Mr. Balabanian that the image of the Seagate hard drive had been inadvertently omitted from the assets produced to Stroz Friedberg for forensic imaging.

12. Accordingly, I responded by email to Mr. Southwell to inform him that the image of the Seagate hard drive would be made available on July 18, 2011 as requested. A true and correct copy of that email is attached hereto as Exhibit C.

13. On July 18, 2011, the image of the Seagate hard drive was produced to Stroz Friedberg for forensic imaging at the offices of Project Leadership Associates (PLA).

14. To my knowledge, Defendants have suffered no prejudice, inconvenience, or additional costs due to production of the electronic image of the Seagate hard drive on July 18, 2011 for two reasons:

- a. the actual Seagate hard drive from which the image was made was produced to Stroz Friedberg timely on July 15, 2011 in Sarasota, Florida and
- b. Defendants' experts already needed to be present at PLA on July 18, 2011 to continue with the imaging of the electronic assets that Ceglia produced on July 15, 2011.

15. Despite Defendants' continued mischaracterizations of statements I may have made and their repeated inferences that I have somehow been acting unethically or obstructing

the production of information required by the Court's Order, I have gone to great lengths to accommodate them, including going beyond the scope of the Order by producing information outside of Ceglia's possession, custody, or control.

16. For example, on July 19, 2011, after meeting and conferring with Defendants' attorney Mathew Benjamin, Esq., out of an abundance of caution and as a showing of good faith, Plaintiff also produced a computer in Paul Ceglia's parents' possession, custody, and control.

17. [REDACTED]

18. Contrary to Mr. Southwell's assertions (*see* Declaration of Alexander H. Southwell, dated August 4, 2011 (Doc. No. 97) at 7, ¶ 24), on July 19, 2011 I did not have a conversation with him concerning the residence of Paul Ceglia. Furthermore, although I did discuss with Mr. Southwell my attempts to locate information, I never told him that Paul Ceglia did not participate in the production of the Electronic Assets. To the contrary, it is my understanding that Paul Ceglia produced everything in his possession, custody, or control related to the Order.

19. As of the date of filing of this declaration, based upon my diligent search and inquiry, and based upon my communications with Paul Ceglia, I continue to certify that all electronic assets in Plaintiff's possession, custody, or control have been produced to Stroz Friedberg in compliance with the Order.

THE ELECTRONIC ASSET INSPECTION PROTOCOL

20. The Electronic Asset Inspection Protocol required Stroz Friedberg to provide the Presumed Relevant Materials to Plaintiff so that Plaintiff could review the Presumed Relevant Materials for privileged and confidential information before they were produced to Defendants. (Electronic Asset Inspection Protocol at 2-3, ¶¶ 3-4.)

21. The Electronic Asset Inspection Protocol then required Plaintiff to provide a privilege log concerning the Presumed Relevant Materials to Stroz Friedberg five (5) days after Stroz Friedberg produced them to Plaintiff. (*Id.* at 3, ¶¶ 4-5.)

22. Stroz Friedberg did not provide Plaintiff with the password necessary to access the Presumed Relevant Materials until Thursday, July 28, 2011 at 3:58 p.m. EST.

23. The privilege log was provided to Defendants by email on August 2, 2011 at 1:37 p.m. EST, within the five (5) day requirement. (*See* Declaration of Nathan Shaman, dated August 10, 2011, at 2, ¶ 8.)

I hereby certify and declare under penalty of perjury that the foregoing is true and accurate.

DATED: August 10, 2011

s/ Jeffrey A. Lake