

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG,
FACEBOOK, INC.,

Defendants.

**DECISION
and
ORDER**

10-CV-569A(F)

APPEARANCES:

PAUL A. ARGENTIERI, ESQ.
Attorney for Plaintiff
188 Main Street
Hornell, New York 14843

JEFFREY A. LAKE, ESQ.
835 5th Avenue
Suite 200A
San Diego, California 92101

GIBSON, DUNN & CRUTCHER, LLP
Attorneys for Defendants
ORIN S. SNYDER,
ALEXANDER H. SOUTHWELL,
AMANDA AYCOCK, of Counsel
200 Park Avenue, 47th Floor
New York, New York 10166-0193

HARRIS BEACH LLP
Attorneys for Defendants
TERRANCE P. FLYNN, of Counsel
Larkin at Exchange
726 Exchange Street, Suite 1000
Buffalo, New York 14210

Based on the Defendants' Accelerated Motion to Compel filed September 1, 2011 (Doc. No. 128) ("Defendants' motion"), Plaintiff's Motion and Notice of Motion to Set a Delayed Briefing Schedule, filed September 2, 2011 (Doc. No. 134), Plaintiff's Opposition to Defendants' motion, filed September 26, 2011 (Doc. No. 148), and

Defendants' Reply in Support of Defendants' Motion, filed September 27, 2011 (Doc. No. 149), the court determines as follows:

(1) Despite the fact that Plaintiff's appeal of the Order was denied by Judge Arcara on September 16, 2011 (Doc. No. 145), Plaintiff has, to date, not complied fully with the Order. Accordingly, Defendants' motion is GRANTED.

(2) Plaintiff shall without delay comply fully with this court's Order dated August 18, 2011 (Doc. No. 117) ("the Order"), in particular, with paragraph 5 thereof, and arrange to transmit immediately to Stroz Friedberg, Defendants' experts, the executed consent forms required by paragraph 5 of the Order *i.e.*, by noon, Central Standard Time, September 30, 2011, by use of commercially available scanning or expedited international shipping services reasonably available to Plaintiff as identified in the Declaration of Amanda M. Aycock, Esq., an Exhibit to Defendants' Reply ¶¶ 5-6, at Plaintiff's expense.

(3) Plaintiff is further directed to show cause why Defendants' request for sanctions, pursuant to Fed.R.Civ.P. 37(a)(5), including costs and attorneys' fees, based on Plaintiff's failure to fully and promptly comply with the Order should not be granted. Plaintiff's papers in accordance with this direction shall be filed not later than **October 7, 2011**; Defendants' response shall be filed not later than **October 14, 2011**. Oral argument shall be at the court's discretion.

SO ORDERED.

/s/ Leslie G. Foschio

LESLIE G. FOSCHIO
UNITED STATES MAGISTRATE JUDGE

Dated: September 28, 2008
Buffalo, New York