

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

----- x
PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG and
FACEBOOK, INC.,

Defendants.
----- x

Civil Action No. 1:10-cv-00569-RJA

**DECLARATION OF
ALEXANDER H. SOUTHWELL**

I, ALEXANDER H. SOUTHWELL, hereby declare under penalty of perjury that the following is true and correct:

1. I am an attorney licensed to practice law in the State of New York and admitted to practice before this Court. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP ("Gibson Dunn"), counsel of record for Mark Elliot Zuckerberg and Facebook, Inc. ("Facebook") in the above-captioned matter. I make this declaration, based on personal knowledge, in support of Defendants' Third Motion to Compel and for Other Relief.

2. Plaintiff was required, by August 29, 2011, to comply with the discovery obligations imposed by this Court's Order, dated August 18, 2011 (Doc. No. 117) (the "Order").

3. On October 14, 2011, Defendants filed their Third Motion to Compel and for Other Relief (Doc. No. 154). The filing of that motion followed a meet-and-confer with Plaintiff's counsel lasting more than one week, which I described in my declaration, dated October 14, 2011 (Doc. No. 156).

4. One aspect of this motion concerns Plaintiff's failure to comply with the provisions of the Order requiring the identification and production of all electronic copies or images of any contract by and among Defendant Zuckerberg, Plaintiff and/or other persons

associated with StreetFax in the possession, custody, or control of Plaintiff's experts, including but not limited to the experts John Paul Osborn and Valery Aginsky.

5. On October 21, 2011, Dean Boland, Esq., noticed his appearance on Plaintiff's behalf, and substituted for Plaintiff's former counsel Jeffrey Lake, Esq.

6. On October 25, 2011, Plaintiff made a partial production of outstanding documents called for by the Order and Defendants' Third Motion to Compel. Included in this production were electronic documents that purportedly came from Mr. Osborn.

7. Later that day, I spoke to Mr. Boland on the telephone to discuss Plaintiff's partial production, as well as aspects of Plaintiff's continuing non-compliance with the Order. I asked Mr. Boland specifically whether Defendants had received all documents to be produced by Mr. Osborn pursuant to the Order.

8. Mr. Boland stated that he had asked Mr. Osborn to send his scans directly to my firm, and so he had not reviewed what was produced or confirmed that Osborn had, in fact, produced all of his scans. Mr. Boland indicated that he was therefore not able to represent that Osborn had produced all scans in his possession.

9. On October 28, 2011, I received an email from Mr. Boland. A true and correct copy of that email, with Mr. Boland's non-sequential responses highlighted in red, is attached hereto as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this
31st day of October, 2011 at New York, New York.



Alexander H. Southwell