

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,

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

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG, Individually, and
FACEBOOK, INC.

REPLY TO DEFENDANTS'
RESPONSE TO MOTION
PROHIBITING RELIANCE ON
CLAIM CEGLIA'S EMAILS ARE
FRAUDS

Defendants.

MEMORANDUM

This reply is related to, but distinct from, the underlying fraud that now permeates everything Defendants and their counsel Mr. Snyder assert in this case. From its outset, Snyder has placed incredible importance on the showing of fraud related to Ceglia's emails.

Snyder's primary argument is that the absence of Ceglia's emails in Defendant Zuckerberg's Harvard email account record "proves" they are frauds. In fact, the fake emails claim "will be one of the many reasons supporting Defendants' forthcoming motion to dismiss." Doc. No. 237 at 9. In urging the court to grant expedited discovery, the court asked, "[i]s that the only reason to not grant mutual discovery, expedited discovery, is the potential for him to engage in a further fraud to rebut the Harvard email?" Snyder replied, "There are two or three other reasons." Doc. No. 94 at 50.

Snyder makes the fraudulent argument, yet again, that “the fact that Zuckerberg’s Harvard account does not contain a single one of Ceglia’s purported emails confirms they are fakes.” Doc. No. 237 at 9. He makes this argument knowing that five of Defendant Zuckerberg’s computers, “used while he was a freshman at Harvard” as Snyder has admitted, have not been searched *at all* for electronic communication evidence. Snyder cannot maintain this position in good faith that the absence of Ceglia’s emails in Zuckerberg’s Harvard email account record means they are fakes. Even Stroz will not walk to the end of that plank by submitting a declaration supporting this claim.

Ceglia in his motion has established via forensic expert Jerry Grant that the documents containing the email exchanges with Defendant Zuckerberg were, in fact, created by copying and pasting authentic emails back in 2003 and 2004. Defendants offer no expert rebuttal to this claim.

“Rather, all he is willing to say is that he conducted some tests on the disks themselves, none of which could confirm Ceglia’s fraud.” Id. at 10. The court can confirm for itself that Mr. Grant is a qualified computer forensics expert in *this very court*. He does not merely perform “some tests” but, instead, examines nearly 20 forensically relevant features of the documents confirming that there is no indication of the fraud that Snyder so desperately wants to conjure up.

This quote underlines the arrogance of defendants and their position. “To the extent Ceglia wishes to challenge the findings of Defendants’ experts concerning the genuine emails they found on the Harvard server, the proper time to do that would

be once the expedited discovery phase is complete and Defendants have produced the genuine Harvard emails, if this case is still ongoing at that point.” Id. at 10.

In Defendants’ world if Plaintiff can survive expedited discovery while the defendants commit fraud on the court, he wins the right to to the Harvard server. Snyder does not concede Plaintiff would have the right to access the formerly suppressed and nearly destroyed Electronic Assets from the ConnectU case. Perhaps Defendants and their counsel will consider a polite request from the court to engage in regular discovery at some point, but even that is not certain.

CONCLUSION

For the foregoing reasons, Mr. Ceglia respectfully requests this court grant Plaintiff’s motion and deny Defendants the right to argue Ceglia’s email evidence is fake in any dispositive motion filed during or just after Expedited Discovery in light of the evidence Ceglia has presented and the fraud committed by Defendants and Defense Counsel Snyder and the Orrick Law Firm.

Respectfully submitted,

/s/Dean Boland

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