

EXHIBIT K

February 8, 2012

VIA ELECTRONIC MAIL

Dean M. Boland, Esq.
Boland Legal, LLC
18123 Sloane Avenue
Lakewood, Ohio 44107

Re: Ceglia v. Zuckerberg and Facebook, Inc., No. 1:10-cv-569 (RJA)

Dear Mr. Boland:

I write in response to your recent emails and to correct, once again, your incorrect assertion that your client is in compliance with the Court's expedited discovery orders. Ceglia remains in non-compliance in regard to the Holmberg issue we have previously raised. Indeed, your recent email surfaces yet another apparent instance of Ceglia's non-compliance. Furthermore, I write to correct, once again, your misunderstanding of the careful sequence imposed by the Court's expedited discovery orders.

First, Ceglia still has not complied with his obligations in regard to Mr. Holmberg. As you are aware, the August 18, 2011 Order requires Ceglia to identify all custodians of the documents and materials required to be produced under the Court's orders: "Plaintiff shall identify, by name and location, each of the following files, computers, and electronic media" As we noted before, Ceglia understood this obligation when he produced his August 29, 2011 Declaration containing the requisite detail. However, now that Mr. Holmberg has come to light, Ceglia's August 29th and subsequent sworn declarations — which purport to identify by name and location all of the files and materials required by the Court's orders — are false. In order to be in full compliance with the Court's expedited discovery orders, Ceglia must sign an accurate sworn declaration identifying all custodians, including Mr. Holmberg, and identify by name and location the files and materials responsive to the order that those custodians possess.

Moreover, and quite troublingly, your February 2, 2012 email suggests the existence of yet another custodian that Ceglia has apparently concealed. Specifically, you wrote that the copy of the "Lawsuit Overview.pdf" in Mr. Holmberg's possession is one "that he retained after receiving it via email," presumably from the undisclosed author of the document. This is the second time that the purported author's identity has changed. When we first raised this issue with you, we noted that your representation to the Court that Mr. Argentieri had

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prepared the document was directly contradicted by Mr. Holmberg's claim of authorship in his March 6, 2011 email. Now it appears that Mr. Holmberg's claim of authorship was itself false, and that the document was actually prepared by a third, undisclosed individual. To be clear, the Court's orders require Ceglia to produce the original document from its original author and custodian, as well as all subsequent custodians (such as Mr. Holmberg, apparently). Once Ceglia produces the required declaration and documents, we will assess whether he has cured his ongoing non-compliance.

Second, you continue to misunderstand the sequence of obligations imposed by the Court's orders. Pursuant to the August 18, 2011 Order, Defendants' obligation to produce the Harvard email is triggered by Stroz Friedberg's production to Defendants of all non-privileged relevant material. *See* Doc. No. 117 ¶ 7. As you know, the Court's orders require Ceglia and his current and former attorneys, experts, and agents to produce several categories of responsive documents to Stroz Friedberg. Depending on the nature of the material, Stroz Friedberg then either produces simultaneously to both parties' counsel (for example, material produced by third-parties pursuant to the metadata acquisition) or produces first to Plaintiff's counsel for a five-day privilege review (for example, material identified as responsive in Ceglia's electronic assets). Because Ceglia and his agents have not yet provided to Stroz Friedberg all of the documents and materials required by the Court's orders, Stroz Friedberg has not yet completed its production of those materials to Defendants. Thus, Defendants' obligation to produce the Harvard email has not yet arisen.

Similarly, as we have explained on numerous occasions, Defendants must provide their expert reports within thirty days of Ceglia's full compliance with the Court's expedited discovery orders. *See id.* ¶ 9. For the reasons stated above, Ceglia remains in non-compliance. Thus, Defendants' obligation to provide expert reports has not yet arisen.

This letter constitutes Defendants' attempt to meet-and-confer about the discovery disputes described herein, pursuant to Local Rule 7(d)(4). Please provide the outstanding declaration and documents by 5:00 p.m. Eastern Time on Monday, February 13, 2012. We reserve all rights, including the right to seek fees, costs, and appropriate sanctions for Plaintiff's ongoing non-compliance.

Very truly yours,



Alexander H. Southwell

Enclosures

cc: Paul Argentieri, Esq.