

EXHIBIT I

January 26, 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 with those orders in at least two material ways.

First, and disturbingly, the declaration Ceglia signed on August 29, 2011 contains a glaring omission: it failed to disclose the identity of yet another person with responsive documents. As you know, the August 18 Order (Doc. No. 117) requires Ceglia to identify (by name and location) and produce each of the following files, computers, and electronic media: "(A) the electronic copies or images of the purported contract attached to any complaint in this action; [and] (B) all electronic versions or purported versions of any contract by and among Defendant Zuckerberg, Plaintiff and/or other persons associated with StreetFax ("Contract"), including the electronic copies or images of any Contract in the possession, custody, or control of Plaintiff's attorneys, experts, or other agents . . ." *Id.* ¶¶ 2-3. In other words, the Court ordered Ceglia to identify all of the documents described in paragraph 2 in a sworn declaration; to organize that declaration by the name and location of the custodian in whose possession those documents resided; and to produce those documents directly to Defendants.

There was no confusion about these obligations. Ceglia's prior counsel Jeffrey Lake clearly understood the requirements imposed by the August 18 Order. He prepared, and Ceglia signed, an August 29 declaration that was organized in this manner and purported to satisfy Ceglia's obligations. *See Doc. No. 176-1.*

In that August 29 declaration, Ceglia identified the electronic document "Lawsuit Overview.pdf" as responsive to Category (A), and attested that this file is located only at the firm of Kasowitz, Benson, Torres & Friedman LLP. *See id.* at 2. As you know, Ceglia initially claimed that this file was protected from disclosure by the attorney-client privilege

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and produced it in heavily redacted form. *See* Doc. No. 156-2. After Defendants challenged this privilege claim, Ceglia refused to withdraw it.

During oral argument on November 2, 2011, the Court stated that “in the absence of an affidavit indicating that the so-called lawsuit overview was prepared either by a client, presumably Mr. Ceglia, in connection with seeking legal advice from an attorney or by an attorney communicating confidentially back to the client legal advice, that the Plaintiff has failed to meet its burden as to an attorney/client privilege attaching to this particular document.” Nov. 2, 2011 Tr. at 9. After conferring with your co-counsel, Mr. Argentieri, you represented the following in open court: “Mr. Argentieri is here today and would be prepared to [swear], as an officer of the court, that he authored that document and analyzed Mr. Ceglia’s case and that analysis is reflected in the document. I’ll offer that. If that is insufficient, then we will respect the Court’s orders.” *Id.* at 9-10. Mr. Argentieri indicated his assent. Despite your representation in open court that Mr. Argentieri authored the “Lawsuit Overveiw.pdf” file, the Court determined that the file is neither privileged nor confidential and ordered Plaintiff to produce the original and “all copies” directly to Defendants. Order (Doc. No. 208) ¶ 14.

Mr. Argentieri made available certain electronic files for collection from his office shortly after the Court’s November 3, 2011 Order, which directed that. *See id.* ¶ 11. Mr. Argentieri, however, suspiciously did not make available the “Lawsuit Overview.pdf” file. Defendants demanded its production in a November 25, 2011 letter to Mr. Argentieri, noting that in light of the “representation to the Court that you personally wrote the document, we find it implausible that it no longer remains in your possession.” Nov. 25, 2011 Letter from A. Southwell to P. Argentieri. The next day, Mr. Argentieri offered to have his information technology consultant provide a copy of the file; after some delays due to Mr. Argentieri not staffing his office, Mr. Argentieri finally, and belatedly, produced a copy of the “Lawsuit Overview.pdf” file on December 15, 2011.

When we inspected the “Lawsuit Overview.pdf” file, we learned for the first time that the file is attached to a March 6, 2011 e-mail from Jason Holmberg to Ceglia and Mr. Argentieri. Before then, Ceglia had never disclosed Mr. Holmberg, who appears to be a wood pellet salesman in Pennsylvania. The March 6, 2011 email plainly suggests that, contrary to your representation to the Court, the original author of the “Lawsuit Overview.pdf” file is Mr. Holmberg, not Mr. Argentieri.

This discovery is quite troubling for two reasons. To begin, it establishes that Ceglia’s August 29 declaration is deficient because Ceglia concealed Mr. Holmberg as a custodian of relevant files and the copy of the “Lawsuit Overview.pdf” file in Mr. Holmberg’s possession. Neither did Ceglia produce Holmberg’s copy of that file. In addition to these two instances of non-compliance with the Court’s August 18 Order, Mr. Holmberg’s claim of authorship

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directly conflicts with your representation to the Court during the November 2, 2011 hearing that Argentieri wrote the “Lawsuit Overview.pdf” file — a representation made to substantiate Ceglia’s baseless contention that the file was protected by the attorney-client privilege.

Please provide forthwith a revised sworn declaration from Ceglia that fully complies with the Court’s expedited discovery orders, specifying the location of all copies of the file “Lawsuit Overview.pdf,” including specifically the copy in Holmberg’s possession. Please also produce all files responsive to the Court’s expedited discovery orders in Holmberg’s possession, including but not limited to Holmberg’s copy of the “Lawsuit Overview.pdf” file, with metadata intact.

Because Defendants have now learned of two agents whose existence and possession of responsive documents Ceglia concealed — Holmberg and Jerry Grant, the subject of Defendants’ Fourth Motion to Compel, which the Court granted, *see* Doc. Nos. 243 and 272 — Defendants are concerned that Ceglia has not identified and produced other responsive documents from Ceglia’s agents. Holmberg’s March 6, 2011 email also indicates that Ceglia used the “Lawsuit Overview.pdf” to shop his fraudulent lawsuit to multiple law firms. To be clear, the Court’s expedited discovery orders require Ceglia to identify and produce all copies of that document — as well as all other documents responsive to the Court’s orders — in the possession of any of Ceglia’s agents, including other law firms.

The second area of non-compliance relates to the Court’s November 3 Order authorizing Defendants to serve a subpoena on Adelphia to identify the registered owner of the email account “ceglia@adelphia.net.” It also authorized Defendants to issue a subpoena to that account owner. *See Order* (Doc. No. 208) ¶ 3. As you know, that email address is registered to your client’s father, Carmine Ceglia, another of Ceglia’s agents.

Defendants have repeatedly attempted to serve personally the court-authorized subpoena on Carmine Ceglia. Furthermore, after multiple attempts at personal in-hand service, the subpoena was affixed to Carmine Ceglia’s residence and sent by certified mail, in accordance with the requirements of the Federal Rules. As you know, Defendants also provided you and Mr. Argentieri with a courtesy copy by electronic mail on December 27, 2011. Of note, on one service attempt, Defendants’ process server was told by an adult female at Carmine Ceglia’s home that he was in Long Island and would return in a few days.

On January 2, 2012, you informed us that Carmine Ceglia was “out of the country for about a month” but was expected to return “next week.” You also indicated that, with regard to service of the subpoena, “we are not going to contest that at this time.” Based on that representation, on January 5, we conveyed our understanding that that you represent Carmine Ceglia in connection with this matter. Seven minutes later, you wrote, “I do not represent

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Dean M. Boland, Esq.

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Carmine Ceglia. Nothing I have said gives any reasonable person that impression. I have given you his travel plans as a courtesy.” On January 9, we explained that, based on your statement that “we are not going to contest [service] at this time,” we reasonably believed that you represent Carmine Ceglia for purposes of the subpoena; the only attorney who could contest service of a subpoena on a third-party is one representing that third-party. Shortly thereafter, you wrote, “I don’t represent them. Paul Ceglia can object to a variety of things.” See enclosed correspondence.

Despite your representation that Carmine Ceglia would be returning to this country in the second week of January, he appears to not yet have returned to his home. Defendants have thus been unable to exercise their full rights under the November 3 Order due in part to your client’s father’s lack of cooperation in accepting service of that Court-authorized subpoena. Please remedy this issue by immediately instructing your client to facilitate his father’s acceptance of Defendants’ subpoena and prompt compliance with the subpoena’s requirements.

In light of the two serious unresolved deficiencies described above, Ceglia remains in non-compliance with the Court’s expedited discovery orders. Moreover, several of Ceglia’s third-party agents — Ceglia’s former counsel DLA Piper and Lake A.P.C. — have yet to comply with paragraph 11 of the November 3 Order, which authorizes Stroz Friedberg’s direct acquisition of all responsive files from those agents. Once Ceglia comes into full compliance, we will, pursuant to the Court’s August 18 Order provide our reports documenting the findings of the Court-ordered examinations within thirty days.

This letter constitutes Defendants’ attempt to meet-and-confer about the discovery disputes described herein, pursuant to Local Rule 7(d)(4). 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.

ENCLOSURES

November 25, 2011

VIA ELECTRONIC MAIL

Paul A. Argentieri, Esq.
Paul Argentieri and Associates
188 Main Street
Hornell, New York 14843

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

Dear Mr. Argentieri:

We write regarding Stroz Friedberg's recent acquisition of electronic files from your computers pursuant to the Court's November 3, 2011 Order (the "Order"). *See Doc. No. 208, ¶ 11.* As you know, the Court authorized Stroz Friedberg to acquire from each of Plaintiff's attorneys all electronic files previously produced or to be produced pursuant to the Court's expedited discovery orders. *Id.* One such electronic file is "Lawsuit Overview.pdf," which Plaintiff's former counsel first produced on August 29, 2011 in redacted form. On November 2, 2011, the Court expressly held that the entire document is "neither privileged nor confidential under the Joint Stipulated Protective Order," thus requiring all subsequent productions of the document to be in unredacted form. *Id.*, ¶ 14.

As you undoubtedly recall, you told that Court during the November 2nd hearing on Defendants' Third Motion to Compel that you personally wrote the "Lawsuit Overview" document. Later that evening, you and I discussed the fact that, as the author of that document, you would be required to make it available for Stroz Friedberg's subsequent acquisition. You represented to me that you understood your obligations under the Order.

We were therefore quite surprised to learn that you did not make the "Lawsuit Overview" document available to Stroz Friedberg during their November 22nd acquisition of electronic files from your computers. Given your representation to the Court that you personally wrote the document, we find it implausible that it no longer remains in your possession. We hereby demand that you make available to Stroz Friedberg all electronic copies of the "Lawsuit Overview" document in your possession and any other improperly withheld electronic file, pursuant to paragraph 11 of the Order. If you claim no longer to have a copy of the "Lawsuit Overview" document, we demand that you provide a written account of its destruction or non-existence.

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Paul A. Argentieri, Esq.
November 25, 2011
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We reserve all rights, including the right to seek attorney's fees, costs, and appropriate sanctions for Plaintiff's ongoing non-compliance.

Very truly yours,

A handwritten signature in black ink, appearing to read "AM Southwell MSB".

Alexander H. Southwell

cc: Dean M. Boland, Esq.

From: Dean Boland
Sent: Monday, January 09, 2012 9:56:22 PM (UTC-05:00) Eastern Time (US & Canada)
To: Southwell, Alexander
Cc: Paul Argentieri
Subject: RE: Subpoenas to my client's parents

Alex:

I don't represent them. Paul Ceglia can object to a variety of things.

Where is the motion to dismiss? We can't wait much longer without moving the court for regular discovery which the court clearly indicated it was favorable to.

I want to give you guys a fair shot to file it given you've undoubtedly promised your clients you would file it and win it.

I think we and the court are trying to help you and Orin out of this little corner you've painted yourself into with the year of fraud dismissal proclamations.

But, we all need to bring this case in for trial soon. Time is running out.

Let me know if you need anything from us to help you work with your client about the realities here. I have no reason to think you're not a smart lawyer. You know how this is going to end at trial.

Dean.

Dean Boland
Owner/Member
Boland Legal, LLC
dean@bolandlegal.com
216.236.8080

From: Southwell, Alexander
Sent: Monday, January 09, 2012 9:24 PM
To: 'Dean Boland'; Paul Argentieri
Subject: RE: Subpoenas to my client's parents

Mr. Boland:

Your January 2, 2012 email indicated that with regard to service of the subpoena to Carmine Ceglia, "we are not going to contest that at this time." Since the only attorney who could contest service of a subpoena on a third-party is one representing that third-party, we reasonably believed you were informing us that you were representing Carmine Ceglia for purposes of the subpoena. If you are not, we will work directly with Carmine Ceglia although the lack of counsel assisting in the endeavor may delay full compliance with the Court's expedited discovery orders.

Thanks
Alex

From: Dean Boland
Sent: Thursday, January 05, 2012 10:33:02 PM (UTC-05:00) Eastern Time (US & Canada)
To: Southwell, Alexander
Cc: Dean Boland; Paul Argentieri
Subject: Re: Subpoenas to my client's parents

On Thursday, January 5, 2012, Southwell, Alexander <ASouthwell@gibsondunn.com> wrote:
> Mr. Boland:
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> As you know, the Court's November 3, 2011 Order authorizes Defendants to issue subpoenas to the "owner(s) or registrant(s) of the ceglia@adelphia.net account" and "to obtain content from Adelphia by providing consent from the owner(s) or registrant(s) of the ceglia@adelphia.net account." The subpoena you refer to below was served on Mr. Carmine Ceglia as the registered owner of the ceglia@adelphia.net account. That subpoena was left at Carmine Ceglia's residence and sent by certified mail after multiple attempts at personal in-hand service, in accordance with the requirements of the Federal Rules. As you know, we also provided you and Mr. Argentieri with a courtesy copy by electronic mail.
>
> Based on your email below, we understand that you represent Carmine Ceglia in connection with this matter;

I do not represent Carmine Ceglia. Nothing I have said gives any reasonable person that impression. I have given you his travel plans as a courtesy.

that you will not contest the validity of service of the subpoena on his behalf; and that Carmine Ceglia intends to comply with the subpoena as soon as he returns to the country. Please clarify if that understanding is not correct. Please also confirm the date by which Carmine Ceglia intends to comply. As you know, the subpoena's return date was Monday, January 2, 2011.

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>
>
> Alex

From: Southwell, Alexander
Sent: Thursday, January 05, 2012 10:26 PM
To: Dean Boland; Paul Argentieri
Cc: Snyder, Orin
Subject: RE: Subpoenas to my client's parents

Mr. Boland:

As you know, the Court's November 3, 2011 Order authorizes Defendants to issue subpoenas to the "owner(s) or registrant(s) of the ceglia@adelphia.net account" and "to obtain content from Adelphia by providing consent from the owner(s) or registrant(s) of the ceglia@adelphia.net account." The subpoena you refer to below was served on Mr. Carmine Ceglia as the registered owner of the ceglia@adelphia.net account. That subpoena was left at Carmine Ceglia's residence and sent by certified mail after multiple attempts at personal in-hand service, in accordance with the requirements of the Federal Rules. As you know, we also provided you and Mr. Argentieri with a courtesy copy by electronic mail.

Based on your email below, we understand that you represent Carmine Ceglia in connection with this matter; that you will not contest the validity of service of the subpoena on his behalf; and that Carmine Ceglia intends to comply with the subpoena as soon as he returns to the country. Please clarify if that understanding is not correct. Please also confirm the date by which Carmine Ceglia intends to comply. As you know, the subpoena's return date was Monday, January 2, 2011.

Alex

From: Dean Boland [mailto:dean@bolandlegal.com]
Sent: Monday, January 02, 2012 3:09 PM
To: Southwell, Alexander; Paul Argentieri
Subject: Subpoenas to my client's parents

Alex:

My client's parents had a subpoena from you taped to the door of their residence in New York about a week ago. However, I have been informed that my client's parents have been out of the country for about a month. It is further my understanding that they are not due to return until next week.

I don't believe taping to their door is valid service, but we are not going to contest that at this time. I am just informing you that I fully expect my client's parents will certainly promptly comply with the subpoena upon their return to the country.

Dean.

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Dean Boland
Owner/Member
Boland Legal, LLC
18123 Sloane Avenue
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216.236.8080 ph
866.455.1267 fax
dean@bolandlegal.com

Please note, I typically only review my emails once daily. If there is something urgent in any email, please do not hesitate to contact my office at 216-236-8080.