

February 16, 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 regarding your client's ongoing non-compliance with the Court's expedited discovery orders. First, Defendants have recently learned that Ceglia concealed from the Court and Defendants at least four of the webmail accounts that he has used since 2003, in violation of the Court's August 18 and November 3, 2011 Orders. Second, Ceglia has attempted to withhold additional relevant documents by improperly designating them attorney-client privileged communications. Third, Ceglia still has not complied with his obligations regarding Mr. Holmberg and the "Lawsuit Overview.pdf" document—failures that we have already raised with you twice.

As you know, in its August 18, 2011 Order, following Defendants' motion to compel full compliance with Court's initial expedited discovery order, the Court directed Ceglia to "identify all email accounts accessible through web-based interfaces that Plaintiff has used since 2003" and to "consent to the acquisition and inspection by Stroz Friedberg of the contents of all such accounts." Order (Doc. No. 117) ¶ 5 (emphasis added). Ceglia provided a sworn declaration on August 29, 2011, purporting to comply with the Court's order, in which he identified only the paulceglia@gmail.com and paulceglia@msn.com accounts, as well as accounts at Adelphia and T-Mobile without specific addresses. *See* Doc. No. 176-1.

Ceglia violated the Court's order requiring him to provide consents to the acquisition and inspection of these accounts when he failed to provide timely consents.<sup>1</sup> Following Defendants' motion to compel related to this issue, on November 3, the Court again ordered Ceglia to provide consents for the inspection of "all email accounts accessible through web-

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<sup>1</sup> The Court subsequently granted Defendants' request for sanctions related to this particular discovery violation. *See* Doc. Nos. 283, 292.

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based interfaces that [he] has used since 2003.” Order (Doc. No. 208) ¶ 10 (emphasis added). Ultimately, Ceglia provided executed consent forms for three webmail accounts: [paulceglia@gmail.com](mailto:paulceglia@gmail.com), [pauceglia@msn.com](mailto:pauceglia@msn.com), and [pceglia@tmail.com](mailto:pceglia@tmail.com).<sup>2</sup>

On February 1, 2012, Stroz Friedberg produced to Ceglia’s counsel electronic material that it had identified as relevant in Ceglia’s webmail accounts. That production was made in accordance with the Electronic Asset Inspection Protocol (Doc. No. 85), in order to allow Ceglia the opportunity to conduct a privilege review. Ceglia provided a privilege log designating what in that production was claimed as privileged and, on February 9, 2012, Stroz produced to Defendants the relevant electronic material that Ceglia had not designated as privileged. Stroz did not produce to Defendants the fifty-one (51) documents that Ceglia withheld as privileged.

That production contains evidence that Ceglia concealed the existence of at least four webmail accounts that he used since 2003: [landlubber39@yahoo.com](mailto:landlubber39@yahoo.com), [paulc@hush.com](mailto:paulc@hush.com), [alleganypellets@gmail.com](mailto:alleganypellets@gmail.com), and [getzuck@gmail.com](mailto:getzuck@gmail.com). Indeed, Ceglia appears to have created at least one account, [getzuck@gmail.com](mailto:getzuck@gmail.com), to use specifically in connection with this fraudulent lawsuit. Ceglia’s failure to identify these webmail accounts constituted yet another apparently willful violation of the Court’s expedited discovery orders. This ongoing obstruction—in the face of repeated motions to compel—has prejudiced Defendants by denying them access to time-sensitive electronic material the Court ordered disclosed over six months ago.

You appear to recognize this fact. After learning that your client had failed to identify four webmail accounts and had, yet again, violated the Court’s orders, you wrote to offer his consent to the inspection of two of those accounts: [landlubber39@yahoo.com](mailto:landlubber39@yahoo.com) and [paulc@hush.com](mailto:paulc@hush.com). However, you did not mention or offer Ceglia’s consent to the inspection of his [alleganypellets@gmail.com](mailto:alleganypellets@gmail.com) account or [getzuck@gmail.com](mailto:getzuck@gmail.com) account. **Defendants hereby demand that Ceglia provide executed consent forms for all of the webmail accounts he has used since 2003, including but not limited to the four accounts mentioned above, by 5:00 p.m. ET on February 20, 2012.** Copies of blank consent forms are enclosed herein. If you do not provide the properly executed consent forms, we will be forced to raise this additional discovery violation with the Court. Moreover, because obtaining access to these webmail accounts will likely require a Court order and/or authorization to issue additional subpoenas, Defendants plan to seek such from the Court. When you provide Ceglia’s executed consent forms, please indicate whether you will consent to this motion so we may advise the Court. If you oppose it, please explain your position. Finally, please provide

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<sup>2</sup> Mr. Carmine Ceglia provided an executed consent for a fourth account, [ceglia@adelphia.net](mailto:ceglia@adelphia.net), for which he is the registrant.

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forthwith a revised sworn declaration from Ceglia that fully complies with the Court's expedited discovery orders, identifying all webmail accounts that he has used since 2003.

Defendants also object to Ceglia's improper privilege designations. First, Ceglia has withheld as privileged communications with Jessica Ceglia and Jason Holmberg, third-party non-attorneys beyond the scope of any relevant attorney-client relationship. Indeed, the Court has already rejected Ceglia's assertion of privilege over documents sent by Ms. Ceglia. *See* Doc. No. 208 ¶ 15. Therefore, Ceglia's designation of Document #337 as attorney work product is improper. Ceglia's assertion of privilege over emails sent to Mr. Holmberg is also improper. Indeed, in an unrelated production, Mr. Argentieri provided to Defendants an email sent from Mr. Holmberg to Ceglia. Thus, Ceglia has waived any potential claim of privilege over communications with Mr. Holmberg, which claims are improper in any event. Ceglia's assertions of privilege over Documents #360 and 379 must therefore be withdrawn.

Second, Ceglia has asserted additional suspect privilege claims over communications involving attorneys. For example, Ceglia withheld a February 15, 2007 email sent by Jim Kole while Mr. Kole was an Assistant Attorney General at the Illinois Attorney General's Office, Consumer Fraud Bureau. *See* Ex. A (Document #348). Ceglia also withheld an email sent to Mr. Argentieri that concerns "a hushmail account"—a subject that does not appear to involve the provision of legal advice. *See* Ex. A. (Document #334). Finally, Ceglia withheld five emails sent to Mr. David Grable, an attorney at Quinn Emanuel who is not known to have provided legal services to Ceglia in connection with this matter. *See* Ex. A (Documents # 373, 400, 401, 402, 403, and 405). Defendants hereby demand that Ceglia (1) withdraw his improper assertions of privilege over Documents #337, 360, and 379, and (2) provide an evidentiary showing that his assertions of privilege over Documents #334, 348, 373, 400, 401, 402, 403, and 405 are proper, by 5:00 p.m. on February 20, 2012.

Finally, Ceglia remains in non-compliance regarding the issues raised in our February 8, 2012 meet-and-confer letter. Specifically, Ceglia has not provided an accurate sworn declaration identifying all custodians, including Mr. Holmberg, and the responsive files and materials that those custodians possess.<sup>3</sup> Ceglia has also yet to produce all copies of the

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<sup>3</sup> In a February 10, 2012 email, you indicated that Ceglia could provide a declaration regarding the files that Mr. Holmberg possesses only on "hearsay." *See* Ex. B. The Court's August 18 Order requires Ceglia to identify, "by name and location," all responsive files, computers, and electronic media in the possession of his attorneys, experts, or agents. *See* Doc. No. 117 ¶ 2. As we noted previously, Ceglia understood this obligation when he produced his August 29, 2011 Declaration containing the requisite detail. Thus, in order to comply with the Court's orders, Ceglia must inform himself, either personally or through counsel, of the responsive materials possessed by

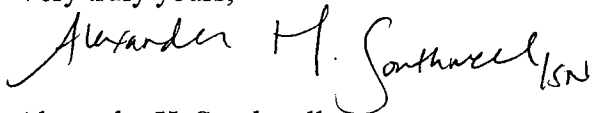
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“Lawsuit Overview.pdf” document, including but not limited to the original copy prepared by the document’s author. The deadline provided in our prior meet-and-confer letter has lapsed.

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,

A handwritten signature in cursive script that reads "Alexander H. Southwell" followed by the initials "ASN".

Alexander H. Southwell

Enclosures

cc: Paul Argentieri, Esq.

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third-parties such as Mr. Holmberg—an individual Ceglia has described as his “agent.”  
See Ex. A. (Document #360).