

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 BRYAN J.  
ROSE IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS**

I, Bryan J. Rose, declare and state as follows:

1. I am a Managing Director at Stroz Friedberg, LLC (“Stroz Friedberg”). Stroz Friedberg has been retained by Gibson, Dunn & Crutcher, LLP (“Gibson Dunn”), on behalf of its clients Mark Zuckerberg and Facebook, Inc. (“Facebook”), to provide consulting and electronic discovery services and to conduct digital forensic examinations of various media. I have personal knowledge of the facts set forth below and, if called upon to do so, could and would competently testify thereto. This declaration is being submitted to supplement my previous declarations, dated June 1, 2011, and June 24, 2011. It summarizes the email data of Mr. Zuckerberg obtained from Harvard University (“Harvard”), as well as Stroz Friedberg’s analysis of that data.

2. Stroz Friedberg is in possession of four separate copies of Mr. Zuckerberg’s email account from Harvard, including one copy preserved by Stroz Friedberg and three copies provided to Stroz Friedberg by Harvard. Stroz Friedberg’s preservation work involved making a complete and accurate copy of the entire contents of Mr. Zuckerberg’s Harvard email account, including both sent and received email, at the time of collection. In addition, Stroz Friedberg received what it understands to be full and complete copies of Mr. Zuckerberg’s Harvard email,

including both sent and received email, from various points in time. These four separate copies of Mr. Zuckerberg's email account from Harvard are:

(a) A copy of Mr. Zuckerberg's Harvard email account as it existed on April 15, 2011 (the "April 2011 Harvard Email Data"), which was preserved by Stroz Friedberg on that date;

(b) A copy of Mr. Zuckerberg's Harvard email account as it existed on October 1, 2010 (the "October 2010 Harvard Email Data"), which was provided to Stroz Friedberg by Harvard on April 28, 2011;<sup>1</sup>

(c) A copy of Mr. Zuckerberg's Harvard email account as it existed on November 3, 2003 (the "November 2003 Harvard Email Data"), which was provided to Stroz Friedberg by Harvard on February 9, 2012; and

(d) A copy of Mr. Zuckerberg's Harvard email account as it existed on February 2, 2012 (the "February 2012 Harvard Email Data"), which was provided to Stroz Friedberg by Harvard on February 9, 2012.

3. Stroz Friedberg aggregated the data from these four sources to create a complete data set containing each email file obtained from Mr. Zuckerberg's Harvard email account (hereinafter, the "Harvard Email Data"). This aggregated Harvard Email Data included the text and available metadata for each email. The Harvard Email Data was loaded into Stroz Review, Stroz Friedberg's secure review platform, which provides the ability to search by, among other things, the sender of an email, the recipient of an email, the date on which an email was sent, or keywords.

---

<sup>1</sup> On February 9, 2012, Harvard also sent Stroz Friedberg a copy of the contents of Mr. Zuckerberg's Harvard email account as it existed on October 1, 2010. However, based on a hash value comparison of the emails contained within that delivery, Stroz Friedberg determined that the email data in that delivery was an exact duplicate of the October 2010 Harvard Email Data, previously provided to Stroz Friedberg on April 28, 2011.

4. I have reviewed the Amended Complaint filed by Paul Ceglia in this case. *See* Doc. No. 39. I understand that the Amended Complaint purports to quote from emails that Mr. Ceglia alleges he sent to or received from Mr. Zuckerberg during a time when Mr. Zuckerberg was a Harvard student (the “Purported Emails”). In Stroz Review, I searched all of the Harvard Email Data using terms designed to identify the Purported Emails (Doc. No. 47-2); these search terms are unique words and phrases contained in the Purported Emails. I then personally reviewed all of the emails that contained these search terms and pre-dated the filing of this litigation. The results of these searches did not include any of the Purported Emails; thus, none of the Purported Emails that Mr. Ceglia purported to quote in the Amended Complaint are contained in the data obtained by Stroz Friedberg from Mr. Zuckerberg’s Harvard email account.

5. I conducted a separate search to identify all of the email communications between and among Mr. Zuckerberg and individuals affiliated with StreetFax. Specifically, in Stroz Review, I searched the Harvard Email Data to identify all of the emails in which the email addresses of people affiliated with StreetFax (attached as Exhibit A) appeared in the To, From, CC, or BCC fields, or in the body of the emails. This search identified approximately 300 email communications between and among Mr. Zuckerberg and people associated with StreetFax (the “Zuckerberg-StreetFax Emails”), when counting each email within an email chain as a separate communication (e.g., if a reply email incorporates the original email to which it is a reply, those were counted as two email communications).

6. I personally reviewed all of the Zuckerberg-StreetFax Emails. All of the Zuckerberg-StreetFax Emails appear to relate to StreetFax. Attached are true and complete copies of the following emails:

(a) Attached hereto as Exhibit B is a true and correct copy of an August 16, 2003 email from Mark Zuckerberg to Paul Ceglia, subject line, "Re: A deduction is coming," also containing an August 15, 2003 embedded email from Paul Ceglia to Mark Zuckerberg and Jeff Kazen.

(b) Attached hereto as Exhibit C is a true and correct copy of an August 28, 2003 email from Karin Petersen to Mark Zuckerberg, subject line, "i received no phone call."

(c) Attached hereto as Exhibit D is a true and correct copy of a November 15, 2003 email from Paul Ceglia to Mark Zuckerberg, subject line, "Re: scroll search layout."

(d) Attached hereto as Exhibit E is a true and correct copy of a January 7, 2004 email from Karin Petersen to Mark Zuckerberg, subject line, "servepath is working on our server."

(e) Attached hereto as Exhibit F is a true and correct copy of a January 26, 2004 email from Karin Petersen to Mark Zuckerberg, subject line "Re: where are u?," also containing a January 25, 2004 embedded email from Mark Zuckerberg to Karin Petersen, subject line, "Re: where are u?"

(f) Attached hereto as Exhibit G is a true and correct copy of a February 16, 2004 email from Paul Ceglia to Mark Zuckerberg, subject line, "Back Payment."

(g) Attached hereto as Exhibit H is a true and correct copy of a February 22, 2004 email from Paul Ceglia to Mark Zuckerberg, subject line, "Re: Back Payment," also containing a February 21, 2004 embedded email from Mark Zuckerberg to Paul Ceglia, subject line, "Re: Back Payment."

(h) Attached hereto as Exhibit I is a true and correct copy of a March 11, 2004 email from Paul Ceglia to Mark Zuckerberg, subject line, "RE: payment status," also containing a

March 8, 2004 embedded email from Mark Zuckerberg to Paul Ceglia, subject line, "payment status."

(i) Attached hereto as Exhibit J is a true and correct copy of a March 20, 2004 email from Paul Ceglia to Mark Zuckerberg, with no subject.

(j) Attached hereto as Exhibit K is a true and correct copy of a March 31, 2004 email from Paul Ceglia to Mark Zuckerberg, subject line, "A thought."

(k) Attached hereto as Exhibit L is a true and correct copy of a May 7, 2004 email from Paul Ceglia to Mark Zuckerberg, subject line, "Closed GEICO."

7. None of the Zuckerberg-StreetFax Emails mention or otherwise relate to Facebook, Thefacebook.com, "The Face Book," "The Page Book," or any other website created by Mr. Zuckerberg of which I am aware.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26th day of March, 2012, at New York, New York.

  
BRYAN J. ROSE