

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

PAUL D. CEGLIA,

Plaintiff,

**NOTICE OF MOTION AND  
INCORPORATED MOTION  
FOR CLARIFICATION**

v.

MARK ELLIOT ZUCKERBERG and  
FACEBOOK, INC.,

1:10-cv-00569-RJA

Defendants.

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PLEASE TAKE NOTICE that Plaintiff moves the Court for clarification of the Decision and Order (“Order”) [Dkt. No. 357] entered on April 19, 2012.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 7(d), Plaintiff respectfully requests expedited scheduling on this Motion so that Plaintiff may obtain the clarification requested herein prior to the April 30, 2012 deadline set forth in the Order. *See* Order at 20 (directing that documents must be produced within 10 days).

PLEASE TAKE FUTHER NOTICE that, pursuant to Local Rule 7(a)(1), Plaintiff intends to submit a reply if this Motion is opposed.

**Request for Clarification Regarding Privilege Log Item 379**

After conducting an *in camera* review, the Court ruled that Plaintiff must produce Privilege Log Item 334, in redacted form, and Privilege Log Items 348, 360, and 379 in their entirety. *See* Order.

Plaintiff requests clarification of the Court’s Order regarding Privilege Log Item 379. Privilege Log Item 379 is a composite of numerous emails, many of which are duplicates and are not in date order, that was forwarded by Aaron Marks, an attorney at Kasowitz, Benson, Torres

& Friedman LLP whom Plaintiff approached for representation, to attorneys at DLA Piper LLP, Plaintiff's prior counsel. As explained therein, Mr. Marks forwarded the emails to DLA Piper as a means of transferring his electronic correspondence regarding the case to the attorneys then representing Plaintiff.

The Court ruled that Privilege Log Item 379 is not privileged because Jason Holmberg, who is not an attorney, was included on certain of the emails contained therein.<sup>1</sup> *See* Order at 10. However, a significant number of the emails contained in Privilege Log Item 379 *did not* include Mr. Holmberg.

As the Court's Order directing production of Privilege Log Item 379 was based on the inclusion of Mr. Holmberg, Plaintiff respectfully requests clarification that Plaintiff may redact those emails contained in Privilege Log Item 379 that *did not* include Mr. Holmberg.

Dated: April 23, 2012

Respectfully submitted,

s/ Jennifer L. Young  
Sanford P. Dumain  
Jennifer L. Young  
Melissa Ryan Clark  
Milberg LLP  
One Pennsylvania Plaza, 48th Floor  
New York, NY 10119  
212-594-5300 phone  
212-868-1229 fax  
sdumain@milberg.com  
jyoung@milberg.com  
mclark@milberg.com

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<sup>1</sup> In the interest of candor, Plaintiff discloses to the Court that he may object to the Order. *See* Fed. R. Civ. P. 72(a).

Dean Boland  
Boland Legal, LLC  
1475 Warren Road  
Unit 770724  
18123 Sloane Avenue  
Lakewood, OH 44107  
216-236-8080 phone  
866-455-1267 fax  
dean@bolandlegal.com

Robert B. Calihan  
Calihan Law PLLC  
16 West Main Street  
Suite 761  
Rochester, NY 14614  
585-232-8291 phone  
866-533-4206 fax  
rcalihan@calihanlaw.com

Paul A. Argentieri  
188 Main Street  
Hornell, NY 14843  
607-324-3232 phone  
607-324-6188  
paul.argentieri@gmail.com

Peter K Skivington  
Jones & Skivington  
31 Main Street  
P.O. Box 129  
Geneseo, NY 14454  
585-243-0313 phone  
585-243-3625 fax  
peter@jasklaw.com