

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**  
**ALEXANDER H. SOUTHWELL**

I, ALEXANDER H. SOUTHWELL, hereby declare under penalty of perjury that the following is true and correct:

1. I am an attorney licensed to practice law in the State of New York and admitted to practice before this Court. I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for Defendants Mark Elliot Zuckerberg and Facebook, Inc. in the above-captioned matter. I make this declaration, based on personal knowledge, in support of Defendants' Sixth Motion to Compel.

2. On May 24, 2012, Defendants filed their Sixth Motion to Compel, which requests an order requiring Plaintiff Paul Ceglia to produce an April 13, 2011 letter from the law firm Kasowitz, Benson, Torres & Friedman LLP to their co-counsel at the law firms DLA Piper LLP and Lippes Mathias Wexler Friedman LLP (the "Kasowitz Letter"). Doc. Nos. 381, 382.

3. The Kasowitz Letter is an attachment to an email contained in Item 379, a compilation of emails that this Court ordered Ceglia to produce. Doc. No. 357.

4. On June 11, 2012, Ceglia filed his Response in Opposition to Defendants' Sixth Motion to Compel. Doc. No. 432.

5. In his opposition papers, Ceglia appears to assert that he has already produced the Kasowitz Letter to Defendants. He states that “Item 379 was produced to Defendants including all attached files,” and that Defendants’ digital forensic experts at Stroz Friedberg were “unable to find [the Kasowitz Letter] despite it being within an [email] account to which they had full access.” Doc. No. 432 at 1-2 (emphasis altered).

6. Ceglia has not produced the Kasowitz Letter to Defendants, and Defendants do not possess the Kasowitz Letter.

7. Ceglia does not cite any Bates range for the Kasowitz Letter or provide any other indication of when or where he allegedly produced the document to Defendants.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 15th day of June, 2012 at New York, New York.

  
\_\_\_\_\_  
Alexander H. Southwell