

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG and
FACEBOOK, INC.,

Defendants.

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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 the Motion to Modify Minute and Order (Doc. No. 348) on Consent of All Parties.

2. On April 4, 2012 the Court issued a Minute and Order (Doc. No. 348) that, *inter alia*, set forth the deadlines for both parties to conclude the expert depositions authorized by that Order and to submit their opposition and reply, respectively, to Defendants' motions to dismiss. The currently-scheduled deadline to conclude expert depositions is August 4, 2012, "2 months after" Plaintiff filed his expert reports in this matter, on June 4, 2012. Plaintiff's deadline to submit his opposition to Defendants' motions to dismiss is two months following the close of expert depositions. Defendants' deadline to submit their reply is 30 days following Plaintiff's submission of his opposition. *See* Doc. No. 348.

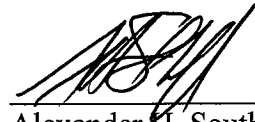
3. Due to scheduling conflicts and experts' limited availability, the parties have jointly agreed to a ten-day extension of the aforementioned currently-scheduled deadline to conclude expert depositions from August 4, 2012 to August 14, 2012. The parties' deadlines to submit opposition and reply filings regarding Defendants' motions to dismiss would continue to be two months after the modified close of expert depositions and thirty days after submission of Plaintiff's opposition, respectively.

4. Defendants have noticed the deposition of Plaintiff's expert Mr. Speckin, who participated in the Court-ordered Hard-Copy Document Inspection and extracted ink samples from the Hard-Copy Documents, for July 30, 2012—before the currently-scheduled close of expert depositions. *See* Doc. Nos. 83-84. Mr. Speckin's attorney has advised all counsel that Mr. Speckin is traveling internationally through approximately mid-September 2012 and will be unavailable to be deposed until then. Thus, as an accommodation to Mr. Speckin, Defendants intend to conduct that deposition once Mr. Speckin returns to the United States and becomes available. Defendants do not anticipate the need for any modifications of the briefing schedule as a result of conducting Plaintiff's expert's Mr. Speckin's deposition after he returns to the United States and becomes available. Plaintiff's counsel Dean Boland has communicated that he is presently unwilling to consent to the deposition of Mr. Speckin. Once Defendants and Mr. Speckin set a date certain for Mr. Speckin's deposition, Defendants intend to further discuss the deposition with Plaintiff and, only if necessary, raise the issue with the Court.

5. Mr. Boland has communicated his consent to Defendants making this joint request for a ten-day extension of the deadline to conclude expert depositions.

6. Defendants respectfully request a ten-day extension of the deadline to conclude expert depositions other than Mr. Speckin's, whom Defendants intend to depose once he returns to the United States and becomes available.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 3rd day of August, 2012 at New York, New York.



Alexander H. Southwell