

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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PAUL D. CEGLIA,	:	
	:	
Plaintiff,	:	Civil Action No. 1:10-cv-00569-RJA
	:	
v.	:	DECLARATION OF
	:	ALEXANDER H. SOUTHWELL
MARK ELLIOT ZUCKERBERG and	:	
FACEBOOK, INC.,	:	
	:	
Defendants.	:	
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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’ Eighth Motion to Compel.

2. On August 15, 2012, the Court granted Defendants’ Seventh Motion to Compel, ordering Plaintiff Paul Ceglia to “produce the Kasowitz Letter within three (3) days of this Decision and Order.” Doc. No. 478 at 8 (emphasis removed), 361, 362. On August 17, 2012, Ceglia produced the April 13, 2011 Kasowitz Letter, designating it as “Confidential” pursuant to the parties’ Joint Stipulated Protective Order (Doc. No. 86). Defendants challenge this designation as improper. A true and correct copy of the April 13, 2011 Kasowitz Letter received from Mr. Boland on August 17, 2012 is attached hereto as Exhibit A, which is redacted in the publicly-filed declaration due to Ceglia’s improper confidentiality designations.

3. Upon review of the Kasowitz Letter, Defendants determined that Ceglia remained non-compliant with the Court's orders. Defendants sent Ceglia a letter on August 22, 2012, describing Ceglia's non-compliance, specifically that he (1) had failed to produce the attachments to the Kasowitz Letter in contravention of the Court's explicit order (*see* Doc. No. 464), and (2) had failed to produce three non-privileged communications involving the Kasowitz firm that are responsive to the Court's expedited discovery orders, the existence of which was revealed in the April 13, 2012 Kasowitz Letter. A true and correct copy of that August 22, 2012 letter is attached hereto as Exhibit B, portions of which are redacted in the publicly-filed declaration due to Ceglia's improper confidentiality designations.

4. The next day, on August 23, 2012, Ceglia's counsel Mr. Boland belatedly produced the attachments to the April 13 Kasowitz Letter. A true and correct copy of Mr. Boland's August 23, 2012 email transmitting the attachments is attached hereto as Exhibit C, portions of which are redacted in the publicly-filed declaration due to Ceglia's improper confidentiality designations.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 5th day of September, 2012 at New York, New York.



Alexander H. Southwell