

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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PAUL D. CEGLIA,

Plaintiff,

v.

MARK ELLIOT ZUCKERBERG,  
FACEBOOK, INC.,

Defendants.

**DECISION  
and  
ORDER**

**10-CV-569A(F)**

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APPEARANCES:

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The court has carefully reviewed the parties' submission in support of (Doc. Nos. 525, 526, 537, and 538) and in opposition to (534, 535, and 536) Defendants' motion to extend time for the filing of Defendants' reply to Plaintiff's opposition to Defendants' motion to dismiss (Doc. No. 525). In this case, where Plaintiff seeks extraordinary

damages, the court finds that Defendants are entitled to conduct a thorough examination of all the factual questions pertinent to Defendants' insistence that the contract on which Plaintiff's claims are based is, as Defendants claim, fraudulent. The court further finds that although the court, as Plaintiff asserts, previously found Plaintiff was at that time substantially in compliance with Plaintiff's discovery obligations, sufficient to trigger Defendants then outstanding obligation to provide reciprocal discovery, such determination occurred well-prior to the events disclosed in Defendants eighth and ninth motions to compel presently pending before the court. Moreover, Plaintiff's supposition that Defendants' present discovery motions and request for a limited period of additional time within which to file Defendants' reply represents a belated effort to unduly delay the ability of the court to render a determination on Defendants' fraud claim is unfounded. Contrary to Plaintiff's assertion, Defendants are most certainly interested in obtaining a prompt and final judicial determination on whether the supposed contract underlying the dispute is genuine or not in order to remove the self-evident question regarding the exact ownership of Defendant Facebook, Inc., created by Plaintiff's claim. Simply, the court perceives no purpose on the part of Defendants in creating any opportunity for unnecessary delay in such resolution. As well articulated in Defendants' Memorandum (Doc. No. 525) and Defendants' Reply (Doc. No. 538), the present discovery controversies, which Defendants reasonably request be fully resolved before Defendants are required to file Defendants' last round of briefing directed to the threshold issue of Plaintiff's alleged fraud, were not authored by Defendants; rather, their existence stems from the conduct of Plaintiff. In short, Defendants have no apparent interest in delaying the court's

consideration of this matter – Defendants’ current request for modification of the scheduled briefing on Defendants’ motion to dismiss instead manifests a desire to ‘leave no stones unturned,’ relating to the primary authenticity issue, a perfectly reasonable stance given the significant economic interests at stake.

The court, of course, appreciates Plaintiff’s solicitude for maintaining the integrity of the court’s scheduling order. Plaintiff is assured that the court shares this solicitude and will resolve the present disputes as promptly as possible. But adherence to judicially imposed schedules must sometimes give way to the equally strong imperative that all relevant facts be presented to the court without compromising fairness to the parties, in order that justice be obtained. It is not in the interest of litigants or the public that mistakes be made fast. And, importantly, as Defendants note, Plaintiff identifies no prejudice to Plaintiff’s case if Defendants’ request is granted. Thus, upon this record, the court finds Defendants have established good cause for the requested enlargement of time.

### **CONCLUSION**

Based on the foregoing, Defendants’ motion (Doc. No. 525) is GRANTED. Defendants’ reply shall be filed not later than **October 18, 2012** or two weeks following Plaintiff’s full compliance with the court’s determination of Defendants’ Eighth and Ninth Motions to Compel (Doc. No. 511 and 521) now pending before the court, should the court grant either or both of Defendants’ motions.

SO ORDERED.

*/s/ Leslie G. Foschio*

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LESLIE G. FOSCHIO  
UNITED STATES MAGISTRATE JUDGE

Dated: September 14, 2012  
Buffalo, New York