

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,

Civil Action No. : 1:10-cv-00569-RJA

Plaintiff,

RESPONSE IN OPPOSITION TO
NINTH MOTION TO COMPEL

v.

MARK ELLIOT ZUCKERBERG, Individually, and
FACEBOOK, INC.

Defendants.

In Defendants Ninth Motion to Compel, they seek documents which do not exist. Further, Defendants were made aware that those documents were not in the possession, custody or control of Plaintiff or Plaintiff's counsel before they filed this motion. Therefore, this motion was filed in bad faith. Defendants communicated with Plaintiff about their magical thinking that there were still some copies of the FB Contract that were in Plaintiff or his counsel's possession, custody or control and not yet submitted to Defendants. In response to that inquiry, Plaintiff clearly informed Defendants that no such copies were in Plaintiff or Plaintiff's counsel's possession, custody or control. Exhibit A. Despite that clear response, Defendants filed this motion to delay their reply time in this matter.

Declarations have now been filed, Doc. No. 535 and Doc. No.536, from both Plaintiff and counsel Paul Argentieri, completely resolving Defendants false claims of additional unproduced documents. Those declarations are precisely the same

information provided to Defendants before their filing of this spurious motion. Plaintiff's counsel sought Defendants confirmation that the filing of these declarations resolves the need for further pleadings on this issue to lessen the burden on the parties and this court. Exhibit B. Defense counsel Southwell declined to respond to that communication requiring this response and the court's review of it.

CONCLUSION

Therefore, Plaintiff respectfully requests this court deny Defendants' abusive motion and grant Plaintiff attorneys fees and other appropriate costs expended responding to this motion which was wholly unnecessary as noted above.

Respectfully submitted,

/s/Dean Boland

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