

EXHIBIT G

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK
No. 1:10-cv-00569-RJA

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PAUL D. CEGLIA,

Plaintiff,

vs.

MARK ELLIOT ZUCKERBERG,
Individually, and
FACEBOOK, INC.,

Defendants.

-----x

July 11, 2012
10:03 a.m.

Videotaped deposition of LARRY F.
STEWART, held at the offices of Gibson,
Dunn & Crutcher LLP, 200 Park Avenue,
New York, New York, pursuant to notice,
before Cary N. Bigelow, Court Reporter,
a Notary Public of the State of New York.

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A P P E A R A N C E S:

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ALSO PRESENT:

PETER TYTELL
GERALD LAPORTE
NADER KHORASSANI, Summer Associate,
Gibson, Dunn & Crutcher, LLP
(a.m. session)
ANNA CHASE, Summer Associate,
Gibson, Dunn & Crutcher, LLP
(p.m. session)
DANIEL McCLUTCHY, Videographer

1 L. Stewart

2 Q. But your task was overseeing the
3 plaintiff's examinations; correct?

4 A. That's correct.

5 Q. But you're not aware of what tests he
6 conducted or not; right?

7 A. As I mentioned, he conducted the tests
8 on the ink to see if he could identify it.

9 Q. But you weren't sure what other tests
10 he conducted?

11 A. If I can answer that, I will explain
12 why.

13 When you conduct an ink analysis where
14 you are trying to do an identification, many
15 times you have to do exams on the paper as well,
16 so when you ask the question did he examine the
17 paper, I can't answer that other than to assume
18 that he did when he did the identification of the
19 ink.

20 Q. As the person tasked with overseeing
21 the plaintiff's examinations didn't you
22 coordinate which tests he would be running and
23 which he wouldn't?

24 A. Yes. I asked him to identify the ink.

25 Q. And did you get the samples he took

L. Stewart

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back?

A. No.

Q. Does he still have them?

A. I don't know.

Q. Let's go back to this concept of peer review.

At paragraph 447 you state toward the end of your report that as part of your original tasking on this case you conducted what you call technical review of the work conducted by Mr. Blanco; is that correct?

A. Correct.

Q. And you reviewed his declaration along with the supporting exhibits?

A. Yes.

Q. And you peer-reviewed Mr. Blanco's declaration before or after it was executed?

A. Before.

Q. Did Mr. Blanco himself provide you with the declaration and its exhibits or did someone else?

A. No. Mr. Blanco did.

Q. So it's your statement here today under oath that you received Mr. Blanco's declaration

1 L. Stewart

2 The technique as far as forensics goes
3 is used in many different applications and is
4 reliable. I'm questioning its use here in ink
5 age analysis.

6 Q. And I understand that and we'll get to
7 that.

8 I'm asking a more general question
9 which is, on its own GCMS testing itself, you are
10 not offering an opinion that it is unreliable;
11 correct?

12 A. Across the board, no.

13 Q. And you also do not offer an opinion
14 there's anything wrong with conducting GCMS
15 testing on ink; correct?

16 A. For research no problem, beyond that
17 there may be a problem.

18 Q. Okay.

19 Well, you don't offer any opinion about
20 any GCMS testing that you yourself conducted;
21 right?

22 A. I did not conduct GCMS tests in this
23 case.

24 Q. In fact you conducted no ink testing in
25 this case; correct?

1 L. Stewart

2 A. No. I did physical analysis on the ink
3 and decided at that point to hold off doing any
4 chemical analysis and I still have the ink
5 samples today, I have not tested them.

6 Q. And why did you hold off on doing the
7 chemical analysis?

8 A. Because once we -- once I determined
9 that the ink was degraded, I agree at that point
10 that you're very limited what you can do
11 chemically to analyze that ink and held off at
12 that point doing any additional tests so I would
13 not lose the sample that I had.

14 Q. Did you explain that in your report
15 that you have those ink samples and you decided
16 not to do any ink testing?

17 A. No.

18 Q. Any particular reason why you didn't
19 explain that in your report?

20 A. I'm not asked questions in the report,
21 I am only putting in the report what I found. If
22 I didn't do a test I didn't find anything.

23 Q. You explain in the report that you took
24 ink samples from the document, do you not?

25 A. Yes, I do. I still have them.

1 L. Stewart

2 the general analysis of the document, the
3 indentations and the interlineation, I examined
4 the document in general, I looked to see if the
5 two pages were together, bound together, or if
6 they came from two different sources; I also
7 looked at the staple, I also looked at the
8 interlineations and then I addressed the ink
9 issues. I also did the toner analysis and
10 directed sending the paper out for testing.

11 Q. Right.

12 And Mr. Speckin, he has got a GCMS
13 machine; right?

14 A. Yes, he does.

15 Q. And he does PE ink-dating testing;
16 right?

17 A. He has in the past. That's not the
18 direction that I would have had him go in this
19 case if we had chosen to do ink-age determination.

20 Q. Did he do ink-age determination?

21 A. I don't know if he did in this case or
22 not.

23 Q. Did you ask him?

24 A. No, because his connection to me in
25 this case involving what he did and didn't do has

1 L. Stewart

2 been disconnected the past number of months, so I
3 don't have a current connection with him on this
4 case.

5 Q. What exactly do you mean by that, your
6 connection to him has been disconnected?

7 A. Once we decided that ink-age analysis
8 wasn't feasible, then it wasn't important for him
9 to issue any additional work in the case, so we
10 continued at that point with Mr. Blanco and
11 myself doing the lion's share of the forensic
12 work.

13 Q. You testified that we decided ink-age
14 analysis wasn't feasible.

15 Who's we?

16 A. Well, on our side I decided, on your
17 side Mr. Lyter decided.

18 Q. I'm asking who is we.

19 You said we decided that ink-age
20 analysis wasn't feasible.

21 Who is we?

22 A. It would have been myself when I was --

23 Q. You decided that?

24 A. I shouldn't have included Lyter in
25 that, it should have been just me.

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L. Stewart

Q. Okay.

And as you said before, I think, Mr. Speckin apparently told you that it was -- well, let me ask you this: Did Mr. Speckin tell you that he had come to any conclusions about ink dating?

A. He told me that he had come to conclusions about ink analysis and identification, and when he told me he could not identify the ink because of its deterioration that is, I believe, the end of the work that he did. You would have to ask the lawyers for further information; that's the last I know of.

Q. So you didn't interact with him anymore after that?

A. I have on other cases. I have not interacted with him about his findings in this case.

Q. Is everything you did as part of your examination spelled out in your report?

A. I doubt it.

Q. Are all the tests that you ran detailed in your report?

A. The tests that yielded a finding are

1 L. Stewart

2 Q. How many paper blanks did you take?

3 A. For that particular document?

4 Q. How many paper blanks did you take of
5 the Work For Hire contract document?

6 A. Looks like 16 from page 1 and then 16
7 from page 2 and then an additional 20 from page 1
8 and an additional 20 from page 2.

9 Q. And what vials were those paper blanks
10 in?

11 A. That would be vial 1, vial 2, vial 7
12 and vial 9.

13 Q. Those were all paper blanks in those
14 vials?

15 A. They were paper-only samples.

16 Q. And of those samples you gave the
17 entirety of vials 7 and 9 to Mr. Rantanen?

18 A. I believe so.

19 Let me check.

20 Q. Sir, if you don't mind, if you'd leave
21 that out, I could just have a quick copy made of
22 that.

23 A. Okay. I just want to make sure I get
24 it back in the right place.

25 Q. Is that just that one page?

1 L. Stewart

2 A. That's all you've asked for.

3 Q. Well, is there anything else that you
4 haven't produced provided to us?

5 A. I provided that to you. You say you
6 didn't have it, but I did provide it to you.

7 Q. Okay.

8 Is there anything else that you have
9 that you haven't provided to us?

10 A. I provided you everything. I don't
11 know whether you have everything.

12 Q. And what did you do with the rest of
13 the paper blanks?

14 A. I have them.

15 Q. Did you do anything with them?

16 A. I used some for the toner analysis and
17 I have the rest in my laboratory.

18 Q. How did you use them for the toner
19 analysis?

20 A. As a paper blank to subtract any
21 influence from the paper from the results of the
22 toner.

23 Q. You ran those before you ran the TLC of
24 the toner, the TLC analysis on the toner?

25 A. No. You run them at the same time.

1 L. Stewart

2 Q. How?

3 A. In my notes that were taken at the desk
4 as I was doing the examination.

5 Q. Did you measure them?

6 A. Yes, I did.

7 Q. What were the measurements?

8 A. Reading from my notes it says there
9 were two slightly wider areas on both pages on
10 top edges about 1/2 inch in from left on page 1
11 and one inch from right on page 1.

12 They are -- and this is not in my
13 notes, but just my recollection, they are
14 amorphous in size so that you cannot do an
15 accurate measurement of exactly how big they
16 were.

17 Q. And what are you -- you're reading from
18 your notes in the case.

19 Can you just hold those up, please?

20 A. Yes. It was provided to you, it's got
21 Staples at the top from a Staples --

22 Q. And how many pages?

23 A. Just one page.

24 Q. And how do you know it was provided to
25 us? Did you provide it to us?

1 L. Stewart

2 A. Yes.

3 Q. You did?

4 A. Yes.

5 Q. How?

6 A. It's my recollection it was provided to
7 you back in November and it was provided to you
8 again on Mr. Southwell's request last week when
9 you got that file.

10 Q. And you provided it to us directly?

11 A. No. I don't deal with you directly. I
12 provided it to the lawyers on Mr. Ceglia's side
13 and they provided it to you.

14 Q. How do you know they provided it to us?

15 A. You are showing me some of them, so I
16 assume that they did.

17 Q. Do you want to look through here,
18 because those notes are not in here, those notes
19 were not provided to us.

20 A. If you want me to look through there, I
21 will.

22 Q. Can I make a copy of those notes?

23 Let's look at the TLC worksheet form
24 that you just provided to us today and which we
25 have made a copy of.

1 L. Stewart

2 staple holes?

3 A. I took scans on site, I did not take
4 any photographs.

5 Q. And you understand that someone who
6 is -- that it is possible to --

7 MR. SOUTHWELL: Strike that.

8 Q. Let me actually hand you back your
9 notes here and if we could have this marked as
10 Defendants' Exhibit 27.

11 (Defendants' Exhibit 27, photocopy of
12 one page of handwritten notes by Mr.
13 Stewart, marked for identification, as of
14 this date.)

15 Q. Defendants' Exhibit 27 is the notes we
16 were just referring to?

17 A. Yes, sir.

18 Q. Yes?

19 So if you refer to that, can you
20 identify what Q1 and Q2 on Defendants' Exhibit 26
21 is?

22 A. I will try.

23 There I'm calling Q2 the six-page
24 document. I believe what is going on there, if
25 you look at the worksheet, you'll see that

1 L. Stewart

2 there's two pages listed for Q1, two pages listed
3 for Q2, and I just doubled my sampling because at
4 the time of the analysis we were asked -- we were
5 allowed to do additional plugs and so I'm using
6 the same name twice, it appears.

7 Q. Well, let's discuss this.

8 So Defendants' 27 are your notes from
9 the date of the inspection July 25th, 2011;
10 correct?

11 A. That's correct.

12 Q. Those are your contemporaneous notes of
13 what you did; yes?

14 A. That's correct.

15 Q. And Q1 is the two-page document that
16 we've been referring to as the Work For Hire
17 document; yes?

18 A. The six-page document, yes.

19 Q. Q1 is the two-page document that we
20 referred to as the Work For Hire document on your
21 notes, Defendants' Exhibit 27?

22 A. I'm sorry. Yes, Q1 is the Work For
23 Hire document.

24 Q. Q2 is the six-page document titled
25 "StreetFax Back-End" dot, dot, dot, that we

1 L. Stewart

2 referred to as the specifications document; yes?

3 A. That's correct.

4 Q. And if you look in your report at
5 paragraph -- page 12, you refer to, again, Q1 is
6 the Work For Hire contract, Q2 is the Street Fax
7 back-end technical specification; yes?

8 A. That's correct.

9 Q. Now, the TLC form that we were
10 referring to as Defendants' Exhibit 26 is also a
11 contemporaneously dated document from July 25,
12 2011, when you conducted this examination;
13 correct?

14 A. That's correct.

15 Q. And there vials 1 through 6 reflect
16 your document here, your log reflects that those
17 samples were taken from Q1 and your log reflects
18 that vials 7 through 10 were taken from Q2;
19 correct?

20 A. That's what that says, yes, and I'm
21 trying to explain that to you. If you look at
22 the videotape, you'll see where the analysis was
23 taken from. I was given the authority to take
24 additional plugs and I renamed it. I
25 unfortunately used the same name there that I

1 L. Stewart

2 then used in the report, but you could see that
3 those are both two-page documents and it's just
4 reiteration of the same analysis.

5 Q. So your testimony is that this
6 inventory is inaccurate with respect to -- well,
7 your inventory uses a different nomenclature than
8 your contemporaneous notes of the same day,
9 that's what you're testifying to?

10 A. That's not my testimony. I would have
11 made it clearer to you reading it now if I'd used
12 an A or some other name that I didn't use in the
13 report, so, again, I could have probably
14 clarified it, but it's very clear from reading
15 the worksheet that it's a two-page document in
16 what I did there.

17 Q. And so you are absolutely certain that
18 vials 7 to 10 which are denominated Q2 are not
19 actually the specs document?

20 A. Right. You can see from the pieces of
21 plugs that it's yellow on one side; the specs
22 document was not.

23 Q. And if we go back and check the
24 videotape do you think that that's going to
25 support your opinion?

1 L. Stewart

2 A. I recall that name being used. I don't
3 recall seeing the document, I was just told what
4 I could do.

5 Q. And you recall that in fact you were
6 allowed to take only 20 plugs from the Work For
7 Hire document?

8 A. I don't recall the number, I would have
9 to go back and look.

10 Q. But your testimony here is that you
11 were allowed to take additional plugs.

12 Are you sure that wasn't later when you
13 had access, exclusive access to the documents
14 that was not part of the authorized examination?

15 A. No. My analysis as far as taking plugs
16 was only done in Chicago.

17 Q. So did you send plugs from the
18 specifications document to Mr. Rantanen?

19 A. No. I sent him only the document, the
20 Work For Hire document.

21 Q. Now, it's your position that the
22 physical document that was used to create the
23 copy that was attached to the complaint of the
24 Work For Hire document is the same physical
25 document as the one produced to experts in this

1 L. Stewart

2 Do you have a document that identifies
3 what the lanes on this TLC plate Defendants'
4 Exhibit 28 is?

5 A. I'm looking.

6 Yes. It was provided to you, it has 10
7 lanes described on the left column.

8 Q. What are you referring to?

9 A. Another TLC worksheet that you were
10 provided in that package.

11 Q. Can you hold that up, please?

12 A. It says "Plate 1" in the upper left and
13 the upper right "Plugs taken from those removed
14 7/25."

15 Q. And how many sheets do you have here
16 that refer to the different plates?

17 You just have this one sheet that
18 refers to plate 1?

19 A. Yes, one plate and one sheet.

20 Q. You only did one plate and you have one
21 sheet that corresponds?

22 A. Right. The next page that you've got
23 is the back side of that sheet, the handwritten
24 notes beginning with I-706 in the top part.

25 Q. I don't think we have that.

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L. Stewart

Could I make a copy of that?

It might be easier if you just give us the whole file and then we can make sure we have a copy of everything. It seems that there are a number of documents that have not been provided.

A. If it helps you on those type of documents, they were part of a PDF that was sent with the file and there are many pages in the PDF.

Q. I am confident we printed everything that we were provided. I think that for whatever reason we were not provided those documents.

I will want to ask you some questions about that, so you'll have to hold on.

Now, with respect to your library of standards, do you have an index to your library of toner standards?

A. I have a logbook that has all of them in there.

Q. And have you been asked for that in other litigations?

A. Yes.

Q. And have you provided that in discovery in other litigations?

A. No, I have not.

1 L. Stewart

2 is that right?

3 A. That's right. It's a moral agreement
4 in words that I've had with the industry.

5 Q. And what specifically is there that is
6 proprietary or confidential about the list of the
7 materials that you have in your library?

8 A. Composition and formula information.

9 Q. I'm handing you back your notes.

10 There's some sort of, like, on the -- I
11 see. This was the back of -- this is a color
12 copy of a back of a page; is that what's going on
13 here?

14 A. Yes, sir.

15 MR. SOUTHWELL: Let's just take a real
16 quick break. I want to look at this
17 document. Mr. Boland, you have to
18 understand that these are documents you have
19 not provided to us previously, so I need the
20 opportunity to look at them. I understand
21 you have travel arrangements, but let me
22 look at them and let me see if we can do
23 that and we will be right back.

24 MR. BOLAND: I'm not agreeing that we
25 haven't provided them, but I understand

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L. Stewart

your position is that we haven't.

MR. SOUTHWELL: We'll be back as soon as we can.

THE VIDEOGRAPHER: Going off the record. The time is 6:36.

(Recess taken.)

THE VIDEOGRAPHER: We are back on the record. The time is 6:41.

BY MR. SOUTHWELL:

Q. Mr. Stewart, referring you to Defendants' Exhibit 26, you did not take any samples of ink; is that right?

A. I don't know what Defendants' Exhibit 26 is.

Q. That reflects that you did not take any ink samples; right? Or is there some other inventory sheet?

A. There should be a different one that has ink on it. This one is just for toner and paper.

Q. A different form, okay. I see. Another form that we don't have.

Does it look like this form, the worksheet form, but you're saying it includes ink

1 L. Stewart

2 samples?

3 A. Yes. It should --

4 Q. It should look the same?

5 A. It should look the same, but it would
6 indicate that there's ink samples.

7 Q. You mentioned that when you were doing
8 the hard copy inspection, you used a digital
9 microscope, right, that was your testimony?

10 A. I believe I recall that I told you that
11 I would have to review the videotape to see, but
12 I think I recall taking one with me and using it.

13 Q. And what manufacturer is your digital
14 microscope that you used on that day?

15 A. I think I took a Pro Scope, but, again,
16 I would have to look at the videotape.

17 Q. And that would have been attached to
18 the computer; right? If it's digital, it's
19 attached to the computer to capture images; yes?

20 A. It would be attached to a laptop
21 computer, yes.

22 Q. And did you capture images using that?

23 A. If I had they would have been included.
24 I don't know if I did, I would have to look at
25 the videotape.

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L. Stewart

very much weight, and we can litigate that opinion, if appropriate.

I don't think it contains proprietary information, it lists the different toners and the manufacturers. Maybe Mr. Stewart could explain what's in that index.

MR. BOLAND: Obviously, we have a difference of opinion. We say we've given you all of the documents, you say we haven't, that's fine, so if you want to finish out the deposition time, then make a motion.

MR. SOUTHWELL: Mr. Stewart is going to be here for other days, we can simply reconvene with him he's here on a day that we're deposing defendants' experts.

MR. BOLAND: I don't know if he's going to be here on other days, but if he is, certainly, if that's convenient.

MR. SOUTHWELL: So I would ask that you produce the documents either now or after you make your flight and then we arrange to reconvene to review those documents with Mr. Stewart.