

EXHIBIT G

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

PAUL D. CEGLIA,
Plaintiff,
vs.
MARK ELLIOT ZUCKERBERG,
Individually, and FACEBOOK,
INC.,
Defendants.

_____ /

110 East Broward Blvd.
Fort Lauderdale, Florida
September 24, 2012
9:00 a.m. 11:45 a.m.

VIDEOTAPED DEPOSITION OF ERICH SPECKIN

Taken before SUZANNE VITALE, R.P.R., F.P.R.
and Notary Public for the State of Florida at Large,
pursuant to Notice of Taking Deposition filed in the
above cause.

1 APPEARANCES:

2

3 On behalf of Plaintiff:

4 BOLAND LEGAL, LLC

1475 Warren Road

5 Unit 770724

Lakewood, Ohio 44107

6 BY: DEAN BOLAND, ESQ. (via telephone)

7

8 On behalf of Defendants:

9 GIBSON DUNN & CRUTCHER LLP

200 Park Avenue

10 New York, NY 10166-0913

BY: AMANDA M. AYCOCK, ESQ.

11 ALEXANDER H. SOUTHWELL, ESQ.

12

13 ALSO PRESENT: Paul Calcatara, Videographer

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1 Q. Just -- I was going to ask you about that
2 in a moment, but let's just stay on that since
3 you're talking about it.

4 This is the second page of Speckin 2.
5 Your understanding that the agreement was that each
6 side, or you specifically, as your side, plaintiff's
7 side, can take four plugs from the initials, ten
8 plugs from the signature, ten plugs from the
9 handwriting sort of line, interlineation, as you
10 sometimes refer to it?

11 A. Correct.

12 Q. And 20 plugs from the toner and 20 plugs
13 from the paper on each page?

14 A. Well, I didn't take the toner and paper.
15 I just took a couple of paper blanks. I don't know
16 if it was 20 of toner and 20 of paper or 20 total of
17 toner and/or paper. I didn't really concern myself
18 with that either way because it wasn't what I was
19 taking. So I don't know what the agreement was,
20 positive, but the first three were right.

21 My understanding was that each side got to
22 take that much. So either the experts could split
23 it, or one expert could take them all. So I was
24 told I could take them all for the ink and then to
25 say how many I wanted for the paper blank. And then

1 my understanding is Larry Stewart took whatever was
2 left for his paper blanks. I don't know how many he
3 took. I didn't count them.

4 Q. Who was it that told you you can take all
5 of the ink samples?

6 A. Larry Stewart, I'm pretty sure.

7 Q. So looking at the first page here of
8 Speckin 2. So on the top, you got the ink samples
9 and on the bottom you got paper blanks, and those
10 are labeled A, B, C, D?

11 A. Correct.

12 Q. I'm interested in obviously just your
13 memory of what the sampling was.

14 It looks to me like Vials 1 to 5 were from
15 the first two pages of the work-for-hire contract
16 and then 6 to 10 were from the specifications sheet,
17 because if you look, that's where the text is and
18 where the signatures are.

19 Does that comport with your memory?

20 A. That's right. That's why I asked to see
21 the copy. When it says page 4 in the margin, and I
22 didn't see any writing on what I had for page 4, I
23 was a little confused, but now I understand that it
24 was from page 4, just my copy was missing.

25 Q. There's a little line between 5 and 6?

1 A. Meaning that's a different document,
2 correct.

3 Q. And on the right-hand side, it says ID,
4 what does that mean?

5 A. Ink identification. That was something
6 that I had said let's do the ink identification --
7 that was if we wanted to, that we could.

8 I didn't believe we could do the ink
9 identification on the work-for-hire documents after
10 I had looked at it on the TLC plate.

11 Q. And then the paper blanks, what is the
12 purpose of taking paper blanks?

13 A. I took paper blanks for two purposes.
14 Number one is if I was going to do an ink
15 identification, it's standard procedure, although,
16 in my opinion, not required in most cases. But in
17 this case, with the yellow on the document, I wanted
18 to take a blank to make sure there were no
19 interfering factors from the paper that would look
20 as either dyes or fluorescent components to allow
21 for a proper identification if I did it.

22 It probably wasn't as significant from the
23 StreetFax document because there really wasn't
24 anything in the paper, but I took them, in large
25 part, probably because everybody else did, and I

1 wasn't going to be able to go back. That was the
2 other reason.

3 Q. And what is the notation in the upper left
4 corner on page 1 of Speckin 2?

5 A. Black ballpoint. I believe that every
6 ink, at least as best I can tell from what was
7 there, was black ballpoint.

8 Q. Looking at the second page, so the top you
9 said was your understanding of the agreement. I
10 take it below there is a listing of what was already
11 taken by defendants' experts and then what's below
12 there, it says "and toner," can you describe what's
13 listed there on the second page?

14 A. Well, I can tell you I don't know who took
15 it, so when you say defendants' experts, that's my
16 guess. I wasn't there so I can't tell you who took
17 the samples. But this was the condition it was in
18 when I got it. When I say "they," someone else took
19 it.

20 Ten plugs from handwritten line on page 1,
21 four from each initial, ten plugs of paper, ten
22 squares of paper, which I assume that's two
23 different people. They just took ten is my guess.

24 And toner, it says, page 2, PC 7 from the
25 signature, three from the date, MZ 7 signature,

1 typical case for me.

2 Q. Did somebody -- did Mr. Stewart tell you
3 that fingerprints might be an issue in this case?

4 A. Yes, I'm pretty sure that's who told me,
5 yes, it would have been Mr. Stewart.

6 Q. When you take --

7 A. He said they could be an issue. I don't
8 believe he said they would or are or whatever.

9 Q. When you take samples, do you have any
10 particular habit or procedure in the sense that -- I
11 know some document examiner would take paper samples
12 in a straight line on the bottom or they may take it
13 in a square or diamond formation.

14 Do you have a particular habit, formula or
15 procedure?

16 A. I never thought about that one. I don't
17 know if I have a habit. I'd have to look. It's
18 nothing that ever mattered to me, but I may have
19 one. I don't know. I don't know the answer to
20 that.

21 Q. Okay. And we talked before about the
22 agreements that you were aware of in terms of the
23 number of samples and that would govern what each
24 side would take and then each side would divide
25 amongst themselves how they were to arrange it?

1 A. That was my understanding.

2 Q. And as you testified, you took all of the
3 ink samples permitted by your side, plus some paper
4 blanks, and then Mr. Stewart took everything else,
5 which would be the remaining paper samples and toner
6 samples, correct?

7 A. As of the July 25, 2011 status, that was
8 what I took. I've heard rumblings that there were
9 more samples taken. I have no idea what happened
10 after that or who got what. I didn't get any of
11 them, I can tell you that.

12 Q. You didn't take any additional samples at
13 some later time of these documents?

14 A. No. Just to clear up one thing on the
15 fax, it's totally coincidental. It was 2010 this
16 fax was dated, so it clearly didn't come from me.

17 Q. You're referring to the specifications
18 document?

19 A. Right. So it was just a total coincidence
20 that it was two days before the exam. I don't think
21 I saw it before.

22 Q. I'm going to now show you what is marked
23 as Speckin Exhibit 5.

24

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1 (Thereupon, the referred-to document was
2 marked by the court reporter for Identification as
3 Defendants' Exhibit 5.)

4 BY MR. SOUTHWELL:

5 Q. Can you identify that first?

6 A. Yes, these are the notes taken by Patty
7 Giebink, G-I-E-B-I-N-K, from my office, with the
8 samples that I gave to her that I took in Chicago to
9 test.

10 The left-hand side are her initials, the
11 date she did it, 7/27, the client's name, which is
12 cut off, but is Lake, and the case, the internal
13 case number, which is 159-11. The 1 is cut off.

14 Q. These are the notes of her analysis that
15 you asked her to do of the ink samples?

16 A. It's the notes of what she -- number one,
17 what I told her, when she got the samples, what I
18 told her I wanted to have done and then what she
19 did, what solvent she used, where they were spotted
20 on the plate, the order, that sort of thing.

21 Then the bottom third is what she saw when
22 she looked at the plate.

23 Q. This refers to TLC analysis of the ink
24 sample, right?

25 A. That's correct -- well, and paper.

1 There's three paper samples as well.

2 Q. What does this tell us about the number of
3 samples that were used for the TLC analysis, if
4 anything?

5 A. It says four plugs were used from Vials 2,
6 3, 7 and 8, B and C, and three samples or three
7 plugs were used from Vials 1, 4, 5, 6, 9 and 10.

8 Q. So were there ink samples left after this
9 analysis?

10 A. Yes.

11 Q. And where are those ink samples today?

12 A. They may still be in my office, but
13 they're probably discarded after a year, so I don't
14 believe that we would still have them now. We
15 typically don't retain them for over a year because
16 they generally don't have any value.

17 Q. After a year, they don't have any value?

18 A. After a year of sitting out of the
19 document in a vial, any value would be very
20 minimized.

21 It's possible you can have comparison
22 value, does this match this or is this a different
23 ink than this. But to do ink dating either by
24 solvents or dyes after sitting in a vial for a year,
25 I would think would be very questionable.

1 I'd rather take new samples so we
2 generally don't keep them over a year.

3 Q. And this was -- did you provide all of the
4 vials to Ms. Giebink at your Michigan lab?

5 A. Yes, all the vials are kept together. I
6 didn't take some and leave some. They're all in one
7 place.

8 Q. How did you get from Chicago to your lab?

9 A. As I said earlier, I don't remember if I
10 flew or if I drove. I have a feeling that I rode
11 back with the instruments because of the flight
12 times, but I'm not really sure. I don't know if I
13 flew out or drove back. I can't remember.

14 Q. But you personally delivered all the vials
15 to the lab in Michigan?

16 A. Yes. And it says that at the top of the
17 page.

18 Q. And you gave her all of them. She then
19 tested what she tested, as indicated here, and
20 whatever remained would have remained at the
21 Michigan lab; is that right?

22 A. Correct. I don't believe they would
23 have -- well, they're not in the case, so they
24 didn't come to Florida. If they're not discarded,
25 then they are still in Michigan.

1 Q. And those ink samples were never provided
2 to Mr. Stewart; is that right?

3 A. That's right, they were not.

4 Q. What do you understand about your standard
5 office procedure in terms of the destruction of
6 those, in other words, you said typically after a
7 year, they would be destroyed, what is the procedure
8 with respect to that?

9 A. Well, after a year, we can get rid of
10 them. Whether we do at 366 or 367 days, or not, is
11 probably a different issue.

12 I don't know if we have them or not still,
13 but we do tell clients we can get rid of them after
14 a year so we don't have to save things forever. But
15 whether we actually police it up at the actual
16 one-year mark, I don't know.

17 I mean, we don't, but we're well past a
18 year, and Patty's last day was last Friday, so if
19 they got cleaned up when she left, I don't know the
20 answer.

21 Q. Got it. Let me now show you Speckin
22 Exhibit 4 and have you identify that, please.

23 (Thereupon, the referred-to document was
24 marked by the court reporter for Identification as
25 Defendants' Exhibit 4.)