

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 1:10-cv-00569-
	:	RJA
MARK ELLIOT ZUCKERBERG and	:	
FACEBOOK, INC.,	:	
	:	
Defendants.	:	
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**DEFENDANTS’ REPLY MEMORANDUM OF LAW
IN SUPPORT OF THEIR NINTH MOTION TO COMPEL**

In their Ninth Motion to Compel, Defendants seek an order compelling Plaintiff Paul Ceglia to produce several responsive hard-copy documents—photocopies and printouts of his purported contract created in June 2010—that this Court first ordered him to produce more than fourteen months ago. In opposition, Ceglia does not deny that those documents fall squarely within the scope of his production obligation. Rather, Ceglia now claims that he and his lawyer Paul Argentieri destroyed all of those documents back in June 2010, and that he is therefore unable to produce them to Defendants. *See* Doc. No. 535, ¶ 7; Doc. No. 536, ¶ 15.

The declarations Ceglia has provided to date contain false statements of fact¹ and, in some cases, contradict one another.² More broadly, the Ceglia and Argentieri declarations do not

¹ For example, Argentieri attests that he “personally insured [*sic*], with Plaintiff’s full support and encouragement, that the electronic assets we knew contained the Street Fax images, were disclosed to Defendants in discovery without delay.” Doc. No. 536, ¶ 22. This is both factually incorrect and absurd. As the Court well knows, neither Argentieri nor Ceglia timely produced to Defendants the electronic assets that contained the StreetFax Contract; rather, Ceglia initially concealed the Seagate hard drive containing the StreetFax Contract, and produced it belatedly only after Defendants demanded it. *See* Doc. No. 319 at 29. Nor did Ceglia timely produce the copies of the StreetFax Contract possessed by his attorneys and agents, such as the copies attached to the April 13 Kasowitz Letter, the production of which Defendants sought in their granted Sixth and Seventh Motions to Compel.

provide a clear, sufficiently detailed account of the hard-copy documents' destruction. For example, Argentieri attests, cryptically and evasively, that "[a]ny remaining, unused copies or printouts, were discarded in the office trash," without identifying which specific documents were destroyed, the person responsible for their destruction, or the date of the destruction. Doc. No. 536, ¶ 15.

In order to efficiently resolve this matter, Defendants respectfully request that this Court direct Ceglia to confirm, in writing and under oath, that he has produced to Defendants, or destroyed, all hard-copies of the purported contract that he or his agents created prior to June 30, 2010. If Ceglia's sworn account of document destruction is truthful, he should be prepared to attest to that basic representation.

CONCLUSION

This Court should grant Defendants' Ninth Motion to Compel and order Ceglia to provide the sworn declaration described above.

² For example, Argentieri initially attested in his August 21, 2012 declaration that Ceglia produced only one photocopy of the purported contract and then scanned and converted that photocopy into an "electronic file." Doc. No. 484, ¶¶ 14-15. But in his September 12, 2012 declaration, Ceglia attests that he created and then destroyed "several" such photocopies. Doc. No. 535, ¶¶ 2-3.

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