

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166-0193
Tel 212.351.4000
www.gibsondunn.com

Alexander H. Southwell
Direct: +1 212.351.3981
Fax: +1 212.351.6281
ASouthwell@gibsondunn.com

October 11, 2012

VIA ELECTRONIC MAIL

The Honorable Leslie G. Foschio
United States Magistrate Judge
United States District Court
Western District of New York
U.S. Courthouse
2 Niagara Square
Buffalo, New York 14202

RECEIVED
OCT 11 2012
LESLIE G. FOSCHIO
U.S. MAGISTRATE JUDGE
BUFFALO, NY

Re: Ceglia v. Zuckerberg and Facebook, Inc., No. 1:10-cv-569-RJA-LGF

Dear Judge Foschio:

We represent Defendants Facebook, Inc. and Mark Zuckerberg in the above-referenced action. Defendants respectfully write concerning the deadline for Defendants' Reply in support of Defendants' Motion to Dismiss (Doc. No. 319).

On September 14, 2012, the Court issued a written decision and order (Doc. No. 542) (the "Order") granting Defendants' request for an enlargement of time to file a Reply until outstanding discovery controversies "relating to the primary authenticity issue" were resolved. Order at 2-3. The Order stated, "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." Doc. No. 542 at 3 (emphasis in original).

As of today—seven days before the deadline—Defendants' Eighth and Ninth Motions to Compel remain pending (as does Defendants' Motion for Production related to Ceglia's expert Larry Stewart (Doc. No. 554)). Ceglia has not produced the documents at issue. Moreover, as the Court is aware, yesterday the Court issued a text order requiring Ceglia to submit the documents at issue in Defendants' Eight Motion to Compel to the Court for in camera inspection by close of business on Monday, October 15, 2012. *See* Doc. No. 568.

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In light of yesterday's text order and the conditional nature of the original deadline—and to ensure the Court has ample time to rule upon the pending motions and has the benefit of any additional information obtained when considering Defendants' Motion to Dismiss (Doc. No. 319)—Defendants respectfully request that the Court clarify that the deadline for Defendants' Reply is two weeks from Ceglia's completed production in the event that either or both motions are granted, or one week from the denial of both motions.

Respectfully submitted,



Alexander H. Southwell

cc: Terrance Flynn, Esq.
Dean Boland, Esq.
Paul A. Argentieri, Esq.