

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

----- X
PAUL D. CEGLIA, an individual, :
 :
 Plaintiff, :
 :
 -against- :
 :
 MARK ELLIOTT ZUCKERBERG, an :
 individual, and FACEBOOK, INC., formerly :
 known as TheFaceBook, Inc., a Delaware :
 corporation, :
 :
 Defendants. :
 :
----- X

CIVIL ACTION NO. 10-569(RJA)

**NOTICE OF CROSS-MOTION FOR
MUTUAL EXPEDITED DISCOVERY**

TO:

Alexander H. Southwell
Orin S. Snyder
**Gibson, Dunn & Crutcher,
LLP**
200 Park Avenue
47th Floor
New York, NY 10166-0193
asouthwell@gibsondunn.com
osnyder@gibsondunn.com

Lisa T. Simpson
**Orrick, Herrington &
Sutcliffe LLP**
51 West 52nd Street
New York, NY 10019
LSimpson@orrick.com

Michael B. Powers
Sean C. McPhee
Phillips Lytle LLP
3400 HSBC Center
Buffalo, NY 14203
mpowers@phillipslytle.com
smcpee@phillipslytle.com

Terrance P. Flynn
Harris Beach LLP
Larkin at Exchange
726 Exchange Street
Suite 1000
Buffalo, NY 14210

Thomas Dupree
**Gibson, Dunn &
Crutcher LLP**
1050 Connecticut Ave.
NW
Washington, DC 20036
PRO HAC VICE
ATTORNEY TO BE
NOTICED

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and the annexed Declarations of Paul D. Ceglia, John Paul Osborn, Valery N. Aginsky, Ph.D., John H. Evans, Michael Pliszka, Carrie S. Parikh, Paul A. Argentieri and Christopher P. (“Kip”) Hall, with accompanying exhibits, the undersigned will move this Court, on June 30, 2011, or as soon thereafter as the matter may be heard on the Court’s calendar, for an order allowing mutual expedited discovery as follows:

1. All parties shall produce by no later than July 8, 2011, a certification under penalty of perjury by an electronic discovery specialist inventorying all computers of any type, hard drives, floppy discs, CD’s, DVD’s, thumb drives, flash drives, pen drives and all other mediums on which are stored electronically stored information relevant to the claims and defenses in this case that have been submitted to the electronic discovery specialist and which have been forensically preserved;

2. All parties shall produce by no later than July 15, 2011, all documents, including electronically stored information in native and TIFF or PDF format, supporting their respective claims and defenses, which shall include but is not limited to:

a. All documents constituting, reflecting or referring to agreements between Paul Ceglia and Mark Zuckerberg;

b. All documents constituting, reflecting or referring to communications between Paul Ceglia and Mark Zuckerberg, which communications, include, but are not limited to, email messages, text messages, instant messages, letters, memoranda, telephone conversations and in person meetings;

c. All documents, including communications as defined above, created, dated or received before July 30, 2004 referring, reflecting or related to The FaceBook,

thefacebook.com, FaceBook, facebook.com, The PageBook, thepagebook.com, or any other online service or website that is similar to a live functioning yearbook, including the funding for or of any such projects;

d. All documents constituting, reflecting or referring to payments made to Mark Zuckerberg by or on behalf of Paul Ceglia, including, but not limited to, cancelled checks, deposit receipts or account statements; and

e. No less than 30 handwriting samples from Paul Ceglia and Mark Zuckerberg, written between January 1, 2003 and July 31, 2004.

The documents described above shall include those documents held by or in the custody of Project Leadership Associates and Parmat and Associates. Any documents withheld on the claim of privilege or work product shall be listed on a privilege log produced no later than July 15, 2011.

4. The parties shall meet and confer over a protective order to cover discovery in this action. A report on the parties' meet and confer efforts shall be submitted to the Court no later than July 15, 2011. If an agreement on a protective order is reached, a proposed order thereon shall be submitted with the aforementioned report. If no agreement is reached by July 15, 2011, the parties shall submit their respective proposed protective orders for the Court's consideration.

3. The parties shall meet and confer to establish a protocol for the destructive testing of the original of the Work for Hire Agreement that is attached as an exhibit to the First Amended Complaint. A report on the parties' meet and confer efforts shall be submitted to the Court no later than July 15, 2011. If an agreement on a protocol is reached, a proposed order thereon shall be submitted with the aforementioned report. If

no agreement is reached by July 15, 2011, the parties shall submit their respective proposed orders for the Court's consideration.

This motion made pursuant to Federal Rule of Civil Procedure 26(d)(1) and is based on the accompanying memorandum of law, declarations of Paul D. Ceglia, Valery N. Aginsky, Ph.D., John Paul Osborn, John H. Evans, Michael Pliszka, Christopher P. (Kip) Hall and Richard M. Scherer, Jr., the accompanying exhibits and the oral argument of counsel.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to Local Civil Rule of Procedure 7, Plaintiff requests oral argument and states his intention to file an serve reply papers.

Dated: New York, New York.
June 17, 2011

Respectfully submitted,
DLA PIPER LLP (US)
John Allcock
Robert W. Brownlie
Gerard A. Trippitelli
Attorneys for Plaintiff Paul D. Ceglia

By: /s/ Christopher P. (Kip) Hall
Christopher P. (Kip) Hall
kip.hall@dlapiper.com
Carrie S. Parikh
carrie.parikh@dlapiper.com
1251 Avenue of the Americas
New York, NY 10020-1104
212.335.4500

LIPPES MATHIAS WEXLER
FRIEDMAN LLP
Dennis C. Vacco (co-counsel)
dvacco@lippes.com
Kevin J. Cross (co-counsel)
kcross@lippes.com
Richard M. Scherer, Jr. (co-counsel)
rscherer@lippes.com
665 Main Street, Suite 300
Buffalo, NY 14203
716.853.5100

Paul Argentieri (co-counsel)
paul.argentieri@gmail.com
188 Main St.
Hornell, NY 14843
607.324.3232