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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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MATTHEW BENJAMIN, ESQ.  
AMANDA AYCOCK, ESQ.  
SRIPRIYA NARASIMHAN, ESQ.

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 idea of creating a school for private  
3 investigators and it has, it's still in the  
4 creation stage, it has never taken off.

5 Q. And just to be clear, you are not  
6 intending to mislead anyone into thinking that  
7 you are on the board of directors of the American  
8 Academy of the Forensic Sciences?

9 A. No. If I was, I would say that there.  
10 It says the academy.

11 Q. Right.

12 And have you ever been to the office or  
13 physical headquarters of the academy?

14 A. Yes, I have.

15 Q. When was your last board meeting?

16 A. It's been a couple of years. They  
17 pretty much are trying to regroup at this point,  
18 they are almost broke.

19 Q. Who are the members of the board right  
20 now?

21 A. Bill Copeland is the head of the board.

22 As far as active members, I don't know.

23 I know that they were in a situation where some

24 people weren't going to be involved with it

25 anymore, so I don't know who is active anymore.

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L. Stewart

on July 14, 2011?

A. Yes.

Q. And do you recall that the condition of the handwriting appears markedly different in the two scans?

A. Yes.

Q. Now, you said that you have a cropped image of 238-2 and that was a document you were relying on in providing your expert testimony, so I'm going to direct your attention now to 238-2. If you go toward the back of Mr. Tytell's declaration you'll see his scanned image of the Work For Hire contract that he took immediately after Mr. Argentieri removed the document from the envelope in the Harris Beach offices on July 14th, 2011.

Do you see the condition of the handwriting ink on page 1 of that scan?

A. Yes.

Q. How would you describe it?

A. It appears faded and the document appears brownish.

Q. You would agree that the appearance of the ink at 9:18 a.m. on July 14, 2011 is markedly

1 L. Stewart

2 dissimilar from the appearance of the ink that  
3 Dr. Aginsky photographed earlier in the year?

4 A. Yes.

5 Q. And you are offering no expert  
6 opinion --

7 MR. SNYDER: Withdrawn.

8 Q. You are offering no expert opinion,  
9 sir, are you, about what happened to this  
10 document between 1/13/11 when Dr. Aginsky  
11 photographed it and 9:11 a.m. when Mr. Argentieri  
12 appeared at the offices of Harris Beach with the  
13 document in a Redweld?

14 A. He says that's on the 14th.

15 No, I'm not reaching any conclusion  
16 between Aginsky and the 14th.

17 Q. And did you ask Mr. Ceglia or  
18 Mr. Argentieri what if anything they did to the  
19 document between January 2011 and July 14, 2011  
20 to cause the handwritten ink to become faded?

21 A. No, of course I didn't ask them that.

22 Based on the scanned images of your  
23 experts, the fading occurred between the 14th and  
24 the 15th.

25 Q. Sir, are you aware that the scan that

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L. Stewart

that doesn't match anything that I was provided.

Q. Sir, were you provided with Dr. Tytell's scan?

A. Mr. Tytell's --

Q. Were you provided with Dr. Tytell's scan?

A. I don't know a Dr. Tytell, I know a Mr. Tytell and --

Q. Mr. Tytell's scan is before you in 238-2; correct?

A. No. What's before me is your printing of a document. I was provided the actual document that was filed with the Court and in there are scanned images that I used.

Q. Sir, I just handed you the document that was filed with the Court by Mr. Tytell.

A. No. You handed me a photocopied version of the file.

Q. Mr. Tytell testified under oath, swore under oath that this image was taken at 9:18 a.m. on July 14th.

Do you have any reason to think that Mr. Tytell is not telling the truth?

A. No, not at all.

1 L. Stewart

2 larger envelope and he is opening one; correct?

3 A. Correct.

4 MR. BOLAND: Can you just reiterate  
5 what document this is coming from for the  
6 record?

7 MR. SNYDER: I will in a moment.

8 MR. BOLAND: Very well.

9 Q. And now he's removing something from  
10 the envelope; correct?

11 A. Not yet, but --

12 Q. He is about to, it is 9:11:40, okay?

13 A. Yes.

14 Q. And he's put two pages down.

15 MR. SNYDER: Can you freeze it there,  
16 please.

17 Q. Can you tell me, do you see the title  
18 "Work For Hire Contract" on either of those  
19 pieces of paper based on the video at 9:11:51?

20 A. No.

21 Q. Can you tell me which piece of paper is  
22 page 1 and which is page 2?

23 A. No.

24 Q. Can you show me where the handwritten  
25 interlineations are on this video still?

1 L. Stewart

2 A. Of course not, I can't tell you which  
3 one is page 1 or page 2.

4 Q. Can you show me where the signature of  
5 Mark Zuckerberg and Paul Ceglia are in this?

6 A. Same answer as before.

7 Q. You can't see any text on either of  
8 those pages based on the video, can you?

9 A. No.

10 Q. You can't see any ink, can you?

11 A. No. I can see what appears to be  
12 little lines on it, but I can't tell what's ink  
13 and what's printed.

14 Q. And to the naked eye these could be  
15 blank documents as well as text-laden documents;  
16 correct?

17 A. No, I don't think so. I see little  
18 lines where printing appears to be.

19 Q. But you can't see any distinct features  
20 in these videos, whether it's signatures,  
21 handwriting or content of any kind; correct?

22 MR. BOLAND: Objection.

23 A. From that stilled frame, no, I can't.

24 Q. And what's your factual basis for  
25 asserting that the document is face up?

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L. Stewart

A. When you look at the video in its entirety I believe there's a segment where you can see that it's placed face up.

Q. So you agree with me that on the video the pages of the documents are so washed out at the moment that they are produced and laid out on the table that you cannot see the printed text; correct?

A. No. As I testified before, I can see subtle little lines there, I can't tell what's printing and what's handwriting, and so in that particular still image of the video I cannot make it out.

Q. But it is this video that you're relying on as the factual basis for your opinion that Mr. Tytell's visual observation of the document was invalid and that your conclusion that the Work For Hire document was white when it was produced is valid; is that correct?

A. No, I've never said that. I have no reason to dispute his initial observation that he was looking at a tanned document with discolored ink. He had no comparison at that point and he didn't know what it looked like before unless he

1 L. Stewart

2 A. I believe his images were provided as  
3 the first images that were available and I  
4 believe I got that from Mr. Argentieri.

5 Q. Those were his images of January 2011;  
6 is that right?

7 A. I believe so.

8 Q. Now, you are not an expert in video or  
9 film; correct?

10 A. No, I'm not.

11 Q. You are not an expert in forensic video  
12 analysis; correct?

13 A. No.

14 Q. You are not a videographer?

15 A. No.

16 Q. Have you taken a course or seminar on  
17 forensic video analysis from any law enforcement  
18 association?

19 A. No.

20 Q. Ever taken a course or seminar in  
21 forensic video analysis from the International  
22 Association for Identification?

23 A. No.

24 Q. You don't have any specialized training  
25 regarding film or video; correct?

1 L. Stewart

2 A. No.

3 Q. You personally didn't take video of the  
4 inspection; correct?

5 A. That's correct.

6 Q. Do you know how it was recorded?

7 A. On a video camera with some kind of a  
8 taping system, that's all I know.

9 Q. Do you know what the taping system was?

10 A. No.

11 Q. Do you know if the tape was ever edited  
12 by the videographer?

13 A. No, I do not.

14 Q. Are you aware of the credentials of the  
15 videographer?

16 A. No.

17 Q. Do you know whether the videographer  
18 did anything to ensure the quality of the  
19 recording?

20 A. No.

21 Q. Do you know if he set the white  
22 balance?

23 A. No.

24 Q. Do you know if he used any additional  
25 lighting?

1 L. Stewart

2 A. I believe he did not, but that's just  
3 my recollection.

4 Q. Your recollection is that he used  
5 whatever the office background lighting was;  
6 correct?

7 A. That's correct.

8 Q. Are you aware of whether in Buffalo in  
9 the conference room the shades were drawn or open?

10 A. No. I'd have to look at the videotape.

11 Q. You don't remember one way or the  
12 other?

13 A. I don't recall, no.

14 Q. What about in the conference room in  
15 the inspection that occurred in Chicago, do you  
16 remember whether there were shades there?

17 A. I don't recall if they were left open  
18 or not.

19 Q. If I were to tell you that in the  
20 Buffalo conference room the shades were closed  
21 and the lighting was mostly artificial  
22 fluorescent lighting, would that refresh your  
23 recollection?

24 A. No.

25 Q. And although you are not an expert in

1 L. Stewart

2 video analysis, you are aware, are you not, that  
3 fluorescent lighting is different than natural  
4 light particularly when it relates to sort of the  
5 color temperatures and the appearance of things;  
6 is that fair to say?

7 MR. BOLAND: Objection.

8 A. Yes, they're different.

9 Q. Mr. Stewart, are you familiar with VSC?

10 A. Yes.

11 Q. What is a VSC?

12 A. Video spectral comparator and it's an  
13 acronym that many companies manufacture but one  
14 in particular is famous for, a company named  
15 Foster + Freeman.

16 Q. Do you know the difference between a  
17 VSC 4, a VSC 40, a VSC 400 and VSC 2000?

18 A. I know some of the differences. I  
19 don't have a spec sheet in front of me.

20 Q. Which kind do you personally own?

21 A. I own a VSC 2000 high-resolution HR.

22 Q. Where do you keep that?

23 A. In my office.

24 Q. Where?

25 A. In San Luis Obispo.

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L. Stewart

in the course of your work when you were with the Secret Service?

A. Yes.

Q. And you're referring to small white clips; is that how you referred to them?

A. You could argue that they are clips. I don't know if that's what they at Foster + Freeman refer to them as because they also, I believe, held or had a device that physically kind of put pressure down on the document, and that may be also called a clip.

This was, as I said, something like a whitish-colored rectangular-shape piece and there were two of them.

Q. And to be clear, you have no evidence that there were in fact weights of any kind in the room during the defendants' examination of the document in this case; correct?

A. That's correct.

Q. Now, as you testified earlier, you are aware that it's the defendants' position that the Work For Hire document is a recent forgery created for the purposes of bringing this fraudulent lawsuit; correct?

1 L. Stewart

2 A. In the world?

3 Q. Yeah.

4 A. It's on my list there, everything that  
5 I could research, it's insect repellent,  
6 fragrances, hand lotion.

7 Q. And you said that because it's a  
8 volatile component a known feature is that it  
9 will evaporate with heat; right?

10 A. That's typically what I mean when I  
11 talk about something being volatile, yes.

12 Q. Why is PE used in ink other than other  
13 chemicals?

14 A. I don't know. I'm not an ink  
15 manufacturer.

16 Q. You are providing this court with an  
17 expert opinion about the ink.

18 A. Correct. I know that it's found in  
19 some inks.

20 Q. You don't know why it's included in the  
21 inks?

22 A. No. I am not a manufacturer.

23 Q. And you are aware that PE in ink --

24 MR. SOUTHWELL: Strike that.

25 Q. You are aware that a known feature of

1 L. Stewart

2 Ceglia's house was not constantly in subzero  
3 temperatures; right?

4 A. That's correct.

5 Q. It was subject to all the seasons of  
6 the year; right?

7 A. That's correct.

8 Q. So every year since 2003, since the  
9 Work For Hire document was supposedly signed in  
10 April of 2003, it was supposedly subjected to the  
11 summers of 2003, 2004, 2005, 2006, 2007, 2008,  
12 2009 and part of 2010; right?

13 A. As well as the winters, yes.

14 Q. So roughly seven summers, seven  
15 winters; yes?

16 A. Again, I don't know if the document was  
17 stored there its entire life, but it's been -- it  
18 would have been seven years wherever it was  
19 stored.

20 Q. So you would acknowledge that in this  
21 area of the country where the document was stored  
22 you have substantial periods of time over those  
23 seven years where it's hot, which might  
24 accelerate the aging of ink, and where it's cold  
25 which might decelerate the aging of ink; right?

1 L. Stewart

2 A. My recollection is that there were a  
3 number of people who touched it without gloves on.

4 Q. And if they touched the edges of the  
5 document would that have --

6 MR. SOUTHWELL: Well, strike that.

7 Q. How would touching a document using --  
8 let's use an example -- an arm that had sunscreen  
9 on it, how would that put the contaminant onto  
10 the document? Would it have to be a palm or a  
11 forearm, something like that?

12 A. I don't know that it would. It would  
13 have to be researched.

14 If we know that PE is in that material  
15 and somebody had it on their hands and they  
16 touched the document without gloves, then there's  
17 certainly the possibility of transfer.

18 To get it on the ink there would have  
19 to be a specific touch to the area that had the  
20 ink on it or it would have to be rubbed over to  
21 that area by someone else at a later time.

22 Q. And just to be clear, you are  
23 speculating that these might be options that  
24 should be considered; right?

25 A. Correct.

1 L. Stewart

2 Q. You didn't find any of these items,  
3 these contaminants on the Work For Hire document;  
4 correct?

5 A. No. We don't know if there's any  
6 contaminants on the document.

7 Q. Well, did you look?

8 A. I wouldn't know what to look for. I  
9 don't have chemical compositions of these  
10 materials. The mere presence of PE could have  
11 come from a number of sources.

12 Q. Did you conduct any test to determine  
13 whether there were contaminants on the page?

14 A. No. It would be a permanent position  
15 for the rest of my life to try to figure that  
16 out.

17 Q. But the answer is you did not conduct  
18 any tests to determine whether there were any  
19 contaminants on the page; correct?

20 A. Correct.

21 Q. Did you see anyone buy lotion or  
22 sunscreen on their hands and then handle the  
23 document?

24 A. No. I saw people leave the room for  
25 restroom breaks and I don't know what they did.

1 L. Stewart

2 Q. Did you see anyone spray insect  
3 repellent on the document?

4 A. No. That referral was maybe under the  
5 control of the Ceglias when it was in the hope  
6 chest.

7 Q. He might have sprayed insect repellent  
8 on it?

9 A. He might have. I don't know.

10 Q. Do you know who did test the document  
11 for contaminants?

12 A. I don't know if anyone tested it.

13 Q. Mr. LaPorte tested the document for  
14 contaminants.

15 Did you know that?

16 A. I would love to have the chance to  
17 depose him on that.

18 Q. Oh, okay.

19 You want to depose Mr. LaPorte now?

20 MR. BOLAND: Objection.

21 A. No. I assume when his chance for  
22 deposition comes I will be, as he is here with  
23 you, I'll be providing questions and I'd love  
24 that opportunity.

25 Q. Do you want to ask the questions in the

1 L. Stewart

2 period.

3 Q. And that was before you were with the  
4 Secret Service?

5 A. That's correct.

6 Q. Have you ever testified about a GCMS  
7 result when you personally conducted the testing?

8 A. I don't recall if any of those old  
9 cases ever went to trial, I'm not sure.

10 Q. And you were with the Bureau of  
11 Alcohol, Tobacco and Firearms up until 1982; is  
12 that right?

13 A. July of 1982, yes.

14 Q. Okay.

15 So that was back before 1982 that you  
16 had done the GCMS testing; correct?

17 A. Correct.

18 Q. And not since then; right?

19 A. No, I have not done that particular  
20 approach since then.

21 MR. SOUTHWELL: Why don't we take a  
22 quick break here.

23 MR. BOLAND: Before you do that, just a  
24 note that it's approximately 4:10 p.m. and  
25 so we started at 10 o'clock this morning, I

1 L. Stewart

2 resins, I did the tests on the extractible  
3 components.

4 Q. So when you say the toners matched,  
5 what you actually mean is that they matched at  
6 the level of analysis of TLC; right?

7 A. Right. I followed the protocol of the  
8 federal agency and I stopped at the point of a  
9 match.

10 Q. But there are other tests that you did  
11 not perform; correct?

12 A. Of course.

13 Q. And it's possible that these other  
14 tests could find differences in other components  
15 of the toner; right?

16 A. Right. That's why I kept some sample  
17 behind. It may be we go to Hewlett-Packard  
18 directly and have them identify it.

19 Q. And if there are differences in the  
20 organic resins or other components then the  
21 toners could be said to not match; right?

22 A. Not if it matches, but yes.

23 Q. But if it doesn't match, then it  
24 wouldn't match?

25 A. Of course.

1 L. Stewart

2 Q. And you say the toner from this  
3 document is consistent with toner from an HP  
4 1100/3200 series machine; right?

5 A. Correct.

6 Q. Consistent with does not exclude the  
7 possibility that it's also consistent with other  
8 printers; right?

9 A. I found none, but there is the  
10 possibility of that, yes.

11 Q. Well, consistent with doesn't strike me  
12 as a very strong conclusion.

13 Do you mean it to be a strong  
14 conclusion?

15 A. No. We are directed by standards on  
16 what consistent with means and doesn't mean. I  
17 agree with you it's not a very strong conclusion  
18 because there is a possibility that there's some  
19 other printer out there we are not aware of.

20 Q. And how did you do your comparison?

21 A. A number of years back I developed a  
22 library of standards for toners and printers and  
23 I had those filed in my collection along with the  
24 analysis results.

25 Q. Let me stop you there for one second.

1 L. Stewart

2 at the end of 97, right, Exhibit 6; right?

3 A. I'm citing information from, I believe,  
4 Hewlett-Packard there.

5 I'm sorry, that citation is the  
6 section, I believe, of the Secret Service  
7 operating procedures for the questioned documents  
8 branch, if I am not mistaken.

9 Q. So that does not actually provide a  
10 specific illustration of your comparison; right?

11 A. No, I did not -- I purposely did not  
12 put an illustration of my comparison in there.

13 Q. Now, you didn't identify a specific  
14 cartridge in your report; right?

15 A. No. That would not be possible.

16 Q. You identified two printer series;  
17 right?

18 A. It's two series that use the same  
19 cartridge or same toner.

20 Q. And what cartridge is that?

21 A. I believe it's a 92A.

22 Q. Now, you don't include in your report  
23 the fact that a 92A cartridge used in those  
24 printer series is still commercially available  
25 today, do you?

1 L. Stewart

2 A. No, I do not include that.

3 Q. Are you aware of the fact that the 92A  
4 cartridge is still commercially available today?

5 A. Yes.

6 Q. I could print a document today using  
7 that cartridge, couldn't I?

8 A. Yes, if you had one of those printers  
9 and you had that cartridge, you could.

10 Q. In fact, the 92A cartridge works in  
11 lots of different printers, not just those  
12 printer series; right?

13 A. I believe I listed all of them. I can  
14 find that if you direct me --

15 Q. You're not providing an opinion that  
16 the 92A cartridge works only in those two  
17 machines, are you?

18 A. No. I do not recall if my list had  
19 other machines, but I did not -- I can find that,  
20 as I said, if you would like to discuss it.

21 Q. So, but you agree with me that I could  
22 go today to the Staples down the street, assuming  
23 they have this, and get a 92A cartridge and then  
24 print a document with it; right?

25 A. You'd probably would have to do that

1 L. Stewart

2 online, but yes, you can do that.

3 Q. So today someone could purchase that  
4 toner and use it to print a fraudulent document;  
5 correct?

6 A. Yes. I believe I included the printout  
7 from Amazon that lists it as being available  
8 today.

9 Q. Now, you also counter Professor  
10 Romano's conclusion the two pages were printed on  
11 two different printers; right?

12 A. Yes and no. I countered his conclusion  
13 based on his results he cannot say that.

14 Q. I see.

15 But as you said, I think, earlier, you  
16 are not an expert in typeface, typography or  
17 printing technology; right?

18 A. I disagree. I taught that at Rochester  
19 Institute of Technology and I have been trained  
20 in that by the Secret Service, so I disagree with  
21 you.

22 Q. Have you ever been qualified by a court  
23 as an expert in typeface, typography and printing  
24 technology?

25 A. Quite often. The first time was in the

1 L. Stewart

2 document.

3 Q. I see.

4 So he could not conclude one way or the  
5 other whether the paper samples were affected by  
6 contact with UV light?

7 A. At this point, no, he could not  
8 conclude it.

9 Q. Right.

10 And with respect to the first  
11 request --

12 MR. SOUTHWELL: Sorry. Strike that.

13 Q. Right.

14 So he determined that the fiber  
15 contents of the two samples is consistent with  
16 coming from the same mill and production run;  
17 correct?

18 A. I believe that's what he --

19 Q. And that does not mean the paper  
20 samples actually came from the same paper mill  
21 and production run; right?

22 A. No.

23 Q. It means only that he could not  
24 differentiate the paper samples at the level of  
25 analysis he performed; right?

1 L. Stewart

2 A. That seems accurate, yes.

3 Q. And based on that conclusion one  
4 couldn't conclude that the paper samples were  
5 actually produced during the same production run;  
6 right?

7 A. Based on a consistent -- the word  
8 "consistent," no, you cannot conclude that.

9 Q. Right.

10 So it would be inappropriate to  
11 conclude that the paper samples were produced on  
12 the same day; right?

13 A. I don't want to put words into  
14 Mr. Rantanen's mouth, but based on my use of the  
15 word "consistent" you would not be able to say  
16 that they were done on the same day, no.

17 Q. And assuming that -- well, a conclusion  
18 that the paper came from the same mill and  
19 production run would be completely consistent  
20 with Mr. Ceglia having created a fraudulent  
21 contract and printed it on paper from the same  
22 production run; correct?

23 A. I assume so, yes.

24 Q. And such a conclusion would be  
25 consistent with Mr. Ceglia having created

1 L. Stewart

2 multiple versions of the fraudulent document and  
3 printed them on paper from the same production  
4 run; right?

5 A. Yes.

6 Q. And you noted also with respect to the  
7 paper that it is bond type paper.

8 What do you mean by bond type paper?

9 A. As opposed to hundred percent wood  
10 paper that would be found in poor quality Xerox  
11 paper.

12 Q. I am handing you back your TLC  
13 worksheet form which we have now made a copy of.

14 What are the characteristics of bond  
15 paper?

16 A. Typically it would involve some type of  
17 rag content, cotton fiber, linen, that type of  
18 thing, to make it have a softer feel.

19 Q. You state in your report that you  
20 observed the white fluorescing tab marks on the  
21 front of pages 1 and 2 of the Work For Hire  
22 document; right?

23 A. That's correct.

24 Q. Did you document those tab areas?

25 A. Yes, I did.