

# EXHIBIT B

**SELECTED FALSEHOODS, FACTUAL ERRORS, AND MISCHARACTERIZATIONS**  
**IN CEGLIA’S OPPOSITION TO DEFENDANTS’ MOTION TO DISMISS**  
*Ceglia v. Zuckerberg and Facebook, Inc.*, 10-cv-569-RJA

CEGLIA STATEMENT	DEFICIENCY OF STATEMENT
<p>“Plaintiff has stated under oath, multiple times, that the Facebook Contract examined by the Defendants’ experts in July 2011 (the FB Contract) was signed by himself and Defendant Zuckerberg on April 28, 2003. Doc. No. 65 at 2.” Plaintiff’s Opposition to Defendants’ Motion to Dismiss (“Opp.”) at page 1.</p>	<p>Ceglia has never stated under oath that the version of the Work for Hire Document presented to Defendants’ experts in July 2011 was signed by himself and Defendant Zuckerberg. The declaration Ceglia cites is from June 2011, before <u>any</u> document was ever presented to Defendants’ experts. In that declaration, Ceglia refers generally to the version of the Work for Hire Document attached to the Amended Complaint, which Defendants’ experts have determined is <u>not</u> the same document with which they were presented on July 14, 2011. <i>See</i> Lesnevich Report (Doc. No. 329); Lesnevich Supplemental Report (Doc. No. 472-1).</p>
<p>“Plaintiff’s experts confirmed Plaintiff’s sworn testimony that the FB contract is authentic with the reports they submitted to this court.” Opp. 1.</p>	<p>Stewart admitted during his deposition that he was not offering an opinion that the Work for Hire Document was the authentic contract actually signed by the parties. <i>See</i> Southwell Decl. Ex. N (“Stewart Tr.”) 142:10-15 (“Q. Am I correct that you are . . . not offering an opinion that [the Work for Hire Document] is the authentic contract actually signed by the parties in 2004? A. That’s a fair assessment, yes.”).</p>
<p>“Defendants’ ‘fraud’ theory has changed.” Opp. 1.  “From the start of this case until June 2012, Defendants have argued that the FB Contract examined by their experts was a ‘page one substitution.’” Opp. 1.</p>	<p>Defendants have maintained that this case is a massive fraud from day one, and have accumulated the evidence of that fraud since then. As this Court has already observed, Defendants have <u>not</u> put forward “a newly asserted theory” and “the record is simply devoid of any evidence establishing that any of Defendants’ experts ever advocated the page one substitution theory . . .” Doc. No. 583 at 16.</p>
<p><u>Ceglia’s numerous false assertions regarding Defendants’ experts’ purported disagreement about the paper thickness measurements:</u>  “Peter Tytell disagreed with Gerald LaPorte as to the measurements of the paper thickness of the two</p>	<p>There is no disagreement at all between Defendants’ experts. Tytell observed the same differences in thickness as did LaPorte, (<i>see</i> Tytell Tr. (Doc. No. 485) 126:14-127:4) but LaPorte’s instruments were more sensitive by a factor of ten (<i>see</i> Tytell Tr. (Doc. No. 485) 129:24-130:12). Tytell’s instruments did not measure precisely enough such that he was comfortable reporting an opinion to the court, while LaPorte</p>

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<p>pages of the FB Contract . . .” Opp. 1.</p> <p>“Mr. LaPorte’s thickness measurements are contradicted by Defendants’ expert Tytell.” Opp. 20.</p> <p>“Tytell disagrees with LaPorte’s conclusion he could reliably measure the thickness of the two pages of the FB Contract. Tytell Depo at 127.” Opp. 37.</p>	<p>was comfortable reporting his more precise measurements.</p>
<p>“Defendant Zuckerberg acknowledges receiving his own original copy of the FB Contract on April 28, 2003 and subsequently discarding that original copy sometime in 2003 or 2004.” Opp. 11-12.</p>	<p>Zuckerberg has never “acknowledged” that he “received” or signed any contract regarding Facebook with Ceglia on April 28, 2003 or any other date. To the contrary, Zuckerberg clearly attested that he did not sign the Work for Hire Document attached to the Amended Complaint, or enter into any contract concerning Facebook or any related social networking service or web site with Ceglia. <i>See</i> Zuckerberg Decl. (Doc. No. 46) ¶¶ 5-10.</p>
<p>“Defendant Zuckerberg . . . admits to having written a complex code capable of searching through millions of unique names for Plaintiff.” Opp. 12.</p>	<p>This statement mischaracterizes the limited programming work Zuckerberg performed for Ceglia’s now-defunct insurance-related StreetFax website. Zuckerberg never “admit[ted] to having written a complex code capable of searching though millions of unique names” for Ceglia. Zuckerberg has stated simply, “In or about April 2003, I entered into a written contract with StreetFax, pursuant to which I agreed to provide limited web site services solely in connection with the development of StreetFax’s web site,” and “The written contract I signed concerned only the development of StreetFax’s web site. It did not concern Thefacebook.com or any related social networking service or web site.” Zuckerberg Decl. (Doc. No. 46) ¶ 7, 9.</p>
<p>“Zuckerberg simply denies that the contract had provisions within it that sold the rights to 50% of a then concept company, Facebook.” Opp. 12.</p>	<p>Facebook was not a “then concept company” in April 2003. As Zuckerberg attested to this Court, he did not conceive of the idea of Facebook until many months after April 28, 2003, in or around December 2003. Zuckerberg Decl. (Doc. No. 46) ¶ 11;</p>

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	<i>see also</i> Defendants’ Motion to Dismiss (Doc No. 319) at 10.
<p><u>Ceglia’s numerous assertions regarding Defendants’ experts’ purported failure to conduct handwriting analysis:</u></p> <p>“Defendants’ experts included two experienced and qualified handwriting examiners, Peter Tytell and Gus Lesnevich. Neither of those experts were asked or offered to examine the handwriting on either page of the FB contract. ‘I was not tasked with an examination of handwriting or signatures specifically.’ Tytell Depo. at 49.” Opp. 15-16.</p> <p>“These claims [that Tytell never suggested or was asked to examine the handwriting] are not believable unless Defendant Zuckerberg knew that analysis would result in precisely the conclusion Blanco arrived at - i.e. Defendant Zuckerberg authored the signature on page two of the FB Contract.” Opp. 37.</p>	<p>These statements that Defendants did not conduct handwriting analysis are false and ignore record evidence to the contrary. In fact, two of Defendants’ experts conducted handwriting analysis.</p> <p>Lesnevich examined the handwriting on both pages of the Work for Hire Document and reported his conclusions—that <u>all of the handwritten entries on both pages were unnaturally written tracings and none of the signatures or initials are authentic</u>—in reports to this Court. <i>See</i> Lesnevich Report (Doc. No. 329); Lesnevich Supplemental Report (Doc. No. 472-1).</p> <p>Additionally, in deposition Tytell testified that he conducted his own independent handwriting analysis, and drew the same conclusions as Lesnevich—specifically that all of the handwritten entries on both pages of the Work for Hire Document he examined are tracings—which he explained in detail during his August 3, 2012 deposition. <i>See</i> Tytell Tr. (Doc. No. 485) 59:17-61:14, 67:20-72:16.</p>
<p>“The toner on both pages is the same and dates from the 2000-2005 time period and not later than that. Doc. No. 416 [Stewart Report] at 92, 103.” Opp. 17.</p>	<p>This statement is a mischaracterization of Stewart’s opinion: Stewart says nothing about the date of the toner itself.</p> <p>Instead, Stewart simply claims that the toner on the Work for Hire document was <u>consistent with</u> toner from two series of Hewlett Packard printers, which were manufactured between 2000-2005. In his deposition, Stewart confirmed that “consistent with” is “not a very strong conclusion” and does not exclude the possibility that it is also consistent with “some other printer.” <i>See</i> Stewart Tr. 318:2-19. Thus, the toner could also be a newer toner from a newer printer series.</p> <p>More importantly, even if the toner were from one of the printer series that Stewart identified, that in no way dates the toner to pre-2005: as Stewart himself</p>

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	<p>acknowledged, those printers and the toner used in them are still commercially available to this day. <i>See</i> Stewart Tr. 320:18-322:8; <i>see also</i> LaPorte Report (Doc. No. 326) at 22.</p>
<p>“Dr. Aginsky was one of the few experts to examine the authentic FB Contract before it was damaged by Defendants’ experts in July of 2011 via excessive exposure to various sources of intense light over four days.” Opp. 18-19.</p>	<p>Defendants’ experts did not damage the Work for Hire Document. The Work for Hire Document was in its damaged condition—with an off-white cast and faded, tan-colored ink—when Paul Argentieri produced it at 9:11 a.m. on the morning of July 14, 2011. <i>See</i> Tytell Report (Doc. No. 330) at 4-9; Tytell Decl. (Doc. No. 238) ¶¶ 15-24; Romano Report (Doc. No. 327) at 3. The damage was done <u>prior</u> to Defendants’ experts ever receiving the document for inspection.</p> <p>As Tytell noted in his deposition, the white tabs at the top of each page of the document—indicative of the document’s exposure while clipped—are visible in the very first scans taken of the document at 9:18 and 9:22 a.m. on July 14, when the images are adjusted with “the kinds of basic adjustments that you and I used to do back when we had analog televisions,” like contrast and saturation. Tytell Tr. (Doc. No. 485) 195:19-196:2. And the reverse side of the Work for Hire Document can be seen fluorescing more brightly than the front at around 11:00 a.m. on the video, and the fluorescing white tabs were documented at 5:00 p.m. on the first day, as can also be seen in the video of the inspection. Tytell Tr. (Doc. No. 485) 195:7-13.</p> <p>Finally, both Blanco and Stewart admitted in their depositions that the assertion that Defendants’ experts damaged the Work for Hire Document—either with excessive lights while using clips or weights, or in some other manner—has no basis in fact: it is merely a “possibility.” <i>See, e.g.</i>, Southwell Decl. Ex. P (“Blanco Tr.”) 262:12-16 (“Q. . . . [Y]ou don’t actually have any factual basis for suggesting that this theory [that Defendants’ experts caused damage with clips in the VSC machine] occurred with respect to this “work for hire” document; correct? A. Correct.”), 262:25-263:7 (“Q. Now, do you have any specific factual basis that [Defendants’ experts having touched the document and left deposits of suntan lotion or talcum powder] in fact affected this “work for hire” document? A. No. Q. This is, again, just speculation about a possibility, correct? A. It is.”); Stewart Tr. 197:16-20 (“Q. And to be clear, you have no evidence that there were in fact weights of any kind in the room during</p>

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	the defendants' examination of the document in this case; correct? A. That's correct."").
<p>“[T]here is no discernible difference in the ink used to write the interlineation on page one and the signature and date on page two . . .” Opp. 19.</p>	<p>Dr. Aginsky, who made the initial visual determination that there was “no discernible difference” in the ink used for the interlineation on page 1 and signatures on page 2 back in June 2011 (<i>see</i> Aginsky Decl. (Doc. No. 66) ¶ 9), admitted during his deposition that further tests—which Dr. Aginsky did not himself perform—could further differentiate the inks on pages 1 and 2 of the Work for Hire Document (<i>see</i> Aginsky Tr. (Doc. No. 486) 171:18-172:19).</p> <p>Defendants' experts, who performed additional tests, including chemical tests, found that there <u>was</u> a discernible difference in the inks used to write the various handwritten entries on pages one and two of the Work for Hire Document. <i>See</i> Tytell Report (Doc. No. 330) at 10; LaPorte Report (Doc. No. 326) at 15. These findings are un-rebutted by Ceglia's experts.</p>
<p>“. . . [Defendants' expert Gerald] Laporte, the most junior and least experienced examiner on either side.” Opp. 21.</p>	<p>This statement is misleading and a false representation of LaPorte's experience.</p> <p>LaPorte, a forensic chemist and document dating specialist, has a Master of Science in Forensic Science and nearly two decades of experience as a forensic scientist. <i>See</i> LaPorte Report (Doc. No. 326) at 1-2. Moreover, he regularly uses gas-chromatography/mass-spectrometry (GC/MS) in his forensic document examination practice, and has used the instrument for well over a decade. <i>See id.</i>, Ex. A. GC/MS is the instrument LaPorte used to conduct the chemical analysis that determined the ink on page 1 of the Work for Hire Document is less than two years old. <i>See id.</i> at 15-16. On the other hand, Stewart, Ceglia's so-called expert in ink chemistry, has not used a GC/MS instrument in thirty years. <i>See</i> Stewart Tr. 258:15-20. Stewart also confessed that he does not know why the chemical solvent PE is used in ink, revealing his lack of relevant knowledge and experience. <i>See</i> Stewart Tr. at 210:12-22. A quick review of LaPorte's and Stewart's resumes demonstrates LaPorte's superior experience: LaPorte has decades of experience with chemical ink dating using GC/MS and numerous current academic articles and presentations on the subject; Stewart has not published a truly academic article on ink analysis since his</p>

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	arrest for perjury in 2004. <i>Compare</i> Doc. No. 326, Exhibit A <i>with</i> Doc. No. 416-4 at 1-14.
<p>“LaPorte’s conclusion [that there are more than two different ink formulations on pages one and two of the Work for Hire document] is contradicted by Defendant’s expert Tytell. ‘The optical examination of the ink of the Work for Hire document that I conducted revealed two groups of ink: one that included the interlineation on page 1 and the signatures and dates on page 2; the other that included just the initials on page 1.’ Tytell Dec Doc 330 Page 11.” Opp. 21.</p>	<p>The statement that there is a contradiction between LaPorte and Tytell’s conclusions is false. While using his methodologies Tytell was able to differentiate only two inks on the Work for Hire Document, he explicitly noted in his Report that additional optical and chemical tests could differentiate the inks beyond his level of analysis. <i>See</i> Tytell Report (Doc. No. 330) at 11. LaPorte confirmed optically Tytell’s differentiation of the interlineation and initials, and performed additional chemical tests that allowed him to further differentiate the other inks present on the Work for Hire Document. <i>See</i> LaPorte Report (Doc. No. 326) at 14-15. There is no contradiction between LaPorte’s and Tytell’s conclusions—indeed, there is consistency.</p>
<p>“The FB contract LaPorte tested, had been stored at below the freezing temperature for a majority of each year for each year of its storage. Doc. No. 422 at 2.” Opp. 26.</p>	<p>Even assuming, <i>arguendo</i>, that Ceglia’s belated statements regarding the purported storage of the Work for Hire Document are true, the weather reports relied on by Ceglia’s experts clearly demonstrate that Ceglia’s house’s location was subject to normal, fluctuating seasons, including typical summer and winter temperatures. Stewart Tr. 230:5-15; Blanco Report, Ex. 38 (Doc. Nos. 459-4 to 459-6); LaPorte Tr. (Doc. No. 497) 191:11-192:24.</p>
<p>“Since Mr. LaPorte relies on this ink matrix to continue to trap PE within it during and after heating the second sample, not knowing the effect of freezing on the matrix and how it may release additional PE into a tested sample negates the test results in their entirety as PE that was expected to stay trapped may not.” Opp. 26-27.</p>	<p>In fact, LaPorte does take into account purported storage conditions, including temperature variations by: (1) using a conservative, two-year threshold that <u>takes into account</u> unknown factors such as storage conditions; and (2) stating his conclusion as a probability (“highly probable” rather than definitive) to account for unknown storage conditions. <i>See</i> LaPorte Tr. (Doc. No. 497) 190:13-192:24.</p>
<p>“[I]t is possible to determine that the ink is younger than six months if the [PE loss ratio] exceeds 50 percent. Aginsky Depo at 179.</p>	<p>Ceglia takes Dr. Aginsky’s testimony out of context and distorts his meaning. Dr. Aginsky immediately clarified that he uses two distinct tests to make the six-month determination, that this determination is only a conditional one because it can be</p>

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<p>Therefore, the main developer of the PE test confirmed that average PE evaporation loss rates exceeding fifty (50) percent (lower than those LaPorte reported) would indicate that the ink was less than 6 months old, if the test conditions allowed for a legitimate test.” Opp. 29.</p>	<p>rebutted by other factors, and that such a determination cannot always be made. <i>See</i> Aginsky Tr. (Doc. No. 486) 179:23-180:12. LaPorte’s use of a two-year threshold is more conservative because it takes into account unknown factors, and thus allows for a conclusion with a greater degree of accuracy. <i>See</i> LaPorte Tr. (Doc. No. 497) 45:25-47:1.</p>
<p>“Using every other known PE evaporation curve (all of which were shown to LaPorte during his deposition) yields a conclusion that, if the test were legitimate, the ink in the interlineation of page one of the Facebook contract was less than three months old. LaPorte Depo. Exhibit #7.” Opp. 29.</p>	<p>The exhibit cited here consists of misleading attorney-manufactured illustrations that fundamentally misrepresent the meaning of the charts. The curves on these charts, which Boland showed LaPorte during his deposition, represent the theoretical rate of evaporation of PE from an ink, which occurs rapidly at first, then at a measurable rate, <u>and then tapers</u>. The charts use non-specific, arbitrary units—they <u>do not</u> represent the amount of time it takes for PE to evaporate. Indeed, some of the charts shown to LaPorte by Boland did not even represent PE, but represented volatile components generally. <i>See</i> LaPorte Tr. (Doc. No. 497) 59:16-18, 59:22-23; <i>see also id.</i> 108-109, 118:5-8. Boland’s attempt to interpret these charts in the context of the PE analysis performed by LaPorte is like “comparing apples and oranges.” LaPorte Tr. (Doc. No. 497) 130:18.</p>
<p>“Thousands of household products contain PE.” Opp. 30.  “Mr. Laporte was unaware of the admissions made by Mr. Tytell that he had frequently, during his examination, used hand soap - a product known to contain PE.” Opp. 31.</p>	<p>These statements mischaracterize the facts, and are unsupported by evidence. They are also rank speculation: Ceglia’s experts did not test the document to determine whether it had been contaminated, did not see anyone use a product containing PE and then touch the document, and did not verify that any products that might have been near the Work for Hire Document contained PE. <i>See</i> Stewart Tr. 251:12-252:9. Indeed, although Ceglia claims that “[t]housands of household products contain PE,” the website he cites to support that claim states that PE is most commonly found in eye shadow, mascara, and anti-aging cream. <i>See</i> <a href="http://www.goodguide.com/ingredients/273522-phenoxyethanol">http://www.goodguide.com/ingredients/273522-phenoxyethanol</a>. Needless to say, Ceglia has not established that Defendants’ experts were using any of those products at the time of their inspection—much less that they were using them in such a way as to have contaminated the specific areas of ink writing on the Work for Hire</p>



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	<p>Document.</p> <p>In any event, Ceglia’s speculation regarding potential contamination fails because, as part of his standard procedure, LaPorte tested a paper “blank” to ensure that no PE was present in the paper, and concluded that there was no PE contamination that might affect his results. <i>See</i> LaPorte Tr. (Doc. No. 497) 212:6-213:9, 218:14-219:3, 220:6-16.</p>
<p>“Yet, shockingly, Mr. LaPorte intentionally took only half the amount he knew he needed to test the PE on the PC initials. LaPorte Depo. at 276.” Opp. 32.</p>	<p>This statement is false, and unsupported by the record. At no point does Ceglia establish how many samples he purports LaPorte “needed to test the PE on the [Ceglia] initials.” In fact, the samples available from the “PC” initials—those from the staff of the “P”—were unsuitable for PE testing because the ink line of the staff was doubled over, creating a heavily inked line. Ink chemists do not use such anomalous areas of ink writing in order to achieve the most accurate results. At the August 2011 sampling by Defendants’ experts, there were four samples total available to Defendants’ experts. <i>See</i> Doc. No. 117 ¶ 6. Defendants’ experts took all four available samples.</p>
<p>“Jerry Grant did the only full analysis of the metadata on the MS Word files found on the floppy disks. Doc. No. 418.” Opp. 48.</p>	<p>The Stroz Friedberg Report discusses the metadata of the Word documents, and explains how it demonstrates that those documents were created fraudulently. <i>See</i> Stroz Friedberg Report (Doc. No. 325) at 23-26. Moreover, Grant’s “analysis” was limited to his assessment of factual “impossibilities”—basically, based on his particular analysis, Grant reported that there was “no evidence of fraud” because it was not “factually impossible” that under some speculative scenario Ceglia’s fabricated emails could have been authentic. <i>See, e.g.,</i> Southwell Decl. Ex. Q (“Grant Tr.”) 74:20-75:16, 127:12-17, 154:2-8.</p>
<p>“Defendants’ experts Stroz [] admitted at deposition that the Street Fax images were created somewhere else, i.e. not on Plaintiff’s parents’ computer, and placed onto that computer. Rose Depo at 25.” Opp. 55.</p>	<p>This statement is false, and a mischaracterization of deposition testimony. No representative of Stroz Friedberg admitted during deposition testimony that the images of the StreetFax Contract “were created somewhere else, i.e., not on Plaintiff’s parents’ computer.” No evidence on the record supports that statement. Rather, Rose stated that the scans appeared to be copied to the hard drive, but that</p>

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	does not mean they were created somewhere else. Rose Tr. (Doc. No. 498) 25:21-24. McGowan stated that “the forensic evidence is that the TIFF image was created on this computer on the morning of March 3rd, 2004, I can’t say whether it was scanned directly onto this computer or if it had been created from another media, transferred from another media.” McGowan Tr. (Doc. No. 496) 142:3-8.
“Plaintiff was renting a home in Florida at the time the Kole email was allegedly sent from his parents’ computer.” Opp. 56.	This irrelevant statement is unsupported by any citation or evidence.
“Plaintiff’s parents were never involved in sending emails to Plaintiff’s lawyer Jim Kole at any time.” Opp. 57.	This irrelevant statement is unsupported by any citation or evidence.
“The abundance of these hacking tools on the Seagate drive are but a mere coincidence, so say the Defendants.” Opp. 59.	This statement is unsupported by any citation or evidence. Ceglia has not identified <u>any</u> file that would have provided remote access or “hacking” to his computer on March 3, 2004.
<p><u>Ceglia’s numerous assertions regarding Zuckerberg’s purported “hacking” and “planting” of the StreetFax Contract:</u></p> <p>“Defendant Zuckerberg being the only party in this case with the credentials to send an email from Plaintiff’s parents’ account, Doc. No. 419 at 2, also another coincidence say the defendants.” Opp. 59.</p> <p>“It is undisputed by Defendants, as it cannot be disputed, that Defendant Zuckerberg had the ability, information and motive necessary in 2004 to hack Plaintiff’s parents’ computer containing</p>	<p>This statement is unsupported by any citation or evidence, and demonstrably false.</p> <p>Carmine Ceglia asserts that he “used [his] adelphia account and email password as [his] username and password for [his StreetFax] account.” Doc. No. 419 ¶ 11. But even assuming, <i>arguendo</i>, that is true, Ceglia’s statement that “Defendant Zuckerberg being the only party in this case with the credentials to send an email from Plaintiff’s parents’ account” is false several reasons.</p> <p>First, there is no evidence that Zuckerberg knew about the Adelpia email account in 2004, let alone knew anything about Ceglia’s family or their computers, had any specific knowledge of the Seagate computer, had any idea who Jim Kole was, or had any knowledge necessary to access the computer containing the Seagate hard drive. <i>See</i> Doc. No. 319 at 29. Defendants dispute that Zuckerberg had the ability, information, and motive necessary to perform Ceglia’s absurd fantasy “explanation” regarding the presence of the StreetFax Contract on the Seagate hard drive. Indeed,</p>

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<p>the Seagate hard drive.” Opp. 60.</p>	<p>while Carmine Ceglia asserts that he used his “adelphia email address and adelphia account email password as [his] username and password for [his StreetFax] account,” Doc. No. 419 ¶¶ 9-11, there is no evidence that Zuckerberg ever had knowledge of that information as it related to any “StreetFax account.”</p> <p>Next, there is undisputed record evidence—authentic emails, present in Zuckerberg’s Harvard account and filed by Ceglia himself in this litigation—suggesting that Carmine Ceglia’s testimony is not true. Specifically, an authentic September 15, 2003 email contradicts Ceglia’s testimony and demonstrates that (i) the usernames for the StreetFax email accounts were not email addresses, as he claims, but abbreviations of individuals’ names, and (ii) Zuckerberg did not create an account for Carmine Ceglia when he was creating StreetFax email accounts. Doc. No. 224-1 at 66-67.</p> <p>It is outrageous and defamatory to suggest that Zuckerberg, back in 2004, had the foresight that Ceglia would file this bogus lawsuit, and so at that time “hacked” into the Seagate hard drive and “planted” the StreetFax Contract.</p>