

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Facebook, Inc. and Mark Elliot Zuckerberg,

Plaintiff,

vs.

DLA Piper LLP (US); Christopher P. Hall; John Allcock; Robert W. Brownlie; Gerard A. Trippitelli; Paul Argentieri & Associates; Paul A. Argentieri; Lippes Mathias Wexler Friedman LLP; Dennis C. Vacco; Kevin J. Cross; Milberg LLP; Sanford P. Dumain; Jennifer L. Young,

Defendants.

Index No.

SUMMONS

Date Index No. Purchased: 10/20/2014

THE ABOVE-NAMED DEFENDANTS:

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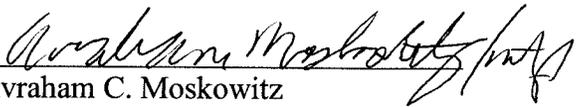
You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to

appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is N.Y. C.P.L.R. § 503 because, on information and belief, at least Milberg LLP resides in New York County.

Dated: October 20, 2014
New York, New York

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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Facebook, Inc. and Mark Elliot Zuckerberg, :
 :
 : Plaintiffs, : Case No. _____
 :
 : -against- :
 :
 : DLA Piper LLP (US); Christopher P. Hall; : **COMPLAINT FOR MALICIOUS**
 : John Allcock; Robert W. Brownlie; Gerard A. : **PROSECUTION AND VIOLATION OF**
 : Trippitelli; Paul Argentieri & Associates; Paul : **NEW YORK JUDICIARY LAW**
 : A. Argentieri; Lippes Mathias Wexler : **SECTION 487**
 : Friedman LLP; Dennis C. Vacco; Kevin J. :
 : Cross; Milberg LLP; Sanford P. Dumain; :
 : Jennifer L. Young, : **JURY TRIAL DEMANDED**
 :
 : Defendants. :
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Plaintiffs Facebook, Inc. and Mark Elliot Zuckerberg, by and through their undersigned counsel, for their Complaint against Defendants, allege on information and belief as follows:

NATURE OF THE CASE

1. The Defendant lawyers and their client, Paul D. Ceglia, conspired to file and prosecute a fraudulent lawsuit against Facebook and its founder and CEO Mark Zuckerberg, based on fabricated evidence, for the purpose of extorting a lucrative and unwarranted settlement. The lawyers representing Ceglia knew or should have known that the lawsuit was a fraud—it was brought by a convicted felon with a history of fraudulent scams, and it was based on an implausible story and obviously forged documents. In fact, Defendants’ own co-counsel discovered the fraud, informed the other lawyers, and withdrew. Despite all this, Defendants vigorously pursued the case in state and federal courts and in the media. Ultimately, the federal court hearing the case dismissed it as a fraud and a federal grand jury indicted Ceglia for the same fraud. Plaintiffs Facebook and Zuckerberg bring this lawsuit for malicious prosecution and

deceit and collusion with intent to deceive the court in violation of N.Y. Judicial Law § 487, to recover damages they incurred as a result of Defendants' fraudulent lawsuit.

2. Facebook provides the world's leading social networking service, with more than 1.2 billion active users throughout the world. Mark Zuckerberg launched the Facebook service in February 2004, and it grew rapidly over the ensuing years.

3. In April 2003, months before Zuckerberg had even conceived of the idea that became Facebook, Zuckerberg and Ceglia signed a two-page contract for Zuckerberg to perform website design for a company called Street Fax Inc. That contract had nothing to do with Facebook or any other social networking website. Zuckerberg performed work on the Street Fax website but Ceglia paid him only a portion of what he was owed. Zuckerberg and Ceglia stopped communicating in 2004.

4. By 2010, Facebook was one of the most valuable technology companies in the world, and the press speculated that it might soon issue an initial public offering of its stock. Around this time, Ceglia formulated a fraudulent scheme to falsely claim an ownership interest in Facebook in order to extort a settlement. To manufacture evidence in support of his fraudulent claim, Ceglia took the authentic Street Fax contract from April 2003 and forged a new version of that document that purportedly promised him an 84 percent equity stake in Facebook.

5. On June 30, 2010, Ceglia through his lawyer Paul Argentieri filed a lawsuit in New York state court against Facebook and Zuckerberg claiming that false ownership interest in Facebook. They attached the forged contract to the Complaint. Ceglia and his lawyer Argentieri immediately obtained an *ex parte* temporary restraining order from the state court, preventing Facebook from selling or transferring any assets or stock in the company.

6. The contract on which the lawsuit was based was an obvious forgery, rife with historical impossibilities and other red-flags for fraud. For example, the document bore the date April 2003, even though it was public knowledge that Zuckerberg conceived of Facebook months later in or around December 2003. The document contained numerous font and formatting inconsistencies indicating that the original text had been altered. Facebook and Zuckerberg repeatedly stated in public and in court that the contract was a fake. Yet Ceglia and his lawyers used this forgery to maintain their fraudulent lawsuit for nearly four years.

7. After filing the lawsuit, Ceglia and his lawyer Argentieri sought to enlist other lawyers to join the fraudulent scheme. Argentieri circulated a pitch document to “multiple top tier law firms” that described the lawsuit and sought their help in furthering a scheme to force Facebook and Zuckerberg into an early high-value settlement. The pitch offered prospective law firms a share of any fruits of the scheme through a contingency fee arrangement.

8. One of the law firms that agreed to join the scheme was DLA Piper LLP, one of the world’s largest international law firms. DLA Piper and its lawyers prepared, signed, and filed an Amended Complaint, which not only reiterated Ceglia’s reliance on the forged contract but also added quotes from obviously fabricated “emails” purportedly between Ceglia and Zuckerberg that discussed Ceglia’s supposed involvement in the development of Facebook. The emails, like the “contract,” were clearly fakes—they had been typed into a Microsoft Word document and contained obvious inconsistencies and inaccuracies.

9. As part of the scheme, DLA Piper publicly staked its reputation on the veracity of Ceglia’s allegations. One of DLA Piper’s most senior lawyers told the *Wall Street Journal* that he had spent weeks investigating Ceglia’s evidence and was “100%” certain that the forged contract was authentic. DLA Piper’s involvement in the case and its public defense of the merits

provided a patina of legitimacy to Ceglia's fraudulent claims. DLA Piper traded on its high profile in the legal community to further the fraudulent scheme, all in the hope of creating negative publicity to force a quick settlement in which the law firm would share.

10. Shortly before the filing of the Amended Complaint, unbeknownst to Facebook or Zuckerberg, some of Ceglia's own lawyers concluded that his allegations were a fraud and told their co-counsel. Specifically, Ceglia's lawyers at Kasowitz, Benson, Torres & Friedman LLP discovered on Ceglia's own computer the authentic Street Fax contract between Ceglia and Zuckerberg. This discovery confirmed beyond any doubt that the lawsuit was based on a forgery. After discovering this smoking-gun evidence of fraud, the Kasowitz lawyers immediately terminated their representation of Ceglia and warned their co-counsel (including DLA Piper), reminding them of their duties as officers of the court. Yet, even after receiving a warning letter from Kasowitz, DLA Piper and Ceglia's other lawyers continued to pursue the fraudulent lawsuit.

11. Over time, as the case proceeded, some of Ceglia's lawyers, including DLA Piper, quietly withdrew, replaced by others. But the withdrawing lawyers left the case without acknowledging the truth to the court or the public—that the lawsuit was a fraud. The refusal of DLA Piper and Ceglia's other lawyers to come clean even when withdrawing forced Facebook and Zuckerberg to continue defending a case the lawyers knew was a fraud.

12. Ultimately, after Facebook removed the case to federal court, that court dismissed the lawsuit on the ground that it was a fraud. The court held that it was "highly probable" that the contract on which Ceglia relied and the supporting emails "were fabricated for the express purpose of filing the instant action." In addition, a grand jury in the Southern District of New York indicted Ceglia for criminal mail and wire fraud for the scheme to extort a settlement from

Facebook and Zuckerberg. In this action, Plaintiffs Facebook and Zuckerberg seek to recover the losses they have suffered as a result of Defendants' scheme.

PARTIES

13. Plaintiff Facebook, Inc. is a corporation organized under the laws of the State of Delaware that maintains its principal place of business in Menlo Park, California. Facebook was a named defendant in *Paul D. Ceglia v. Mark Elliot Zuckerberg and Facebook, Inc.*, No. 10-cv-00569-RJA (W.D.N.Y.) (the "*Ceglia* action").

14. Plaintiff Mark Elliot Zuckerberg is the founder and CEO of Facebook, Inc. He resides in California. Zuckerberg was a named defendant in the *Ceglia* action.

15. Defendant DLA Piper LLP (US) ("DLA Piper") is a limited liability partnership with offices in multiple locations, including New York and California. Defendant John Allcock is an attorney and the Global Co-Chair and U.S. Chair of Intellectual Property and Technology of DLA Piper. On information and belief, Allcock resides in California. Defendant Robert W. Brownlie is an attorney and the International Co-Chair of DLA Piper's Securities Litigation Practice and the Managing Partner of DLA Piper's San Diego office. On information and belief, Brownlie resides in California. Defendant Gerard A. Trippitelli is an attorney and a partner at DLA Piper. On information and belief, Trippitelli resides in California. Defendant Christopher P. Hall is an attorney and of counsel in DLA Piper's New York office. On information and belief, Hall resides in Connecticut. Allcock, Brownlie, Trippitelli, and Hall represented Ceglia in the *Ceglia* action and were named counsel on the amended complaint and motions and briefs that advanced Ceglia's fraudulent claims.

16. Defendant Paul Argentieri & Associates is a law firm based in Hornell, New York. Defendant Paul A. Argentieri is an attorney practicing with Paul Argentieri & Associates. On information and belief, Argentieri resides in New York. Argentieri represented Ceglia in the

Ceglia action and was a named counsel on the amended complaint and motions and briefs that advanced Ceglia's fraudulent claims.

17. Defendant Lippes Mathias Wexler Friedman LLP is a limited liability partnership with offices in Buffalo, New York. Defendant Dennis C. Vacco is an attorney and partner at Lippes Mathias. On information and belief, Vacco resides in New York. Defendant Kevin J. Cross is also an attorney and partner at Lippes Mathias. On information and belief, Cross resides in New York. Vacco and Cross represented Ceglia in the *Ceglia* action, and were named counsel on the amended complaint and motions and briefs that advanced Ceglia's fraudulent claims.

18. Defendant Milberg LLP is a New York limited liability partnership with offices in multiple locations, including New York and California. Defendant Sanford P. Dumain is an attorney and partner at Milberg. On information and belief, Dumain resides in New York. Defendant Jennifer L. Young is an attorney and partner at Milberg. On information and belief, Young resides in New York. Dumain and Young represented Ceglia in the *Ceglia* action, and were named counsel on motions and briefs that advanced Ceglia's fraudulent claims.

KEY NON-PARTY

19. Paul D. Ceglia was the named plaintiff in the *Ceglia* action. Pursuant to the terms of his bail order, Ceglia resides in Wellsville, New York. According to publicly available information, prior to bringing the *Ceglia* lawsuit, Ceglia had been involved in numerous frauds and other misconduct, some of which resulted in arrests, convictions, and judgments against him. For example, in 1997, Ceglia pled guilty to a first-degree felony charge of aggravated possession of a controlled substance. In 2003, Ceglia was sued for fraud by StreetDelivery.com, Inc., a company that sold access to photographs of street intersections. That lawsuit ultimately settled. Between 2005 and 2007, Ceglia sold uninhabitable land to unsuspecting purchasers through

Internet auctions, sometimes using doctored government documents to falsely represent the conditions of the property. In 2005, Ceglia was arrested in Florida for trespass while trying to sell property in a private orange grove—property he did not own. In 2009, Ceglia was arrested again, charged with consumer fraud by the Allegany County District Attorney’s Office, and sued by then-Attorney General Andrew Cuomo, for running another scam: purporting to sell wood pellets to local residents for heating but then keeping the money and never delivering the pellets. Attorney General Cuomo obtained a temporary restraining order against Ceglia for his wood-pellet scheme, and eventually Ceglia agreed to a consent order and judgment pursuant to which he agreed to pay over \$100,000 in restitution to his victims. All of this information regarding Ceglia’s past misdeeds was available to the lawyers who agreed to join the scheme to extort a settlement from Facebook.

20. Ceglia conspired with Defendants to maliciously prosecute Facebook and Zuckerberg by bringing and pursuing the *Ceglia* action, based on fraudulent documents and fabricated claims that had no basis in law or fact, with the intent to fraudulently acquire a substantial stake in Facebook or to force Facebook and Zuckerberg to pay substantial sums to avoid further litigation.

JURISDICTION AND VENUE

21. This Court has subject matter jurisdiction over Plaintiffs’ claims, which arise under the statutory and common law of the State of New York. This Court has personal jurisdiction over all Defendants, who either are domiciliaries of the State of New York or “contract[ed] anywhere to supply . . . services in the state” and “commit[ted] a tortious act within the state.” N.Y.C.P.L.R. § 302(a); *see also Liberatore v. Calvino*, 742 N.Y.S.2d 291, 293-94 (App. Div. 1st Dept. 2002) (personal jurisdiction appropriate over non-New York licensed

attorneys who project themselves into the State to perform legal services in accordance with state law).

22. Venue is appropriate in New York County under N.Y.C.P.L.R. § 503 because, on information and belief, one or more of the parties resides in the County.

FACTUAL ALLEGATIONS

Zuckerberg's Contract with Ceglia's Company, Street Fax

23. In April 2003, months before the idea that led to Facebook had even been conceived, Zuckerberg agreed to help develop a website for a company called Street Fax Inc. Street Fax wanted to create a website, StreetFax.com, to provide insurance adjustors with an online database of photographs of traffic intersections. Ceglia was Zuckerberg's primary point of contact at Street Fax.

24. On or about April 28, 2003, Zuckerberg entered into a two-page written contract with Street Fax Inc., titled "STREET FAX," under which he agreed to provide website development services for StreetFax.com (the "Street Fax Contract," attached as Exhibit A). The contract was signed by Ceglia and Zuckerberg.

25. The Street Fax Contract stated that Street Fax would pay Zuckerberg a total of \$18,000 for his services, with \$3,000 due at the onset of the agreement and the rest over time. *See* Street Fax Contract § 3. Ceglia wrote Zuckerberg a check for the initial \$3,000 payment on or about April 28, 2003.

26. Also on or about April 28, 2003, Zuckerberg and Ceglia signed a second, six-page document titled "StreetFax Back-End Technical Specification," which described the work to be done on the Street Fax website and provided estimated development times.

27. The Street Fax Contract referenced only one company, Street Fax Inc.

Approximately four months after Zuckerberg and Ceglia signed the Street Fax Contract, Ceglia formed a new company called StreetFax LLC.

28. Neither the Street Fax Contract nor the Technical Specification mentioned Facebook or any other social networking website.

29. Pursuant to the Street Fax Contract, in 2003, Zuckerberg performed work on the Street Fax website. On or about August 15, 2003, Ceglia wrote Zuckerberg another check, for \$5,000, as part payment for the remaining \$15,000 due under the Street Fax Contract.

30. In or around November 2003, Ceglia separately agreed to pay Zuckerberg to build a “scroll search” feature for the Street Fax website, for an additional fee of \$1,500, with \$1,000 paid up front and the balance paid after Ceglia secured a prospective customer for Street Fax’s service. On or around November 24, 2003, Ceglia gave Zuckerberg a check for \$1,000 pursuant to the scroll-search side agreement.

31. Zuckerberg continued to perform work on the Street Fax website but Street Fax stopped paying him. Zuckerberg and Ceglia exchanged a series of emails discussing Zuckerberg’s work on the project and Ceglia’s failure to pay him for the work. Ceglia repeatedly promised to pay Zuckerberg the \$10,500 balance owed but never did. None of these emails discussed Facebook or any social networking service or website. The last email from Ceglia to Zuckerberg was in May 2004.

32. During the parties’ dispute over Ceglia’s failure to pay Zuckerberg for the Street Fax website, Ceglia sent the Street Fax Contract to an attorney, James Kole, then at the law firm Sidley Austin Brown & Wood LLP.

33. The Street Fax Contract, the StreetFax Back-End Technical Specification, and the scroll-search side agreement are the only authentic agreements that ever existed between Zuckerberg, on the one hand, and Ceglia or Street Fax, on the other hand. None of those agreements mentioned or concerned Facebook or any type of social networking service or website. Zuckerberg did not enter into, and has never entered into, any contract or agreement with Ceglia or Street Fax concerning Facebook or any social networking website.

Facebook

34. In or around December 2003, Zuckerberg conceived of Facebook as an online directory for students at Harvard. On February 4, 2004, Zuckerberg launched Facebook through a website called “thefacebook.com.” After only a few weeks, the website had approximately 4,000 users. At that time, the website’s membership was limited to Harvard students and was accessible only to those with a Harvard email address. As a result, Ceglia, who was not a Harvard student, could not have, and did not have, access to Facebook at that time.

35. By the end of the spring term in May 2004, Zuckerberg had expanded Facebook beyond Harvard into nearly 30 other schools, including other colleges in the Boston area, colleges in the Ivy League, and Stanford University. By December 2004, Facebook had reached nearly one million active users.

36. In the years that followed, Facebook developed into the world’s most popular social networking website. In 2005, Facebook grew to support more than 800 college networks, expanded to add high-school and international-school networks, and reached more than 5.5 million users. In 2007, Facebook sold a \$240 million equity stake to Microsoft and reached over 50 million active users. In 2008, Facebook reached over 100 million active users, and in 2009, it reached over 350 million active users. By the summer of 2010, Facebook had over 500 million

active users spending over 700 billion minutes per month on the site, which at that time was available in more than 70 languages.

37. As Facebook grew dramatically and became a world-famous success, Zuckerberg and Facebook faced highly publicized litigation over ownership of the company. In particular, in 2008, Facebook and Zuckerberg settled a lawsuit brought by Cameron Winklevoss, Tyler Winklevoss, and Divya Narendra, who claimed partial ownership of Facebook. This lawsuit was the subject of a popular movie, “The Social Network,” that purported to recount the origins of Facebook’s and Zuckerberg’s dispute with the Winklevosses. In June 2010, substantial publicity surrounded the forthcoming release of the movie, which premiered in theaters in October 2010.

38. By June 2010, Facebook was one of the most successful technology companies in the world. By the end of that month, Facebook had approximately 500 million active users and employed approximately 1,500 people. Numerous sources reported that Facebook had been valued in the tens of billions of dollars and public speculation swirled that the company would soon undertake an initial public offering (“IPO”).

Ceglia’s Claim for an 84% Ownership Stake in Facebook

39. On information and belief, in or about June 2010, Ceglia and Argentieri formed a scheme to extort a settlement payment from Facebook by filing a false lawsuit against Facebook based on forged documents claiming Ceglia owned an 84 percent interest in Facebook.

40. In furtherance of this scheme, on or about June 30, 2010, Ceglia, through Argentieri, filed a three-page verified complaint (the “Complaint”) against Facebook in the Supreme Court of Allegany County, New York. The Complaint alleged that, “[o]n April 28, 2003, [Zuckerberg] and [Ceglia] entered into a written contract, including but not limited to, [Ceglia] acquiring [a] Fifty Percent (50%) interest in the business of [Zuckerberg] and Facebook.” Verified Complaint, *Ceglia v. Zuckerberg*, Index No. 38798 (N.Y. Sup. Ct.

Allegany Cnty. filed June 30, 2010). The Complaint also alleged that Ceglia and Zuckerberg had agreed that, “after January 1, 2004, [Ceglia] would acquire an additional 1% interest in the business, per day, until the website was completed”; that “the website, thefacebook.com, was completed and operational on February 4th, 2004”; and that Ceglia had therefore “acquired an additional 34% interest in the business for a total of eighty four percent (84%).” The Complaint was signed by Argentieri and verified by Ceglia.

41. Ceglia and Argentieri attached to the Complaint a document entitled “‘WORK FOR HIRE’ CONTRACT” (the “Work for Hire Document,” attached as Exhibit B), representing that it was the contract Ceglia signed with Zuckerberg on April 28, 2003. The first page of the Work for Hire Document stated that it “reflects two separate [sic] business ventures,” the first being Zuckerberg’s work for Street Fax, referenced as “StreetFax LLC,” and the second being “a website similar to a live functioning yearbook with the working title of ‘The Face Book.’” The Work for Hire Document purportedly provided that Ceglia would pay Zuckerberg \$1,000 for Zuckerberg’s development of the Street Fax website and would pay Zuckerberg an additional \$1,000 for “the work to be performed for ‘The Page Book.’” The Work for Hire Document went on to state that Ceglia would “own a half interest (50%) in the software, programming language and business interests derived from the expansion of [‘The Face Book’] to a larger audience,” and that Ceglia would receive an additional 1% interest “for each day the website [was] delayed” beyond January 1, 2004. Page 2 of the Work for Hire Document contained the purported signatures of Zuckerberg and Ceglia, and page 1 contained handwritten interlineations with the initials “PC” and “MZ.”

42. The Work for Hire Document was a forgery.

43. Ceglia forged the Work for Hire Document by substituting made-up terms relating to “The Face Book” in the authentic Street Fax Contract—which had nothing to do with Facebook.

44. Multiple visual discrepancies existed between the first and second pages of the Work for Hire Document. All references to “The Face Book” or “The Page Book” appeared on page 1, none on page 2. The text on page 1 appeared in a different font than the text on page 2. The indents on page 1 were uncommonly wide, and wider than the indents on page 2. Section 4(a) on page 1 contained an errant carriage return, unlike the hanging indents in section 14 on page 2, all of which were consistently indented. The spacing between paragraphs on page 1 was inconsistent, whereas it was uniform on page 2. And there were significant differences in the widths of the margins, columns, and space between the columns across the two pages.

45. Certain historical impossibilities in the Work for Hire Document also betrayed the forgery. Zuckerberg never referred to Facebook, publicly or privately, as “The Page Book,” as the Work for Hire Document did. It had long been a matter of public record that Zuckerberg did not conceive of Facebook until around December 2003, months *after* the April 2003 date of the forged Work for Hire Document. And, Ceglia did not form “StreetFax LLC,” the entity referenced on page 1 of the Work for Hire Document (but not page 2), until August 2003, four months *after* the April 2003 date of the forged Work for Hire Document.

46. Ceglia and Argentieri submitted additional evidence as part of the Complaint that betrayed the fraud. As an exhibit to the Complaint, Ceglia and Argentieri attached a single checkbook entry, showing a check Ceglia wrote to Zuckerberg for \$1,000, not the \$2,000 allegedly called for in the Work for Hire Document. As noted by one press analyst:

[Ceglia] has only produced a single checkbook entry for \$1,000, which actually strengthens Facebook’s position. (Facebook is not disputing that Mark Zuckerberg did

\$1,000 of development work for Ceglia's StreetFax. They're saying Ceglia later doctored the contract to include the bits about "The Face Book"). Unless/until Ceglia produces a copy of a canceled check for The Face Book transaction, it seems safe to conclude that the reason he hasn't is because he can't--because this transaction didn't exist. That possible reality, of course, would surprise no one. It would, however, cause a few folks to scratch their heads once again about how desperate and brazen some claimants and attorneys can be.

Henry Blodget, *Checkbook Evidence Suggests Paul Ceglia's 'Contract' for 84% of Facebook Is Almost Certainly a Forgery*, Business Insider, Aug. 2, 2010.

47. When asked why Ceglia had waited over six years to claim ownership of Facebook, Ceglia explained that he had forgotten about the Work for Hire Document until he was going through his documents following the 2009 consumer-fraud charges brought against him by then-Attorney General Cuomo.

The Temporary Restraining Order Against Facebook and Zuckerberg

48. At the same time he filed the Complaint, Ceglia filed a motion for an order to show cause and temporary injunction. With no notice to Facebook or Zuckerberg, the Supreme Court in Allegany County granted the motion. Ceglia served the show cause order on Facebook on or about July 6, 2010, at which point the injunction went into effect.

49. The injunction "enjoined and restrained [Facebook] from transferring, selling, [or] assigning any assets, stocks, [or] bonds, owned, possessed and/or controlled by [Facebook]."

50. The injunction remained in effect after Facebook removed the case to the United States District Court for the Western District of New York on July 9, 2010.

51. Just days after filing the original Complaint, Argentieri proposed an immediate meeting to discuss settlement. Facebook and Zuckerberg refused, and told Argentieri that the lawsuit was fraudulent and that the Work for Hire Document was a forgery.

52. On July 16, 2010, Terrance Connors, Lawrence J. Vilaro, and Randall D. White of the law firm Connors & Vilaro, LLP, (the “Connors & Vilaro Attorneys”) entered appearances on behalf of Ceglia.

53. The Connors & Vilaro Attorneys, along with Argentieri, opposed Facebook’s and Zuckerberg’s motion to dissolve the injunction. In defending the injunction, Connors submitted an affidavit in which he swore under oath that “[t]he contract at issue entitles Plaintiff to 84% ownership interest in Facebook,” that “Defendants have diminished, diluted and alienated at least 76% of the ownership interest in Facebook through various transactions,” and that “without some form of restraint in place to prevent the Defendants from diminishing, diluting, or otherwise alienating additional ownership of Facebook, Plaintiff will be irreparably harmed.”

54. From the moment the lawsuit was filed, Facebook and Zuckerberg had declared—in public statements and sworn declarations—that the Work for Hire Document was a forgery. For example, they stated during an early court hearing that “this entire lawsuit is a fraud,” and responded to press inquiries around the same time by explaining that the *Ceglia* action was a “fraud brought by a convicted felon with a well-documented record of scamming honest people.” Transcript of Oct. 13, 2010 Hearing, *Ceglia* action, Doc. No. 34, at 33:17 (filed Nov. 30, 2010); Dan Herbeck, *Court Hears WNYer Suit Alleging Facebook Stake*, Buffalo News, Oct. 14, 2010.

Argentieri’s “Lawsuit Overview” Document

55. By early 2011, Ceglia and his lawyers decided they needed additional law firms to assist with their fraudulent scheme. Argentieri sent a pitch document to lawyers in New York City and elsewhere—to what he described as “multiple top tier law firms”—entitled “Lawsuit Overview.”

56. The Lawsuit Overview mapped out a strategy to extract a large payment from Facebook through “immediate settlement negotiations.” The Lawsuit Overview compared Ceglia’s claims to those asserted by the Winklevosses, pointedly noting that the Winklevoss lawsuit “settled for a reported \$65 million of shares in Facebook,” even though the Winklevosses, supposedly unlike Ceglia, had no “written agreements” evidencing their claims.

57. The Lawsuit Overview offered any law firm to join the scheme through a contingency fee arrangement, such that the law firm could share in the fruits of the scheme.

58. Several lawyers and law firms signed on to help Ceglia pursue his claims, including Aaron H. Marks of the firm Kasowitz, Benson, Torres & Friedman LLP in New York City; Defendants Hall, Allcock, Brownlie, and Trippitelli of DLA Piper; and Defendants Vacco and Cross of Lippes Mathias.

Kasowitz Discovers the Authentic Street Fax Contract and Alerts Defendants

59. On or around March 30, 2011, attorney Marks of the Kasowitz firm discovered, on Ceglia’s own computer hard drive (referred to by the parties as the “Seagate Hard Drive”), Ceglia’s 2004 email to the lawyer Kole that attached the authentic Street Fax Contract between Ceglia and Zuckerberg. As described above, *see supra* ¶¶ 23-33, this authentic Street Fax Contract had nothing to do with Facebook or any other social networking service or website, and its discovery – by some of Ceglia’s own lawyers – removed any conceivable doubt that the goal of the *Ceglia* action was to perpetrate a fraud.

60. On March 30, 2011, upon finding Ceglia’s email to Kole and the attached authentic Street Fax Contract, the Kasowitz firm communicated its findings to Argentieri and immediately withdrew as Ceglia’s counsel. Beginning on or around March 30, 2011, and

continuing through mid-April, Marks repeatedly communicated with his former co-counsel about his findings and stated that he intended to notify the court of the fraud.

61. On information and belief, prior to April 11, 2011, Marks told attorneys from DLA Piper, Lippes Mathias, and Connors & Vilardo about Ceglia's email to Kole and the Street Fax Contract.

The Amended Complaint

62. On April 11, 2011—after (on information and belief) Marks and the Kasowitz lawyers had notified their co-counsel that they had discovered the authentic Street Fax Contract on Ceglia's Seagate Hard Drive and that Ceglia's claims were fraudulent—Hall, Allcock, Brownlie, and Trippitelli of DLA Piper entered appearances in the *Ceglia* action, replacing the Connors & Vilardo Attorneys.

63. Also on April 11, 2011, Ceglia's new team of lawyers filed a 25-page amended complaint (the "Amended Complaint") that repeated Ceglia's false claims. The Amended Complaint was signed by Hall of DLA Piper and also listed as counsel Allcock, Brownlie, and Trippitelli of DLA Piper; Vacco and Cross of Lippes Mathias; and Argentieri. Like the original Complaint, the Amended Complaint attached a copy of the forged Work for Hire Document as an exhibit, represented that the Work for Hire Document was authentic, and claimed that Zuckerberg had breached the purported contract.

64. The Amended Complaint also purported to quote what it alleged were "emails" between Ceglia and Zuckerberg—"emails" that had not been mentioned in the original Complaint or at any time during the prior nine-month pendency of the lawsuit. The Amended Complaint claimed these "emails" discussed Facebook, and Ceglia even claimed credit for the idea of changing the name of the website from "thefacebook" to "Facebook." Based on the

emails, Ceglia now claimed that, after signing the Work for Hire Document, he and Zuckerberg engaged in an intense, months-long period of creative collaboration via email—during which Ceglia contributed “sweat equity” to Facebook, along with many innovative business and marketing ideas—after which they had an emotionally charged falling out in 2004, and then Ceglia forgot about Facebook until 2010. The Amended Complaint did not attach any of the so-called “emails” as exhibits.

65. The “emails” quoted in the Amended Complaint were obviously fake.

66. As part of its requested relief, the Amended Complaint (filed about a year before Facebook’s eventual IPO) sought a constructive trust that would encumber “all consideration received by Zuckerberg or was promised him,” including “stock, stock options, restricted stock units and/or any other consideration, and in property or other interests into which the foregoing has been transmuted.”

67. Two days after the Amended Complaint was filed, Marks of the Kasowitz firm wrote a letter to several of Ceglia’s lawyers to memorialize his prior discoveries and communications regarding the authentic Street Fax Contract with Ceglia’s co-counsel. The letter was addressed to Vacco of Lippes Mathias and copied at least Argentieri of Argentieri & Associates, Brownlie and Trippitelli of DLA Piper, and Cross of Lippes Mathias. Marks wrote that, on March 30, he had seen documents on Ceglia’s computer “that established that page 1 of the [Work for Hire Document] is fabricated.” Accordingly, he wrote, the Kasowitz firm “immediately withdrew as counsel to Mr. Ceglia that evening.” Marks memorialized that he had communicated his findings to Argentieri “on March 30 and April 4” and in an “April 12 letter.” Marks also explained that although his firm would agree, pending an “investigation” that Vacco promised to undertake, to “refrain from reporting to the District Court the misconduct that has

occurred,” he warned his co-counsel that they should keep in mind their “obligations to the District Court under NYRPC Rule 3.3, should your investigation demonstrate that the amended complaint contains false statements of material fact.”¹

68. On information and belief, at no time did any of the Defendants report to the court that Ceglia’s lawsuit was based on forged documents.

DLA Piper’s False Public Statements About the Ceglia Action

69. DLA Piper played a central role in the fraudulent scheme. DLA Piper used its good reputation as one of the largest international law firms in the world to bolster the credibility of the fraudulent Ceglia action. For example, Defendant Brownlie, the international co-chair of DLA Piper’s Securities Litigation Practice, told the *Wall Street Journal* that he had “absolutely 100% confidence that [the Work for Hire Document] is authentic” and that he had “spent weeks investigating [Ceglia’s] claims and documents,” including by bringing in “an outside expert to examine the computer file used to create the contract and to verify when it was first created.” Geoffrey A. Fowler & Scott Morrison, *Fight over Facebook Origins Escalates*, Apr. 13, 2011. Emphasizing the importance of the new “emails” set out in the Amended Complaint, Brownlie also told the *L.A. Times* that “he would not have risked DLA Piper’s reputation if the emails were not authentic.” Jessica Guynn, *Suit Alleges ’03 Deal with Zuckerberg*, *L.A. Times*, Apr. 13, 2011. Brownlie of DLA Piper went so far as to publicly threaten anyone (clearly including Facebook) who dared contest Ceglia’s false claims. He told the *New York Times* that “[a]nyone

¹ NYRPC 3.3 provides that a lawyer shall not knowingly “make a false statement of fact or law to a tribunal[,]” “fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer[,]” or “offer or use evidence that the lawyer knows to be false.” Moreover, “[i]f a lawyer, the lawyer’s client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.”

who claims this case is fraudulent and brought by a scam artist will come to regret those claims.” Miguel Helft, *Abrupt Turn as Facebook Battles Suit*, Apr. 17, 2011.

70. Brownlie of DLA Piper also hinted to FoxNews.com of “more emails” that might become part of the case. Jeremy A. Kaplan, *More Stunning Emails To Come in Facebook Ownership Lawsuit* (April 14, 2011). And Brownlie declared to ABC News that Ceglia “wants to be treated just like any other founder.” Ki Mae Heussner, *New York Man Says Emails Prove Facebook Ownership Stake* (April 13, 2011). Brownlie made these statements despite knowing about Ceglia’s fraud and the Kasowitz’s firm discovery of it.

71. DLA Piper’s public vouching for Ceglia’s false claims had the intended effect: Press outlets widely reported the new allegations in the Amended Complaint and looked to Ceglia’s new legal team, including lawyers at DLA Piper, as adding an air of legitimacy to Ceglia’s claims. From the *Wall Street Journal*, for example, “The strange fight over the origins of Facebook Inc. has new lawyers, new allegations—and possibly new legs.” Fowler & Morrison, *Fight over Facebook Origins Escalates*. The *New York Times* reported that “the skepticism and scorn initially heaped on Mr. Ceglia’s claims turned to astonishment last week when he added some ammunition to his case” and that “Mr. Ceglia filed an amended complaint in federal court in New York written by lawyers from DLA Piper, a law firm with offices around the world.” Helft, *Abrupt Turn as Facebook Battles Suit*. According to Bloomberg, “Ceglia . . . filed papers yesterday switching . . . to a team of lawyers from DLA Piper LLP, one of the world’s biggest law firms.” Bob Van Voris, *Facebook Claimant Says He Has Zuckerberg’s E-Mails To Prove 50% Ownership*, Apr. 12, 2011. Business Insider ran the headline, *The Guy Who Says He Owns 50% of Facebook Just Filed a Boatload of New Evidence—and It’s Breathtaking*. Henry Blodget, Apr. 12, 2011.

72. An article in the International Business Times relied on DLA Piper's appearance as a "major argument[]" for why Ceglia's claims were real:

DLA Piper is a well-respected law firm, one of the largest in the country. The attorney on the case, Robert Brownlie, said he has spent part of his career defending against lawsuits similar to Ceglia's. A law firm or lawyer knowingly taking part in a fraud would be subject to significant sanctions and possibly disbarment. DLA says it did due diligence and was willing to take the case, likely on a contingency basis. That means the lawyers who have a great deal of expertise think they can win, or at least get a sizeable settlement.

Facebook Lawsuit: The Evidence For and Against, Apr. 14, 2011.

Cross-Motions for Expedited Discovery

73. On June 2, 2011, less than two months after the filing of the Amended Complaint, Facebook and Zuckerberg moved for expedited discovery on the ground that the lawsuit was based on fraud. The motion was supported by declarations from Zuckerberg and forensic experts. Zuckerberg attested that he did not sign the Work for Hire Document, that he and Ceglia had signed a contract that concerned only Street Fax and had never signed any agreement concerning Facebook, and that he did not write or receive any of the "emails" quoted in the Amended Complaint. Facebook and Zuckerberg submitted declarations from experts in document authentication and digital forensic examination. These experts determined that the Work for Hire Document was an "amateurish forgery" and that the Harvard email account used by Zuckerberg during the relevant time period did not contain any of the alleged "emails"—and in fact contained numerous authentic emails that rendered the version of events set forth in the Amended Complaint even more unbelievable.

74. Ceglia and his counsel at DLA Piper and Lippes Mathias, along with Argentieri, filed their own cross-motion to expedite discovery, supported by a 20-page memorandum and declarations from attorneys at DLA Piper, experts for Ceglia, and from Ceglia himself. In those

filings, Ceglia and his attorneys maintained that the Work for Hire Document and the “emails” were authentic.

75. In a declaration Ceglia signed and Hall of DLA Piper filed, Ceglia told the court that he did not actually have copies of any of the purported emails (emails on which Brownlie of DLA Piper had previously said the firm would “risk[] [its] reputation”). Instead, Ceglia declared under penalty of perjury that it had been his “practice to copy emails” from his msn.com email account into Microsoft Word documents because he “knew of no other way to save emails from online email accounts.”

76. DLA Piper and Lippes Mathias released a widely reported press statement after Facebook and Zuckerberg filed their motion to expedite, contending that, ““Mr. Ceglia welcomes the opportunity to expedite discovery in this case and disagrees with the opinions within the filing, which have been made by those who have not examined the actual contract at issue in this case or any of the other relevant evidence.”” Jessica Guynn, *Facebook Asks Judge To Hasten Ceglia Case*, L.A. Times, June 3, 2011. Yet the lawyers at DLA Piper and Lippes Mathias failed to mention that their own former co-counsel at the Kasowitz firm had “examined the actual contract at issue in this case” and had warned them that the Work for Hire Document was a forgery (leaving no doubt the “other relevant evidence” was also fake). Moreover, even without “the actual contract at issue,” Facebook, Zuckerberg, and their lawyers were able to determine that the purported contract and “emails” were forgeries.

77. On the eve of the hearing on the cross motions for expedited discovery, Hall, Allcock, Brownlie, and Trippitelli of DLA Piper and Vacco and Cross of Lippes Mathias abruptly withdrew from the case. None of the withdrawing lawyers notified the United States District Court, Facebook, or the public, of the ongoing fraud or took any steps to halt the illegal

process they had set in motion by filing and prosecuting the Amended Complaint. Lippes Mathias lawyer Vacco later told *Fortune* magazine that his departure ““had nothing to do with the concerns raised by Mr. Marks [of the Kasowitz firm].”” Matt Vella, *Facebook’s Revenge in Court*, Nov. 16, 2012. DLA Piper lawyer Brownlie, who only two months earlier had announced that DLA Piper’s involvement was based on “weeks [of] investigation,” was no longer speaking to the press. As the *New York Times* later reported, “Mr. Brownlie, who last year staunchly defended the legitimacy of his client’s claims to The Times, has not returned multiple calls and e-mails seeking comment.” Peter Lattman & Andrew Ross Sorkin, *Lawyer Withdraws from Case by Man Claiming Facebook Ownership*, Dealbook column, Oct. 30, 2012.

78. Jeffrey A. Lake of Lake A.P.C. substituted for DLA Piper and Lippes Mathias as counsel for Ceglia in time to appear at the hearing and argue the parties’ cross motions for expedited discovery. At or around that time, Ceglia also retained the law firm Edelson PC, formerly known as Edelson McGuire LLC, including Of Counsel Steven W. Teppler, to handle litigation and discovery issues in the *Ceglia* action.

79. On July 1, 2011, the United States Magistrate Judge, finding “good cause,” ordered expedited discovery into the authenticity of the Work for Hire Document and the purported emails quoted in the Amended Complaint. This expedited discovery ultimately led to the dismissal of the *Ceglia* action.

Expedited Discovery

80. As part of the expedited discovery, Ceglia and his attorneys were ordered to produce “(1) the native electronic version of the [Work for Hire Document] and all electronic copies . . . ; (2) the original, native electronic files consisting of or containing the [purported

emails] and all electronic copies of the purported emails; and (3) all computer and electronic media in [Ceglia's] possession, custody, or control.” July 1, 2011 Order at 2, *Ceglia* action.

81. Expedited discovery continued for over a year, during which time Facebook and Zuckerberg filed nine separate motions to compel—all nine of which were granted. The court also imposed sanctions against Ceglia and his attorneys that totaled over \$200,000 for willful and bad-faith litigation misconduct, finding they had demonstrated “a plain lack of respect” for court orders “which cannot be countenanced.”

82. For example, sometime prior to the commencement of expedited discovery, but after the commencement of the *Ceglia* action, Ceglia (on information and belief, with the help, consent, or willful blindness of his attorneys) destroyed six USB removable storage devices, at least one of which contained documents that Ceglia had named “Zuckerberg Contract page 1.tif” and “Zuckerberg Contract page 2.tif” and placed in a folder labeled “Facebook Files.” Forensic evidence revealed that Ceglia had used one of those devices as recently as April 4, 2011, and three were used while the *Ceglia* action was pending.

83. Shortly after expedited discovery began, Ceglia and his attorneys produced three Microsoft Word documents containing text that Ceglia claimed he had cut-and-pasted from emails with Zuckerberg. It was clear from those documents that Ceglia had typed the text into backdated Microsoft Word documents and falsely declared it was the text of emails with Zuckerberg. The “emails” quoted in the Amended Complaint and the Microsoft Word documents were facially fraudulent in a number of respects:

- **Historical Impossibility.** The purported emails contradicted matters of historical fact. For example, Ceglia produced an “email” that Zuckerberg supposedly sent him at 8:27 a.m. on February 4, 2004. In that “email,” Zuckerberg wrote that Thefacebook.com had “opened for students today” and encouraged Ceglia to “take a look” at the website. Ceglia supposedly responded at 10:30 a.m. that morning, writing “Congrats Mark! The site looks great.” But it is well documented that Thefacebook.com website did not go

live and become available to students until the afternoon of February 4, 2004. For example, in the highly publicized book “The Facebook Effect,” published by Simon & Schuster in 2010, author David Kirkpatrick chronicled the beginnings of Facebook and explained that “[o]n the afternoon of Wednesday, February 4, 2004, Zuckerberg clicked a link on his account with Manage.com. Thefacebook.com went live.” Moreover, the site was open only to Harvard students initially, and Ceglia (not a Harvard student) could not have accessed it.

- **Time Zone Anomalies.** The purported emails contained incorrect time zone stamps. In forging the “emails,” Ceglia forgot that Eastern Standard Time was in effect on the days the emails were purportedly sent. Therefore, his fake emails erroneously contain the “-0400” time zone stamp that reflects the Eastern Daylight Time stamp—an obvious forgery.
- **Spelling and Formatting Discrepancies.** The purported emails also used inconsistent formatting and abbreviations—another physical impossibility if these were (as he claimed) genuine emails from Ceglia’s MSN webmail account that used automatically generated fields. For example, the “Date” field is automatically generated by MSN webmail, and, throughout 2003 and 2004, MSN abbreviated Tuesday as “Tue”. But the “Date” field in the purported emails abbreviated the word “Tuesday” inconsistently, sometimes as “Tue” and other times as “Tues”. As another example, the “emails” have an extra space between the end of Zuckerberg’s email address (mzuckerb@fas.harvard.edu) and the closing angle bracket (“>”). If these emails actually were copied-and-pasted, there would not be such a space.
- **Backdating.** The metadata on the electronic media containing the Microsoft Word documents indicated that the documents containing the “emails” were backdated. For example, two of the metadata entries on the floppy disk containing the file “Mark emails july04.doc” related to deleted copies of the file with timestamps from October 21, 2003. It is highly unlikely that Ceglia named a file “Mark emails july04.doc” if it actually had been created and last modified in October 2003. This anomaly likely resulted from at least one copy of the file having been saved using a computer with a system clock backdated to October 21, 2003. Moreover, Facebook’s and Zuckerberg’s experts found the existence of multiple copies of this and other files to be consistent with forgery, as forgers frequently create and delete multiple versions of the document being forged.

84. On July 14, 2011, when Ceglia produced the physical (but not electronic) Work for Hire Document to Facebook’s experts for inspection, it was immediately apparent something was wrong: the ink was dramatically faded, appearing brown or even yellowish in places and containing numerous breaks and spaces where there was no visible ink at all. In addition, the fronts of the pages of the document had an off-white color, whereas the backs of the pages and two small fluorescing rectangular tabs at the top of each document were brighter white. Like tan

lines from a swimsuit, these tabs highlighted areas that were covered up—likely by clips or clothespins used to hang the document—while the rest of the document was exposed to light. This damage was observed first-hand by numerous eyewitnesses and confirmed in high-resolution images captured minutes after the document was produced. This damage had not been present seven months earlier, in January 2011, when Ceglia’s own experts had examined the document. The objective in “baking” the Work for Hire Document was to conceal Defendants’ fraud by frustrating any attempt at ink analysis and dating.

85. Also by July 14, 2011, it became clear Ceglia had prepared four different hard-copy versions of the Work for Hire Document. The physical document Ceglia initially produced for inspection was not the same document Ceglia attached to his Complaint—it was a new and independent forgery. One of Facebook’s handwriting experts examined four different electronic images of the Work for Hire Document—all of which purported to be images of the same physical document taken at different times—and discovered at least 20 significant handwriting discrepancies, such as discrepancies in letter formation and design.

86. The physical Work for Hire Document that Ceglia produced included a handwritten ink interlineation on page 1 that Ceglia and his lawyers claimed was added on April 28, 2003. But a basic ink-dating test showed that the interlineation was in fact less than two years old and had been written sometime after August 2009.

87. During expedited discovery, Ceglia also produced the three checks totaling \$9,000 that he wrote to Zuckerberg—an amount that would make no sense under the terms of the Work for Hire Document, which called for a total payment of only \$2,000.

88. Also during expedited discovery, Facebook and Zuckerberg discovered the electronic images of the authentic Street Fax Contract that Ceglia had sent in two scanned

images attached to two emails to Kole at Sidley Austin in 2004. Analysis of the metadata of the emails and their attachments established that Ceglia had scanned the two images of the Street Fax Contract to his computer minutes before he sent the emails to Kole at jkole@sidley.com, that Ceglia sent the emails (and that Sidley Austin's email server received them) on March 3, 2004, and that the emails were contained on Ceglia's Seagate Hard Drive and Sidley Austin's email server all along.

89. On July 14, 2011, the Edelson firm produced what it represented to be all of Plaintiffs' electronic assets. Two days later, an attorney at Edelson informed his co-counsel that in fact the Seagate Hard Drive—the device containing the authentic Street Fax Contract—had been omitted from the assets produced for forensic imaging.

90. On August 18, 2011, the court granted Facebook's and Zuckerberg's first motion to compel, requiring Ceglia to identify in a declaration, among other things, all passwords and consent forms necessary to access his web-based email accounts. In or around August 2011, Ceglia moved to Ireland and did not turn over the passwords and consent forms in compliance with the August 2011 order, prompting the court to issue an order to show cause why sanctions were not warranted. On October 7, 2011, Lake and his associate submitted declarations stating that they did not comply with the court's order because Ceglia refused to do so.

91. At the same time Ceglia was defying the court's discovery order from Ireland, he was threatening to interfere with Facebook's forthcoming IPO, declaring through the press, "You won't go public Mark, you won't IPO, you won't pass go. I won't let you sell this company out from under me not while I have the power to stop you." Emil Protalinski, *Exclusive: Paul Ceglia says Facebook is doing the forgery*, ZDNet, Aug. 16, 2011.

92. Throughout the expedited discovery period, Ceglia continued to rotate in different lawyers. On March 5, 2012, Defendants Dumain and Young of Milberg entered appearances in the *Ceglia* action. Dumain stated publicly that Milberg “took a good hard look at all of the information available,” and he declared that Mr. Ceglia “deserve[d] to have his day in court.” *Facebook Claimant Ceglia Hires Milberg for Zuckerberg Case*, Bloomberg, Mar. 5, 2012. Milberg’s entry of appearance lent some credibility to this meritless case given the firm’s prominent position in the plaintiffs’ bar. For example, another one of Ceglia’s attorneys, Dean Boland, told reporters that “the addition of lawyers from the New York firm Milberg is an indication of the case’s strength.” *Tech Ticker: More lawyers for Facebook lawsuit*, San Jose Mercury News, Mar. 5, 2012.

93. On March 26, 2012, Facebook and Zuckerberg filed motions to dismiss and for judgment on the pleadings in light of the evidence that Ceglia and his co-conspirators had forged documents, fabricated emails, and committed spoliation and other litigation misconduct. Facebook and Zuckerberg also moved to stay discovery until the court ruled on those motions.

94. In response to Facebook’s and Zuckerberg’s dispositive motions, Dumain of Milberg told the *Wall Street Journal* that Zuckerberg planted the authentic Street Fax Contract on Sidley Austin’s server: “‘It didn’t take sophisticated hacking to send something from that account,’ Mr. Dumain said. ‘Paul [Ceglia] denies ever having seen that document.’” *A Facebook Founder Fight—The Social Network Unveils Evidence Disputing Paul Ceglia’s Ownership Claims*, Mar. 27, 2012.

95. On April 4, 2012, the court presiding over the *Ceglia* action heard argument on Facebook’s and Zuckerberg’s motion to stay. Dumain participated in the hearing on behalf of Ceglia.

96. Dumain and Young moved to withdraw from the *Ceglia* action on May 30, 2012. During the time period they were counsel of record for Ceglia, they appeared as counsel on various discovery motions. For example, the Milberg attorneys appeared as counsel on a motion for discovery alleging (falsely) that Zuckerberg “has a habit” of “forg[ing]” corporate documents. They also filed and signed motions seeking to prevent and stay the disclosure of emails sent by attorneys at the Kasowitz firm to attorneys at DLA Piper.

97. The precise grounds for Dumain’s and Young’s withdrawal are unclear. Although Dumain himself informed Facebook’s counsel in the *Ceglia* action that the Milberg attorneys had “irreconcilable differences of opinion” with Ceglia and some of his other counsel (including Argentieri) “as to important strategic decisions in the conduct of the litigation,” attorney Boland stated publicly that his co-counsel wished to withdraw merely because “[t]hey simply thought it was best for [Ceglia] that they no longer serve as a distraction.” Phil Fairbanks, *Another Firm Drops Out of Ceglia Suit*, Buffalo News, May 31, 2012.

98. By the close of expedited discovery, Ceglia and his attorneys had failed to produce an electronic copy of the version of the Work for Hire Document attached to the Amended Complaint (even though Brownlie of DLA Piper had told the press that his firm had brought in an outside expert to examine the computer file used to create the contract). Instead, Facebook and Zuckerberg discovered seven backdated test forgeries on Ceglia’s computer—versions of the Work for Hire Document that were very similar but not identical to the version attached to the Amended Complaint. The test forgeries were created in February 2011 using a computer with a system clock that was intentionally backdated to April 25, 2003—the date the Amended Complaint alleges Ceglia saved a copy of the Work for Hire Document. In fact, one of the test forgeries contained metadata that revealed Ceglia’s step-by-step construction of the

Work for Hire Document through a trial-and-error process of insertions, deletions, and other manipulations.

Ceglia's Arrest for Wire and Mail Fraud

99. On October 26, 2012, federal agents arrested Ceglia on two felony counts for multiple acts of fraud committed in bringing the *Ceglia* action. The criminal complaint charged that Ceglia “deliberately engaged in a systematic effort to defraud Facebook and Zuckerberg and to corrupt the federal judicial process.” In particular, the criminal complaint charged Ceglia with mail fraud for causing legal pleadings and other items to be delivered by mail and with wire fraud for causing others to send interstate electronic communications, all in furtherance of Ceglia’s “multi-billion dollar scheme to defraud Facebook and Mark Zuckerberg.”

100. On October 31, 2012, during an initial hearing on the criminal charges against Ceglia, Judge Colleen McMahon of the United States District Court for the Southern District of New York described the “strength of the government’s case” as “overwhelming.”

101. On November 26, 2012, a federal grand jury returned an indictment charging Ceglia with the crimes identified in the criminal complaint. *See* Indictment, *United States v. Ceglia*, No. 12-CR-00876-ALC, Doc. No. 10 (S.D.N.Y. Nov. 26, 2012).

Magistrate Judge Leslie G. Foschio's Report and Recommendation

102. On March 26, 2013, the United States Magistrate Judge presiding over the *Ceglia* action issued a 155-page written opinion recommending that the district court exercise its inherent power to dismiss the case with prejudice. The Magistrate Judge ruled that dismissal was warranted because the purported contract and emails were forgeries, and the entire lawsuit was a massive fraud on the court. He found “it [was] highly probable and reasonably certain that the Work for Hire Document and the supporting e-mails were fabricated for the express purpose of

filing the instant action.” He further ruled that dismissal was warranted based on Ceglia’s contumacious destruction of evidence.

103. The Magistrate Judge described Ceglia’s arguments against dismissal as “sophomoric,” “preposterous,” and “beyond absurd,” and condemned them on one occasion for making “a gross misrepresentation which would be detected by even the marginally literate.”

104. On March 25, 2014, the United States District Court adopted the Magistrate Judge’s recommendation and entered judgment in favor of Facebook and Zuckerberg and against Ceglia. Ceglia noticed an appeal on April 24, 2014, and continues to prosecute that appeal.

COUNT I
Malicious Prosecution
(Against All Defendants)

105. Facebook and Zuckerberg incorporate by reference the foregoing paragraphs as though fully set forth herein.

106. Defendants initiated and/or maintained the *Ceglia* action, which was terminated on the merits in favor of Facebook and Zuckerberg and against Ceglia.

107. Defendants did not have probable cause to initiate and/or continue the *Ceglia* action. Defendants knew or reasonably should have known the *Ceglia* action was fraudulent and without merit from the moment the original Complaint was filed, and, for those Defendants who entered the case after the original Complaint had been filed, at all times while the action was pending. Furthermore, Defendants conspired to prosecute the action even though they knew or reasonably should have known the claims they were advancing were meritless and based on fabricated evidence. Each Defendant agreed to enter into this conspiracy and committed at least one overt act in furtherance of the conspiracy. At all times, Defendants falsely represented that

the *Ceglia* action was supported by probable cause, and they affirmatively concealed evidence that would have revealed the fraudulent nature of the *Ceglia* action.

108. Defendants acted primarily for a purpose other than securing a proper adjudication. That purpose included, but was not limited to, actual hostility or ill will toward Facebook and Zuckerberg, and the desire to secure an unwarranted financial settlement or judgment against Facebook and Zuckerberg.

109. By initiating and/or continuing the *Ceglia* action, Defendants committed fraud and engaged in malicious wrongdoing including, but not limited to, acting with the intent to cause injury to Facebook and Zuckerberg during a crucial time in Facebook's history. They engaged in reprehensible conduct with a willful and conscious disregard of the rights of others, including Facebook, Zuckerberg, the many stakeholders in Facebook, the public, and the judicial system.

110. Defendants all agreed with *Ceglia* to pursue a common scheme to prosecute this case for the purpose of extracting an improper and unjustified financial settlement from, or judgment involving a constraint of property against, Facebook and Zuckerberg. Defendants each committed overt acts in furtherance of the conspiracy by purposefully entering appearances, signing or filing pleadings with the court, or taking other actions in furtherance of their common plan to pursue this improper litigation.

111. As a result of Defendants' conduct, Facebook and Zuckerberg were forced to expend significant time and resources in defending the fraudulent claims advanced by Defendants, time and resources that vastly exceeded any reasonable amount necessary to defend against even frivolous claims. Furthermore, Facebook and Zuckerberg suffered substantial harm to and interference with their business interests and reputation, including, but not limited to, the

imposition of a temporary injunction enjoining Facebook from transferring, selling, or assigning any assets, stocks, or bonds controlled by Facebook, as well as harm arising from Ceglia's knowingly false accusations, raised at numerous times in papers filed in the *Ceglia* action, that Zuckerberg had previously engaged in various criminal acts. The conduct of Defendants, individually and collectively, was a substantial factor and proximate cause in bringing about Facebook's and Zuckerberg's harm.

COUNT II
Deceit and Collusion with Intent To Deceive a Court and Any Party:
Violation of N.Y. JUD. LAW § 487
(Against All Defendants)

112. Facebook and Zuckerberg incorporate by reference the foregoing paragraphs as though fully set forth herein.

113. Defendants engaged in deceit and/or collusion by filing and prosecuting the *Ceglia* action, and consented to such deceit and/or collusion. Such deceit and/or collusion included, but was not limited to, knowingly introducing and relying on fraudulent evidence and withholding information from the court, Facebook, and Zuckerberg that would have revealed the fraudulent nature of the *Ceglia* action. Defendants presented these fraudulent arguments in numerous pleadings and other court filings. Defendants engaged in this deceit and/or collusion with the intent to deceive the court, Facebook, and/or Zuckerberg about the validity of their claims.

114. As a result of Defendants' conduct, Facebook and Zuckerberg were forced to expend significant time and resources in defending the fraudulent claims advanced by Defendants. The conduct of Defendants, individually and collectively, was a substantial factor and proximate cause in bringing about Facebook's and Zuckerberg's injuries, which include

harm to business and reputation, as well as the costs and fees they incurred in defending against the fraudulent *Ceglia* action.

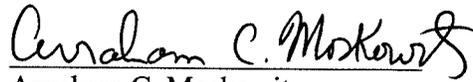
PRAYER FOR RELIEF

WHEREFORE, Facebook and Zuckerberg pray for relief against Defendants, jointly and severally, as follows:

1. For damages, including attorneys' fees and other costs incurred in defense of the *Ceglia* action, and damage to reputation and harm to business interests, in an amount to be proven at trial.
2. For treble damages of that portion of actual and general damages, to be proven at trial, attributable to Defendants' violation of New York Judiciary Law § 487.
3. For attorneys' fees and costs of this suit.
4. For punitive damages in such amount as the Court or a jury may deem appropriate to punish Defendants for their malicious and willful misconduct.

Dated: October 20, 2014

Respectfully submitted,



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