

Litigator of the Week: Orin Snyder of Gibson, Dunn & Crutcher

By Jan Wolfe
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Some people took online businessman Paul Ceglia seriously when he claimed in a 2010 lawsuit that Facebook Inc. founder Mark Zuckerberg promised him a 50 percent stake in the company seven years earlier. Sure, it seemed odd that Ceglia would wait so long to bring his case. But he had emails that backed up his allegations, which Ceglia's onetime lawyers at DLA Piper said they'd spent weeks authenticating. And a Hollywood blockbuster had just been released about Zuckerberg's frosty relationships with his early collaborators, including some that had wrested settlements from the young billionaire.

Those days are long over. By early 2012, many commentators were calling Ceglia a con artist. Federal prosecutors brought a fraud indictment against Ceglia later that year. And on Tuesday, U.S. District Judge Richard Arcara in Buffalo finally got around to dismissing Ceglia's civil case, adopting a magistrate judge's earlier conclusion that Ceglia's purported contract with Zuckerberg was a cut-and-paste job.

Perhaps Ceglia brought about his own downfall. But plenty of credit for Facebook's victory goes to its lead counsel, Orin Snyder of Gibson, Dunn & Crutcher, who quickly and methodically delivered ammunition to Ceglia skeptics.

"Gibson Dunn, and Orin in particular, developed an aggressive strategy and then executed that strategy with precision and forcefulness," said Facebook general counsel Colin Stretch.

Soon after filing suit in June 2010, Ceglia produced a two-page contract from Zuckerberg's Harvard days in which he appeared to relinquish a large stake in Facebook in exchange for Ceglia's funding. Ceglia later presented what he said was a series of emails with Zuckerberg, including one in which Zuckerberg allegedly wrote, "according to our contract I owe you over 30 percent more of [the Face Book] business in late penalties which would give you over 80 percent of the company. ... I'd like to suggest that you drop the penalty completely and that we officially return to 50/50 ownership."

Facebook came out swinging. Backed by forensic experts, the company concluded that Ceglia had doctored an agreement with Zuckerberg from a totally unrelated project. Facebook's experts

determined the emails were fabricated as well, since none of them could be found on Harvard's servers. In a declaration filed under

oath, Zuckerberg said that he never discussed Facebook with Ceglia. "Facebook was standing up for the truth," Snyder told us. "And it was also sending a larger message to the legal community and to the business community that they wouldn't acquiesce to frivolous lawsuits, that they wouldn't be bullied."

On the basis of his findings, Snyder petitioned the magistrate judge, Leslie Foschio, in June 2011 for expedited discovery on the single issue of whether the contract was forged. After some initial skepticism, Foschio granted the request after a five-hour marathon hearing.

In retrospect, that was the turning point. It took several months and repeated motions to compel, but Gibson Dunn eventually found key evidence on Ceglia's computers, including what the firm concluded was the original contract. As we explained here, Ceglia also eventually turned over a letter in which some of his initial lawyers at Kasowitz Benson Torres & Friedman announced they were withdrawing because they too concluded he was lying. (By our count, at least nine firms have dropped him as a client.)

"For all intents and purposes, the case caption had switched," Snyder said of the expedited discovery gambit. "We became the plaintiff and the prosecutor."

Foschio sided with Gibson Dunn in a lengthy March 2013 ruling, writing that the supposed contract was a "recently created fabrication." It took a while, but Arcara finally signed off on that order this week. One of Ceglia's latest lawyers, Joseph Alioto, has vowed to appeal.

"Of all the cases I've litigated, this is perhaps the most gratifying," Snyder told us. "Facebook is a great company, and this plaintiff was attacking the company in a very vicious way. ... I'm gratified that they trusted me."



Orin Snyder