

1 FRANCIS M. GREGOREK (144785)  
 gregorek@whafh.com  
 2 BETSY C. MANIFOLD (182450)  
 manifold@whafh.com  
 3 RACHELE R. RICKERT (190634)  
 rickert@whafh.com  
 4 MARISA C. LIVESAY (223247)  
 livesay@whafh.com  
 5 **WOLF HALDENSTEIN ADLER**  
**FREEMAN & HERZ LLP**  
 6 750 B Street, Suite 2770  
 San Diego, CA 92101  
 7 Telephone: 619/239-4599  
 8 Facsimile: 619/234-4599

9 *Interim Lead Counsel for Plaintiffs and the [Proposed] Class*

10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA**  
 12 **WESTERN DIVISION**

13 GOOD MORNING TO YOU PRODUCTIONS CORP., <i>et al.</i> , 14 15 Plaintiffs, 16 v. 17 WARNER/CHAPPELL MUSIC, INC., <i>et al.</i> , 18 19 Defendants.	) Lead Case No. CV 13-04460-GHK (MRWx) ) <b>[PROPOSED] ORDER GRANTING</b> ) <b>PLAINTIFFS' EX PARTE</b> ) <b>APPLICATION TO HAVE MOTION TO</b> ) <b>COMPEL HEARD AFTER DISCOVERY</b> ) <b>CUT-OFF</b> ) ) Judge: Hon. George H. King, Chief Judge ) Courtroom: 650 ) ) Fact Discovery Cutoff: July 11, 2014 ) Expert Reports: July 25, 2014 ) Rebuttal Expert Reports: August 25, 2014 ) Expert Discovery Cutoff: Sept. 26, 2014 ) L/D File Jt. MSJ: November 14, 2014 ) Pretrial Conference: N/A ) Trial: N/A )
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1           **HAVING FOUND GOOD CAUSE APPEARING** in Plaintiffs’, Good  
2 Morning To You Productions Corp., Robert Siegel, Rupa Marya, and Major  
3 Productions, LLC (“Plaintiffs”), *ex parte* application for an extension of the current  
4 fact discovery cut-off deadline of July 11, 2014 in order to permit Plaintiffs’  
5 motion under Fed. R. Civ. P. 26(b)(5)(B) for an order: (i) overruling the claim of  
6 privilege by defendants Warner/Chappell Music, Inc. and Summy-Birchard, Inc.  
7 (“Defendants”), to certain documents produced by non-party American Society of  
8 Composers, Authors and Publishers (“ASCAP”), or, in the alternative, permitting a  
9 Fed. R. Civ. P. 30(b)(6) deposition to determine the factual basis for the claimed  
10 privilege to be fully briefed and heard by Magistrate Judge Michael R. Wilner  
11 (“the Motion”). The Court makes the following findings:

12                           **Findings of Fact and Conclusions of Law**

- 13           1. The Court initially set the fact discovery deadline for June 27, 2014.  
14           (Dkt. 92);
- 15           2. On June 9, 2014, the fact discovery deadline was extended by  
16           Magistrate Judge Wilner, in connection with this Court, and at the  
17           request of both parties, to July 11, 2014 in order to successfully  
18           resolve an outstanding discovery dispute relating to Defendants’  
19           privilege log;
- 20           3. Plaintiffs were diligent in their discovery and have made substantial  
21           efforts to complete discovery prior to July 11, 2014;
- 22           4. Plaintiffs served a document subpoena on ASCAP on March 28,  
23           2014; and the parties received the ASCAP Documents on May 9,  
24           2014. On May 22, 2014, for the first time, ASCAP advised Plaintiffs  
25           that Defendants claimed certain of the ASCAP Documents were  
26           privileged and that counsel for the Defendants would be contacting  
27           Plaintiffs directly;
- 28           5. As required under Fed. R. Civ. P. 26(b)(5)(B), copies of the disputed  
            ASCAP Documents were sequestered by Plaintiffs’ counsel and will

1 be submitted to the Magistrate Judge under seal for a determination  
2 of Defendants' claim of privilege;

3 6. On May 22, 2014, Plaintiffs promptly noticed the deposition of  
4 Defendants pursuant to Fed. R. Civ. P. 30(b)(6) for the corporation's  
5 testimony about the extent of ASCAP's interest (if any) in the Song  
6 and the royalties it collects for public performances of the Song and  
7 whether ASCAP produced the documents knowingly and  
8 intentionally. On May 27, 2014, Defendants objected to Fed. R. Civ.  
9 P. 30(b)(6) deposition and declined to produce a witness;

10 7. Plaintiffs also subpoenaed ASCAP under Fed. R. Civ. P. 45 and  
11 30(b)(6) for the deposition of a representative of ASCAP most  
12 knowledgeable about the scope or validity of any copyright to Song  
13 and other related issues but ASCAP moved to quash the subpoena.  
14 ASCAP and Plaintiffs then resolved the dispute and ASCAP  
15 withdrew its motion to quash;

16 8. ASCAP's deposition will take place in New York on July 11, 2014;

17 9. Plaintiffs seek an extension of the discovery deadline to resolve this  
18 remaining discovery dispute relating to Defendants' privilege claims  
19 as to certain ASCAP Documents;

20 10. The pre-filing conference of counsel has already occurred and  
21 Plaintiffs, prior to the filing of this *ex parte* application, provided  
22 Defendants' counsel with Plaintiffs' portion of the Local Rule 37-2.2  
23 Joint Stipulation and noticed the Motion for July 30, 2014, the first  
24 available date under the Local Rules;

25 11. Absent this relief, under Local Rule 37-2, the Joint Stipulation and  
26 Supplemental Memorandum process cannot be fully completed and  
27 the motion heard prior to the discovery cut-off; and  
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1 12. Plaintiffs meet the requirements both for *ex parte* relief and for the  
2 underlying request to permit its motion to be heard after the cutoff.

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4 **ORDER**

5 **THEREFORE**, based upon the foregoing Findings of Fact and Conclusions  
6 of Law, Plaintiffs' *Ex Parte* Application is hereby **GRANTED**, as follows:

- 7 1. Plaintiffs acted diligently in serving its discovery requests and deposition  
8 notices, meeting and conferring with Defendants and ASCAP, and filing  
9 its motion to compel.
- 10 2. There is no prejudice to Defendants in having this motion heard now.  
11 The information sought is very limited in scope, and has already been  
12 produced by ASCAP.
- 13 3. Plaintiffs are not at fault in the need for this *ex parte* relief and good  
14 cause exists for an extension of the discovery cut-off deadline for this  
15 limited purpose.
- 16 4. Discovery cut-off is hereby extended as to this limited discovery  
17 dispute until the parties have completed the scheduled briefing and the  
18 Magistrate Judge completes its review of Defendants' documents and  
19 makes a ruling on the issues raised.

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21 **IT IS SO ORDERED.**

22 Dated: \_\_\_\_\_

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24 HON. GEORGE H. KING, CHIEF JUDGE  
25 UNITED STATES DISTRICT COURT JUDGE