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17
18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20 **SOUTHERN DIVISION**

21 BRYAN PRINGLE, an individual,

22 Plaintiff,

23 v.

24 WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
25 JAIME GOMEZ, all individually and
collectively as the music group The Black
26 Eyed Peas, *et al.*,

27 Defendants.
28

) Case No. SACV 10-1656 JST(RZx)
)
) **DECLARATION OF**
) **DEAN A. DICKIE IN**
) **OPPOSITION TO DEFENDANTS'**
) **EX PARTE APPLICATION FOR A**
) **PROTECTIVE ORDER**
) **Complaint Filed: October 28, 2010**
) **Trial Date: January 24, 2012**

DECLARATION OF DEAN A. DICKIE

I, DEAN A. DICKIE, declare as follows:

1. I am a partner at the law firm of Miller, Canfield, Paddock and Stone, P.L.C. (“Miller Canfield”) and am lead trial counsel for plaintiff Bryan Pringle (“Plaintiff”) in the above-captioned action.

2. On January 28, 2011, George L. Hampton IV, local counsel for Plaintiff in this action, sent a letter to Kara E. F. Cenar, attorney for defendants William Adams (“Adams”), Allen Pineda (“Pineda”) and Jamie Gomez (“Gomez”), and to Tracy B. Rane, attorney for Stacy Ferguson (“Ferguson”) (Adams, Pineda, Gomez and Ferguson are hereafter referred to as the “Black Eyed Peas Defendants”), inquiring as to the availability of the Black Eyed Peas Defendants to have their depositions taken. A true and correct copy of Mr. Hampton’s January 28, 2011 letter is attached to this Declaration as Exhibit “A.”

3. On March 21, 2011, Mr. Hampton served notices setting the depositions of the Black Eyed Peas Defendants for May of 2011. Mr. Hampton served the notices under cover of a letter stating Plaintiff’s willingness to move the depositions if other dates worked better for the schedules of the deponents and counsel. A true and correct copy of Mr. Hampton’s March 21, 2011 letter, attaching the notices setting the depositions of the Black Eyed Peas Defendants, among others, is attached to this Declaration as Exhibit “B.”

4. On March 22, 2011, Ms. Cenar sent an email to all counsel of record, including me, stating that all of the noticed deposition dates conflicted with her pre-set jury trials. Ms. Cenar did not propose any alternative dates for the depositions. A true and correct copy of Ms. Cenar’s March 22, 2011 email, time-stamped 5:38 a.m., is attached to this Declaration as Exhibit “C.”

5. Later on March 22, 2011, Mr. Hampton sent an email to counsel of record responding to Ms. Cenar’s March 22, 2011 email, in which he noted the depositions would remain as noticed unless and until the parties agreed to alternative

1 dates, and in which Mr. Hampton specifically requested that Ms. Cengar provide dates
2 for her clients' depositions. A true and correct copy of Mr. Hampton's March 22,
3 2011 email, time-stamped 3:30 p.m., is attached to this Declaration as Exhibit "D."

4 6. Later on March 22, 2011, Ms. Cengar sent an email responding to
5 Mr. Hampton's March 22, 2011 email, with copies sent to me and other counsel of
6 record. Rather than provide proposed alternative dates for the depositions,
7 Ms. Cengar demanded that Plaintiff's counsel withdraw the deposition notices.
8 Ms. Cengar also stated that her clients refused to proceed with the depositions until
9 Plaintiff's counsel provided her with a draft protective order governing
10 confidentiality. A true and correct copy of Ms. Cengar's March 22, 2011 email, time-
11 stamped 3:43 p.m., is attached to this Declaration as Exhibit "E."

12 7. On March 25, 2011, Mr. Hampton sent an email responding to
13 Ms. Cengar's March 22, 2011 emails, with copies sent to me and other counsel of
14 record. Mr. Hampton provided, as an attachment, a proposed protective order
15 governing confidentiality, and again requested that Ms. Cengar provide alternative
16 dates for her clients' depositions. A true and correct copy of Mr. Hampton's
17 March 25, 2011 email is attached to this Declaration as Exhibit "F."

18 8. On March 31, 2011, Ms. Cengar sent an email to me, Mr. Hampton, and
19 Ira Gould, another attorney of record for Plaintiff, with copies to other defense
20 counsel, in which she added new demands regarding the depositions. She demanded
21 that each of her clients' depositions be limited to two hours, and that her clients'
22 depositions be combined with their respective depositions in an unrelated case
23 entitled *Batts v. Adams, et al.*, C.D. Cal. Case No. CV10-8123 JFW (RZx) (the
24 "Batts Action"). Ms. Cengar also demanded that Plaintiff take all five of her clients'
25 depositions on the same day. Instead of providing alternative dates for her clients'
26 depositions, Ms. Cengar stated: "Once I have your answers [to these demands], I will
27 be in a better position to try to schedule the deponents for deposition." A true and
28

1 correct copy of Ms. Cengar's March 31, 2011 email is attached to this Declaration as
2 Exhibit "G."

3 9. On April 5, 2011, Ms. Cengar sent an email to me, Mr. Hampton, and
4 Mr. Gould, with copies to other defense counsel, in which she requested a response
5 to her March 31, 2011 email. A true and correct copy of Ms. Cengar's April 5, 2011
6 email, time-stamped 11:07 a.m., is attached to this Declaration as Exhibit "H."

7 10. Later on April 5, 2011, Mr. Hampton sent an email responding to
8 Ms. Cengar's email, with copies sent to me and other counsel of record. Mr. Hampton
9 pointed out that he had repeatedly requested alternative dates of availability for the
10 depositions, which defense counsel refused to provide, and that the depositions
11 would remain as noticed unless and until the parties agreed to mutually-agreeable
12 alternative dates. Mr. Hampton, for the fifth time, requested that Ms. Cengar provide
13 proposed alternative dates for the depositions. A true and correct copy of
14 Mr. Hampton's April 5, 2011 email, time-stamped 12:02 p.m., is attached to this
15 Declaration as Exhibit "I."

16 11. Later on April 5, 2011, Ms. Cengar sent a response email to
17 Mr. Hampton, with copies to me, Mr. Gould, and other defense counsel, in which she
18 stated that Plaintiff's attorneys' refusal to meet her demands was preventing her from
19 providing proposed alternative deposition dates. A true and correct copy of
20 Ms. Cengar's April 5, 2011 email, time-stamped 12:11 p.m., is attached to this
21 Declaration as Exhibit "J."

22 12. Later on April 5, 2011, Mr. Hampton sent an email responding to
23 Ms. Cengar's email, with copies sent to me and other counsel of record. Mr. Hampton
24 stated in his email: "[W]e intend to take the depositions pursuant to the *Federal*
25 *Rules of Civil Procedure*. Rule 30 of the *Federal Rules of Civil Procedure* allows
26 the plaintiffs in each case to depose each deponent for 1 day of 7 hours and thus we
27 will not agree to combine the depositions for the two cases, limit the depositions to 1
28 or 2 hours each or have two 7 hour depositions in 1 day." Mr. Hampton then asked

1 Ms. Cengar to clarify whether her clients were refusing to appear for a one-day,
2 seven-hour deposition in this matter as allowed by Rule 30. A true and correct copy
3 of Mr. Hampton’s April 5, 2011 email, time-stamped 1:17 p.m., is attached to this
4 Declaration as Exhibit “K.”

5 13. Later on April 5, 2011, Ms. Cengar sent a response email to
6 Mr. Hampton, with copies to me and other attorneys of record. Notwithstanding
7 Mr. Hampton’s multiple and unanswered requests for her clients’ availability,
8 Ms. Cengar accused Plaintiff’s counsel of being “[un]willing to accommodate [her]
9 schedule or [her] clients’ schedule.” Then, instead of providing proposed alternative
10 dates for her clients’ depositions—which is all Plaintiff’s counsel had asked for since
11 January 28, 2011—Ms. Cengar demanded that Plaintiff’s counsel give her Plaintiff’s
12 availability to take depositions three months out, in July 2011. Ms. Cengar also
13 conditioned further dialog on Plaintiff agreeing to reduce the time allowed for the
14 depositions under Rule 30. A true and correct copy of Ms. Cengar’s April 5, 2011
15 email, time-stamped 1:42 p.m., is attached to this Declaration as Exhibit “L.”

16 14. Later on April 5, 2011, Mr. Hampton sent an email responding to
17 Ms. Cengar’s email, with copies to me and other counsel of record. Mr. Hampton
18 stated in his email: “We have always been willing to discuss different dates. You
19 have blocked any meaningful discussion about possible alternative dates with one
20 obstacle and arbitrary condition after another.” Mr. Hampton explained that
21 Plaintiff’s counsel were interpreting Ms. Cengar’s previous responses—refusing to
22 provide alternative dates and imposing obstacles—as a refusal by her clients to
23 appear for a one-day, seven-hour deposition in this matter. A true and correct copy
24 of Mr. Hampton’s April 5, 2011 email, time-stamped 2:06 p.m., is attached to this
25 Declaration as Exhibit “M.”

26 15. Later on April 5, 2011, Ms. Cengar sent a response email to
27 Mr. Hampton, with copies to me and other attorneys of record. Still without
28 providing alternative dates for her clients’ depositions, Ms. Cengar again demanded

1 that Plaintiff’s counsel provide their availability for July 2011. Ms. Cengar took the
2 position that her clients’ willingness to appear for dates in July 2011—three months
3 out during a time period of their own choosing—meant that they had not refused to
4 appear for their depositions. Ms. Cengar stated she did not see any basis for a
5 potential motion compel. A true and correct copy of Ms. Cengar’s April 5, 2011
6 email, time-stamped 2:24 p.m., is attached to this Declaration as Exhibit “N.”

7 16. On April 6, 2011—nearly 10 weeks after Plaintiff’s counsel initially
8 requested that Ms. Cengar provide alternative deposition dates—Ms. Cengar stated in
9 an email to Mr. Hampton, me, and other counsel of record, that she was “looking
10 in[to] the week July 11th for setting the deposition[s].” Ms. Cengar, however, also
11 said that she had a jury trial that week which created a conflict. Without providing
12 any specific dates for her clients’ depositions, Ms. Cengar again demanded that
13 Plaintiff’s counsel provide their availability. A true and correct copy of Ms. Cengar’s
14 April 6, 2011 email, time-stamped 4:40 p.m., is attached to this Declaration as
15 Exhibit “O.”

16 17. Later on April 6, 2011, Mr. Hampton sent an email responding to
17 Ms. Cengar’s email, with copies sent to me and other counsel. Mr. Hampton stated:
18 “Because you and the deponents refuse to appear for a 1 day (7 hour) deposition ...
19 we intend to file motions to compel.” A true and correct copy of Mr. Hampton’s
20 April 6, 2011 email is attached to this Declaration as Exhibit “P.”

21 18. Later on April 6, 2011, Ms. Cengar sent a response email to
22 Mr. Hampton, with copies to me and other attorneys of record. Without providing
23 specific alternative dates and without retracting her position that her clients would
24 not appear for full seven hour depositions, Ms. Cengar again asked for Plaintiff’s
25 counsel’s availability for the week of July 11, 2011—a time when Ms. Cengar was
26 already committed to a jury trial. A true and correct copy of Ms. Cengar’s April 6,
27 2011 email, time-stamped 5:10 p.m., is attached to this Declaration as Exhibit “Q.”
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1 19. On April 11, 2011, Ms. Cengar sent an email to Mr. Hampton, with
2 copies to me and other attorneys of record, again asking Plaintiff’s counsel to
3 provide Plaintiff’s availability in July 2011. A true and correct copy of Ms. Cengar’s
4 April 11, 2011 email, time-stamped 3:44 p.m., is attached to this Declaration as
5 Exhibit “R.”

6 20. Later on April 11, 2011, Mr. Hampton sent an email responding to
7 Ms. Cengar’s email, with copies sent to me and other counsel. Mr. Hampton noted in
8 his email that counsel for the Black Eyed Peas Defendants still had not agreed “to
9 produce each of [their] clients for a 1 day (7 hour) deposition in EACH case ...,” and
10 still had not provided any alternative dates “certain” for each of their clients’
11 depositions. A true and correct copy of Mr. Hampton’s April 11, 2011 email, time-
12 stamped 4:14 p.m., is attached to this Declaration as Exhibit “S.”

13 21. Later on April 11, 2011, Ms. Cengar sent a response email to
14 Mr. Hampton, with copies to me and other attorneys of record. Notwithstanding her
15 continuous refusal to provide alternative deposition dates and evolving list of
16 demands, Ms. Cengar claimed that Plaintiff’s counsel “had no intent to cooperate in
17 any attempt to find mutually agreeable date[s] for depositions.” A true and correct
18 copy of Ms. Cengar’s April 11, 2011 email, time-stamped 4:19 p.m., is attached to this
19 Declaration as Exhibit “T.”

20 22. Defense counsel thereafter informed Plaintiff’s counsel that the Black
21 Eyed Peas Defendants were only available for deposition the week of July 18-22,
22 2011, and that Plaintiff in the instant action *and the plaintiffs in the Batts Action*
23 would have to take the Black Eyed Peas Defendants’ depositions during that one
24 week.

25 23. On May 12, 2011, I sent a letter to Jonathan Pink, one of the attorneys
26 of record for Adams, Pineda and Gomez, and to Ms. Rane, agreeing to take the
27 depositions of the Black Eyed Peas Defendants in this matter on July 19 and 20,
28

1 2011, and in the Batts Action on July 21 and 22, 2011. A true and correct copy of
2 my May 12, 2011 letter is attached to this Declaration as Exhibit “U.”

3 24. On May 16, 2011, Mr. Pink sent me a letter stating that the deposition
4 schedule Plaintiff’s counsel had set was unacceptable because it required dual
5 tracking. Mr. Pink further stated: “Seven hours on the record with each deponent
6 should be sufficient to gather full and complete responses to all your questions with
7 respect to both the Batts and Pringle lawsuits.” Mr. Pink went on to state that if
8 Plaintiff wanted more time with the deponents he was “open to discussing additional
9 dates in the Fall.” Mr. Pink also objected to the depositions taking place in Newport
10 Beach on the ground that it would be “unduly burdensome” for the deponents to
11 travel to Newport Beach from their residences in Los Angeles. A true and correct
12 copy of Mr. Pink’s May 12, 2011 letter is attached to this Declaration as Exhibit “V.”

13 25. On May 17, 2011, I sent a letter to Mr. Pink and Ms. Rane noting that
14 Plaintiffs are entitled to take seven hour depositions of each of the Black Eyed Peas
15 Defendants in each case, that the dual tracking was necessary in light of the
16 deponents’ refusal to provide availability beyond a single week, and that the
17 deponents’ objection to the deposition location was not well taken given that
18 Newport Beach is only 50 miles south of Los Angeles. A true and correct copy of
19 my May 17, 2011 letter is attached to this Declaration as Exhibit “W.”

20 26. Mr. Pink thereafter informed me that as a result of a change in the Black
21 Eyed Peas Defendants’ schedule, they would be made available for deposition only
22 during the week of July 25 to 29, 2011. Mr. Pink still did not agree to dual tracking
23 of the depositions or to provide additional dates in that time period so that full seven-
24 hour depositions of the Black Eyed Peas Defendants could be taken both in the
25 instant action and in the Batts Action.

26 27. On June 3, 2011, Mr. Pink initiated a letter to Plaintiff’s counsel stating
27 that the Black Eyed Peas Defendants were now only going to be available on July 22,
28

1 25, 26, and 27. A true and correct copy of the June 3, 2011 letter is attached to this
2 Declaration as Exhibit "X."

3 28. Accordingly, we issued amended notices of deposition confirming the
4 depositions of the Black Eyed Peas members for those available dates in July in this
5 matter.

6 29. In addition to being lead counsel for Plaintiff in the instant action, I am
7 lead counsel for the plaintiffs in the *Batts* Action. Due to Defendants' refusal to
8 present the Black Eyed Peas member for seven hours each in the *Batts* matter,
9 Plaintiffs in that case were forced to file a motion to compel 7-hour depositions of
10 those defendants. A true and correct copy of the *Batts* Motion to Compel letter is
11 attached to this Declaration as Exhibit "Y." That motion to compel is set for hearing
12 on July 25, 2011. *Id.*

13 30. Since the filing of the *Batts* Motion to Compel, counsel for Defendants
14 have repeatedly badgered counsel for Plaintiff to agree to proceed with the *Batts*
15 Black Eyed Peas member depositions on the dates already confirmed for this matter.
16 We have repeatedly assured counsel for the Black Eyed Peas Defendants during meet
17 and confers and via e-mail that we would await the Court's ruling in *Batts* on the
18 Motion to Compel, that we intended to proceed with the depositions of the Black
19 Eyed Peas members on July 22, 25, 26 and 27 in the *Pringle* case, and that we were
20 not proceeding with the previously noticed depositions of those defendants in the
21 *Batts* case.

22 I declare under penalty of perjury under the laws of the United States of
23 America that the foregoing is true and correct. Executed on this 6th day of July,
24 2011, at Chicago, Illinois.

25
26 

27 _____
28 Dean A. Dickie