

EXHIBIT R

From: [Cenar, Kara](#)
To: [Cenar, Kara](#); [George Hampton](#)
Cc: [Pink, Jonathan Stuart](#); [Righettini, Justin](#); [Seale, Merll](#); [Ed McPherson](#); [Linda Burrow](#); [Barry Slotnick](#); [gould@igouldlaw.com](#); [Dickie@MillerCanfield.com](#); [rgreely@igouldlaw.com](#); [Colin Holley](#); [Koppenhoefer, Kathleen E.](#); [Dunn, Katharine N.](#); [Tracy Rane](#); [Seale, Merll](#)
Subject: RE: Scheduling Issues and meet and confer on order of discovery.
Date: Monday, April 11, 2011 3:44:21 PM

George,

I still have not received a response to my inquiry regarding July dates. Please provide

From: Cenar, Kara
Sent: Wednesday, April 06, 2011 7:10 PM
To: George Hampton
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merll; Ed McPherson; Linda Burrow; Barry Slotnick; [gould@igouldlaw.com](#); [Dickie@MillerCanfield.com](#); [rgreely@igouldlaw.com](#); Colin Holley; Koppenhoefer, Kathleen E.; Dunn, Katharine N.; Tracy Rane; Seale, Merll
Subject: Re: Scheduling Issues and meet and confer on order of discovery.

Your intent to file a motion is unfounded.

Please tell me if you and your team is available or not for deposition the week of July 11th.

We have not refused to produce any requested witness. Quite the opposite. We simply cannot agree to your proposed dates because neither I nor my clients are available.

As for your reference to the intended Summary Judgment motion I asked you to identify what witness you thought you needed for the Issues I identified and offered to try to prioritize scheduling for those deponents and you refused to answer or engage in any discussion.

We are also revising the protective order governing confidentiality and will talk with you about it's entry by stipulation I believe during Jonathan's call with you Friday.

I am available to meet and confer on these points, as the Rules require, whenever you would like.

I strongly encourage you to refrain from filing your proposed motion and engage in meaningful scheduling discussions.

Thanks for your prompt attention to this matter.

Kara

On Apr 6, 2011, at 6:56 PM, George Hampton
<ghampton@hamptonholley.com> wrote:

Kara,

Because you and the deponents refuse to appear for a 1 day (7 hour) deposition in each case, we intend to file motions to compel. Given the scheduling orders in each case, not to mention your stated intention to file a motion for summary judgment, the depositions will have to occur before July and will we ask the Court to order that the depositions be scheduled accordingly.

George

From: Cenar, Kara [mailto:Kara.Cenar@bryancave.com]
Sent: Wednesday, April 06, 2011 4:40 PM
To: George Hampton
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merrill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'; 'gould@gouldlaw.com'; 'Dickie@MillerCanfield.com'; 'rgreely@gouldlaw.com'; Colin Holley; Koppenhoefer, Kathleen E.; 'Dunn, Katharine N.'; Tracy Rane; Seale, Merrill
Subject: RE: Scheduling issues and meet and confer on order of discovery.

George,

Having not heard from you regarding your unavailable dates in July, please be advised that I am looking to the week of July 11th for setting the deposition days for my clients for both cases. Once I confirm specific dates during that week for specific individuals I will let you know. I am also checking with my trial schedule because I have another Jury trial set for that week. I am hoping for it to settle. I should know this soon.

If there is any problem with Plaintiffs' counsel's schedule for the week of July 11th please advise me immediately.

Thank you for your prompt attention to this request.

Kara

From: George Hampton [mailto:ghampton@hamptonholley.com]
Sent: Tuesday, April 05, 2011 4:11 PM
To: Cenar, Kara
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merrill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'; 'gould@gouldlaw.com'; 'Dickie@MillerCanfield.com'; 'rgreely@gouldlaw.com'; Colin Holley; Koppenhoefer, Kathleen E.; 'Dunn, Katharine N.'; Tracy Rane
Subject: RE: Scheduling issues and meet and confer on order of discovery.

Kara,

Our position has never wavered. We have always been willing to discuss different dates. You have blocked any meaningful discussion about possible alternative dates with one obstacle and arbitrary condition after another. The e-mail and correspondence between us in this regard is clear and no

further elaboration is necessary or warranted. By your response I understand that the deponents are refusing to appear for a 1 day (7 hour) deposition in each case. Whether you seek a protective order, or we move to compel, the parties will need to submit a "joint" stipulation regarding the dispute pursuant to Local Rule 37-2. Please let me know when you would like to exchange our respective portions.

George

From: Cenar, Kara [mailto:Kara.Cenar@bryancave.com]

Sent: Tuesday, April 05, 2011 1:42 PM

To: George Hampton

Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merrill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'; 'gould@gouldlaw.com'; 'Dickle@MillerCanfield.com'; 'rgreely@gouldlaw.com'; Colin Holley; Koppenhoefer, Kathleen E.; 'Dunn, Katharine N.'

Subject: RE: Scheduling Issues and meet and confer on order of discovery.

George,

I have informed you now twice that our clients are not available on the dates noticed, nor am I. You represented that you would reschedule to dates that work for them and now you are retracting that representation. Please be advised, again, neither I nor my clients can or will appear on the dates noticed, as we are not available.

Please also note that if you continue to insist on scheduling depositions of the other defendants on dates that you know I am not available, I will also need to request relief from the Court. The Court and the Court Rules anticipate cooperation on these issues.

Given your response below, we will necessarily have to seek a protective order regarding the taking of depositions of the requested individuals for both cases at one 7 hour sitting/date. I understand from your response below that you would oppose such a request. If this is not accurate, Please let me know.

Also given your response, we will likely also move for protective order regarding dates for such depositions. I understand from you that you are not willing to accommodate my schedule or my clients schedule and you are demanding that they appear on dates you know they and I are not available.

Please let me know in this meet and confer attempt, if you will reconsider any of your positions.

In the meantime, given your response that you intend to depose each member of the Black Eyed Peas on two separate days for a total of 14 hours, I am likely looking at dates in July for their depositions. Please let me know if there are any dates during the month of July that you are not available for these depositions.

My clients work travel and tour schedule is unlikely to accommodate an earlier date. I will focus on that time frame for scheduling purposes.

If you would like to have further dialog on this point, and provide us with a more reasonable or appropriate estimate of time required, I am happy to work further with you on scheduling.

Kara

From: George Hampton [mailto:ghampton@hamptonholley.com]
Sent: Tuesday, April 05, 2011 3:22 PM
To: Cenan, Kara
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'; 'gould@gouldlaw.com'; 'Dickie@MillerCanfield.com'; 'rgreely@gouldlaw.com'; Colin Holley; Koppenhoefer, Kathleen E.; 'Dunn, Katharine N.'
Subject: RE: Scheduling issues and meet and confer on order of discovery.

Kara,

As set forth in my e-mail, we intend to take the depositions pursuant to the *Federal Rules of Civil Procedure*. Rule 30 of the *Federal Rules of Civil Procedure* allows the plaintiffs in each case to depose each deponent for 1 day of 7 hours and thus we will not agree to combine the depositions for the two cases, limit the depositions to 1 or 2 hours each or have two 7 hour depositions in 1 day.

Please let me know if any of the deponents are refusing to appear for a 1 day (7 hour) deposition in each case.

George

From: Cenan, Kara [mailto:Kara.Cenan@bryancave.com]
Sent: Tuesday, April 05, 2011 12:11 PM
To: George Hampton
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'; 'gould@gouldlaw.com'; 'Dickie@MillerCanfield.com'; 'rgreely@gouldlaw.com'; Colin Holley
Subject: RE: Scheduling issues and meet and confer on order of discovery.

George,

Per my email below, I am trying to secure those dates. I ask again, please respond to my questions (below) so that I may set firm dates in the calendar. Your refusal to engage in necessary dialog is the sole thing preventing firm dates from being proposed. Thank you for your prompt attention to this matter.

From: George Hampton
[mailto:ghampton@hamptonholley.com]
Sent: Tuesday, April 05, 2011 2:06 PM

To: Cemar, Kara
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merrill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'; 'gould@gouldlaw.com'; Dickle@MillerCanfield.com; rgreely@gouldlaw.com; Colin Holley
Subject: RE: Scheduling issues and meet and confer on order of discovery.

Kara,

I have repeatedly requested that you provide me with dates for your clients' depositions so that they could be noticed on mutually convenient dates. In this regard, please see my correspondence dated January 28, 2011, March 21, 2011, March 22, 2011 and March 25, 2011. To date you have refused to provide *any* dates for *any* of the depositions. Your failure to cooperate is not in good faith and demonstrates defendants' continued effort to delay the depositions. We intend to take the depositions pursuant to the *Federal Rules of Civil Procedure* and we will not agree to your proposed time limitation.

As stated in my March 22, 2011 e-mail: the depositions will remain as noticed unless and until the parties agree to mutually agreeable alternative dates. Accordingly and for the *fifth* time, I would appreciate it if you would provide me with proposed alternative dates for the depositions.

George

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Please consider the environment before printing this e-mail.

From: Cengar, Kara [mailto:Kara.Cengar@bryancave.com]
Sent: Tuesday, April 05, 2011 11:07 AM
To: Cengar, Kara; George Hampton; 'gould@igouldlaw.com'; 'Dickle, Dean A.'; 'rgreely@igouldlaw.com'
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merrill; 'Ed McPherson'; 'Linda Burrow'; 'Barry Slotnick'
Subject: RE: Scheduling issues and meet and confer on order of discovery.

George, Dean and Ira,

I have not yet received a response to the email below. Please let me know as soon as possible as I need to try to coordinate many schedules to get deposition dates on calendar.

Thank you for your prompt attention to this matter.

From: Cengar, Kara
Sent: Thursday, March 31, 2011 6:40 PM
To: 'George Hampton'; 'gould@igouldlaw.com'; Dickle, Dean A.; 'rgreely@igouldlaw.com'
Cc: Pink, Jonathan Stuart; Righettini, Justin; Seale, Merrill; Ed McPherson; 'Linda Burrow'; 'Barry Slotnick'
Subject: Scheduling issues and meet and confer on order of discovery.

George, Ira and Dean,

I write in response to your letters of March 21, sent in both the Batts and Pringle matters, seeking to schedule depositions for individual members of The Black Eyed Peas, and representing a willingness to accommodate both counsels' and my clients' schedules.

The dates you have noticed for my clients' depositions, as well as depositions of others, will not work for my schedule as they conflict with a Jury trial I have scheduled.

The dates proposed also do not work for my clients' work and travel schedules.

Thus the dates you have selected will have to be rescheduled to a different time and different location. At

least for my clients, please do not expect an appearance on the dates you have Noticed for their deposition in either case.

In an attempt to find available dates for deposition for everyone, I could not help but notice that you have scheduled each individual member of The Black Eyed Peas for two separate full days of deposition, one full day for each case. In some instances, for example Stacy Ferguson, you have her requested for one day and then are requesting that she return back two days later for another deposition. This is burdensome, oppressive and unnecessary in view of the limited issues involved in each case, and the limited knowledge each of these witnesses would have to those issues. Your proposed scheduling is making it very difficult to try to find time slots that work for everyone's schedule.

Given the very limited issues upon which the requested deponents would have knowledge with respect to your clients' copyright claims, I can't imagine each deposition taking more than one hour, two at the most, for the copyright issues in both cases combined.

That said, it would greatly help my attempts at rescheduling these depositions on dates and times convenient to all individuals and counsel (of which you know we have many in each case) if we could reach agreement on:

a) a realistic estimate of time for each deponent (i.e. can we expect 2 hours per person)

and/or

b) whether we can select a single day for a single deposition of a deponent on both cases,

and/or

c) whether we can schedule one day to take everyone's deposition (assuming 1-2 hr or so deposition per individual)

Please let me know the answers to the above requests. Once I have your answers, I will be in a better position to try to schedule the deponents for deposition.

Also, we anticipate filing a summary judgment on Batts on both access and inability to meet the extrinsic test, and a Motion for Summary Judgment possibly also in the Pringle case on issues such as your client's sample claim. This is particularly likely given both Courts' rulings on the Preliminary Injunction Motion and your clients' admissions in their discovery responses.

We would like to try to limit attorneys fees and discovery expenses as much as possible with respect to each of the cases and are seeking your agreement to limit and to prioritize discovery at the forefront to only that which you believe is necessary for those limited liability issues.

The Intent of my request is to try to meet and confer on this point and to try to limit unnecessary use of either of our clients' time, and to try to keep attorneys fees down as much as possible for all parties. As you know the Copyright Act permits my clients to an award of attorney fees should it prevail on these matters. I am mindful of the modest resources of your clients and am attempting to limit their potential exposure by reaching agreement with you on simple priority of discovery.

In that light, please let me know what individual depositions of any requested deponent you believe are necessary in the Batts case on the liability issues of access and the extrinsic test. I will focus my efforts to schedule those folks as early as possible. Please let me know what individual deponents you believe are necessary on the sampling claim of Mr. Pringle (which I don't believe could require the deposition of any of my clients but look to you for guidance) and I will endeavor to also try to prioritize my scheduling efforts on those individuals so that discovery on these issue can proceed promptly.

Of course if you are willing to stipulate to judgment on either of these cases based upon the issues determined in the preliminary injunction proceeding, thereby eliminating all further attorneys fees and costs, we would be willing to discuss that route as well.

I look forward to working with you on the aforementioned scheduling efforts and the meet and confer issues raised above. Thank you in advance for your cooperation.

Kara

Kara E. F. Cenar | BRYAN CAVE LLP

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