

1 Dean A. Dickie (appearing *Pro Hac Vice*)  
 Dickie@MillerCanfield.com  
 2 Kathleen E. Koppenhoefer (appearing *Pro Hac Vice*)  
 Koppenhoefer@MillerCanfield.com  
 3 MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.  
 225 West Washington Street, Suite 2600  
 4 Chicago, IL 60606  
 Telephone: 312.460.4200  
 5 Facsimile: 312.460.4288

6 Ira Gould (appearing *Pro Hac Vice*)  
 gould@igouldlaw.com  
 7 Ryan L. Greely (appearing *Pro Hac Vice*)  
 rgreely@igouldlaw.com  
 8 GOULD LAW GROUP  
 120 North LaSalle Street, Suite 2750  
 9 Chicago, IL 60602  
 Telephone: 312.781.0680  
 10 Facsimile: 312.726.1328

11 George L. Hampton IV (State Bar No. 144433)  
 ghampton@hamptonholley.com  
 12 Colin C. Holley (State Bar No. 191999)  
 cholley@hamptonholley.com  
 13 HAMPTONHOLLEY LLP  
 2101 East Coast Highway, Suite 260  
 14 Corona del Mar, California 92625  
 Telephone: 949.718.4550  
 15 Facsimile: 949.718.4580

16 Attorneys for Plaintiff  
 BRYAN PRINGLE

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

<p>21 BRYAN PRINGLE, an individual,</p> <p>22                   Plaintiff,</p> <p>23                   v.</p> <p>24 WILLIAM ADAMS, JR.; STACY</p> <p>25 FERGUSON; ALLAN PINEDA; and</p> <p>26 JAIME GOMEZ, all individually and</p> <p>                  collectively as the music group The Black</p> <p>                  Eyed Peas, <i>et al.</i>,</p> <p>27                   Defendants.</p>	<p>) Case No. SACV 10-1656 JST(RZx)</p> <p>) <b>PLAINTIFF’S RESPONSE TO EX</b></p> <p>) <b>PARTE APPLICATION TO</b></p> <p>) <b>CONSOLIDATE HEARINGS</b></p>
---	--

28

1 Defendants seek to move the hearing on their Motions to Dismiss/Strike/More  
2 Definite Statement from January 24, 2011 to January 31, 2011, so that they can be  
3 heard on the same day as Plaintiff's Motion for Preliminary Injunction. Plaintiff's  
4 counsel opposes Defendants' request because it would confuse the issues, overwhelm  
5 the Court, and potentially prejudice Plaintiff, and because Defendants have not  
6 established good cause for consolidating the motions.

### 7 **BACKGROUND**

8 **On January 24, 2011**, the Court will hear argument on the following motions:

- 9 1. Motion to Dismiss First Amended Complaint, Motion to Strike  
10 First Amended Complaint, Motion for More Definite Statement  
11 filed by Defendants Cherry River Music Co., EMI April Music  
12 Inc., Stacy Ferguson (collectively as the music group the Black  
13 Eyed Peas), Jaime Gomez (collectively as the music group the  
14 Black Eyed Peas), Headphone Junkie Publishing LLC, Jeepney  
15 Music Inc., William Adams, Jr. (individually), Allan Pineda  
(collectively as the music group the Black Eyed Peas), Tab  
Magnetic Publishing, Will.I.Am Music LLC, and
- 16 2. Motion to Dismiss filed by Defendant Shapiro Bernstein and Co.

17 Each of the remaining Defendants have moved to join the two motions. Both  
18 motions have been fully briefed by the parties. Each of these motions involves  
19 substantial legal issues which will require adequate time for both parties to properly  
20 address at the hearing. There are many different defendants and numerous law firms  
21 involved in the case and who will desire an opportunity to speak at the hearing.

22 In addition to Defendants' motions, plaintiff Bryan Pringle ("Pringle") filed a  
23 Motion for Preliminary Injunction, and that motion is set for hearing on **January 31,**  
24 **2011**. This is also an important motion raising substantive legal issues and  
25 evidentiary matters. Defendants responded to the motion on January 10, 2011.  
26 Pringle's reply will be filed on January 18, 2011 (as January 17, 2011 is a Court  
27 holiday).

1 **ARGUMENT**

2 Defendants cite convenience to the Court, without explanation, as one reason  
3 supporting consolidation of the two hearings. Given the number of issues involved  
4 in the three motions (none of which are overlapping between Pringle’s Motion for  
5 Preliminary Injunction and Defendants’ motions), however, consolidating all  
6 motions to one date, and effectively bunching them together, would create more  
7 work for the Court and its staff<sup>1</sup> as well as create the risk of confusion between the  
8 relevant issues on the same day that could potentially prejudice the Plaintiff. First,  
9 bunching up the hearings on the same day would no doubt impose serious time  
10 constraints on the respective Motions, thus prohibiting Plaintiff (and Defendants for  
11 that matter) from being able to properly address all the issues before the Court.  
12 Second, in the event that the Court rules on Defendants’ motions in a way that  
13 substantively or procedurally affects Plaintiff’s Motion for Preliminary Injunction,  
14 Plaintiff may have no time to determine just how the hearing might be affected, and  
15 in the end there would be a risk that the hearing might not be finished on the  
16 scheduled date.

17 Likewise, Defendants did not submit any Declaration stating that it would be a  
18 hardship for them to appear at both hearings, nor did they make the claim in their  
19 Motion. Instead, they simply argued it would be more efficient to appear once. In  
20 support of this argument, Defendants cite to it being in Pringle’s convenience as  
21 well. It is efficient in a limited way, but inefficient on the broader scale. Pringle’s  
22

---

23  
24 <sup>1</sup> This argument was pointed out to Mr. Pink, counsel for Defendants, on January 6,  
25 2010 (“Given the number of motions “on calendar” and the substantive issues  
26 involved, Pringle’s counsel does not agree that consolidating the hearings in each  
27 matter is practical. Indeed, we believe that consolidating the hearings would  
28 overwhelm the respective courts and their staff and prolong the hearings.”), a  
communication Defendants did not attach to their *ex parte* application. See January  
6, 2011 email from George Hampton to Jonathon Pink, a true and correct copy of  
which is attached to this Response as Exhibit 1.

1 counsel have already indicated their willingness to travel to California for both  
2 hearings and do not find it to be inconvenient.

3 Further, the reasons cited by Defendants are among the primary reasons why  
4 local counsel is used—so that inconvenient travel schedules cannot be used as a  
5 reason to disrupt litigation schedules.

6 **CONCLUSION**

7 For each of the reasons identified in this Memorandum, Plaintiff Bryan Pringle  
8 requests that the Court deny Defendants’ *Ex Parte* Application to Consolidate  
9 Hearings.

10  
11 Dated: January 11, 2011

Dean A. Dickie (appearing *Pro Hac Vice*)  
Kathleen E. Koppenhoefer (appearing *Pro Hac Vice*)  
MILLER, CANFIELD, PADDOCK AND STONE,  
P.L.C.

Ira Gould (appearing *Pro Hac Vice*)  
Ryan L. Greely (appearing *Pro Hac Vice*)  
GOULD LAW GROUP

George L. Hampton IV (State Bar No. 144433)  
Colin C. Holley (State Bar No. 191999)  
HAMPTONHOLLEY LLP

18 By: /s/ Ira Gould  
Ira Gould

20 Attorneys for Plaintiff  
BRYAN PRINGLE

**George Hampton**

---

**From:** George Hampton  
**Sent:** Thursday, January 06, 2011 11:12 AM  
**To:** Pink, Jonathan Stuart  
**Cc:** Dickie, Dean A.; 'Ira Gould'; 'Cenar, Kara'; 'Linda Burrow'; 'rrappaport@loeb.com'; 'tdickstein@loeb.com'  
**Subject:** Consolidating Hearings

Mr. Pink,

This e-mail responds to your January 5, 2011 e-mail to plaintiffs' counsel requesting that we stipulate to consolidate the hearings in the Batts and Pringle matters which are currently scheduled for January 24 and January 31. Given the number of motions "on calendar" and the substantive issues involved, plaintiffs' counsel do not agree that consolidating the hearings in each matter is practical. Indeed, we believe that consolidating the hearings would overwhelm the respective courts and their staff and prolong the hearings.

On a related note, please contact Ira Gould's office to arrange for your expert to analyze the .nrg file of the derivative version of "Take a Dive" at issue in the Pringle matter.

George Hampton

George L. Hampton IV  
HAMPTONHOLLEY LLP  
2101 East Coast Highway  
Suite 260

Corona del Mar, CA 92625

DID 949.718.4551

Fax 949.718.4580

[www.hamptonholley.com](http://www.hamptonholley.com)



**HAMPTONHOLLEY LLP**  
Civil Trial Lawyers

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or contain attorney work product and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify George Hampton immediately by e-mail, at [ghampton@hamptonholley.com](mailto:ghampton@hamptonholley.com) and delete the original message.



Please consider the environment before printing this e-mail.

## CERTIFICATE OF SERVICE

1           On January 11, 2011, I electronically filed the foregoing PLAINTIFF'S  
2 RESPONSE TO EX PARTE APPLICATION TO CONSOLIDATE HEARINGS  
3 using the CM/ECF system which will send notification of such filing to the following  
4 registered CM/ECF Users:

5 Mariangela Seale           [merili.seale@bryancave.com](mailto:merili.seale@bryancave.com)  
6 Karen R. Thorland       [vhenderson@loeb.com](mailto:vhenderson@loeb.com), [kthorland@loeb.com](mailto:kthorland@loeb.com)  
7 Barry I. Slotnick       [bslotnick@loeb.com](mailto:bslotnick@loeb.com)  
8 Ira P. Gould           [gould@igouldlaw.com](mailto:gould@igouldlaw.com)  
9 Tal Efram Dickstein    [tdickstein@loeb.com](mailto:tdickstein@loeb.com)  
10 Linda M. Burrow        [wilson@caldwell-leslie.com](mailto:wilson@caldwell-leslie.com), [burrow@caldwell-leslie.com](mailto:burrow@caldwell-leslie.com),  
11                            [popescu@caldwell-leslie.com](mailto:popescu@caldwell-leslie.com),  
12 Ryan Christopher Williams   [williamsr@millercanfield.com](mailto:williamsr@millercanfield.com)  
13 Kara E. F. Cenar        [kara.cenar@bryancave.com](mailto:kara.cenar@bryancave.com)  
14 Ryan L. Greely         [rgreely@igouldlaw.com](mailto:rgreely@igouldlaw.com)  
15 Robert C. Levels        [levels@millercanfield.com](mailto:levels@millercanfield.com)  
16 Kathleen E. Koppenhoefer   [koppenhoefer@millercanfield.com](mailto:koppenhoefer@millercanfield.com)  
17 Rachel Aleeza Rappaport   [rrappaport@loeb.com](mailto:rrappaport@loeb.com)  
18 Jonathan S. Pink        [jonathan.pink@bryancave.com](mailto:jonathan.pink@bryancave.com),  
19                            [carlie.peisley@bryancave.com](mailto:carlie.peisley@bryancave.com),  
20                            [elaine.hellwig@bryancave.com](mailto:elaine.hellwig@bryancave.com)  
21 Dean A. Dickie         [dickie@millercanfield.com](mailto:dickie@millercanfield.com), [frye@millercanfield.com](mailto:frye@millercanfield.com),  
22                            [deuel@millercanfield.com](mailto:deuel@millercanfield.com), [smithkaa@millercanfield.com](mailto:smithkaa@millercanfield.com),  
23                            [seaton@millercanfield.com](mailto:seaton@millercanfield.com), [williamsr@millercanfield.com](mailto:williamsr@millercanfield.com)  
24 Heather L. Pearson       [pearson@caldwell-leslie.com](mailto:pearson@caldwell-leslie.com)

25           I am unaware of any attorneys of record in this action who are not registered  
26 for the CM/ECF system or who did not consent to electronic service.

27           I certify under penalty of perjury under the laws of the United States of  
28 America that the foregoing statements are true and correct.

Dated: January 11, 2011            /s/Colin C. Holley

George L. Hampton IV (State Bar No. 144433)  
Colin C. Holley (State Bar No. 191999)  
HAMPTONHOLLEY LLP  
2101 East Coast Highway, Suite 260  
Corona del Mar, California 92625  
Telephone: 949.718.4550  
Facsimile: 949.718.4580