

Subject: Steve Jobs Deposition

From: David Kiernan

12/08/2010 02:04 PM

To: Xan Bernay

Xan: I'm in a deposition but wanted to follow up on our previous conversations about plaintiffs' deposition notice to Steve Jobs. We would like to agree to a briefing schedule for a motion for protective order should one become necessary. We continue to believe that once plaintiffs complete the depositions of Robbin, Farrugia, and Heller, plaintiffs will recognize that Mr. Jobs's deposition is unnecessary. If plaintiffs continue to insist on seeking Mr. Jobs's deposition, we propose that (1) any motion for protective order be filed on December 17, the day after Mr. Heller's deposition, (2) any opposition be filed on December 31, (3) any reply be filed on January 5, and (4) the hearing be held on January 11 (note that Judge Lloyd hears such motions on Tuesdays). Per the federal rules, the deposition would not go forward on the 20th while the motion is pending. See Fed. R. Civ. Proc. 37(d) and 1993 Notes thereto; *Societe Civile Succession Guino v. Renoir*, 2008 WL 5157719 *2 (9th Cir. 2008). If our motion is unsuccessful, we will work to schedule a mutually convenient date for Mr. Jobs's deposition before your opposition to our renewed motion for summary judgment would be due. Please let me know if you agree with the schedule. Many thanks

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