

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

WAKA, LLC,

Plaintiff-Counterclaim Defendant,

v.

DC KICKBALL,

and

CARTER RABASA, Individually

Defendants-Counterclaim Plaintiffs.

Civil Action No. 1:06cv00984 EGS

Next Hearing:  
Oct. 17, 2007 (12:00 p.m.)

JOINT STATUS REPORT

Plaintiff-Counterclaim Defendant WAKA, LLC (“Plaintiff”), and Defendant-Counterclaim Plaintiffs DC Kickball and Carter Rabasa (collectively “Defendants”), hereby submit their Joint Status Report, and would respectfully show unto the Court as follows:

1. Date of Last Court Appearance

The parties last appeared before this Court on October 4, 2006 and the Initial Status Conference. A settlement conference was also held with Magistrate Judge Kay on February 21, 2007. The parties were unable to reach a settlement at this conference.

2. Current Case Status

The parties are currently engaged in the last stages of discovery respecting issues framed by the Plaintiff’s Complaint. The deadline for filing Motions for Summary Judgment is November 5, 2007. Discovery on the antitrust issues raised by Defendants’

counterclaim has been stayed by Order of the Court. The parties to date have been unable to reach a mutually agreeable settlement of this case.

3. **Pending Motions**

There are no motions presently pending.

4. **Matters To Be Resolved At the Status Conference**

Defendants have identified deficiencies with Plaintiff's discovery responses and document production, which were not provided until after the discovery deadline in the current scheduling order and seek either (a) an extension of the discovery period to permit necessary discovery to be completed, or (b) leave to file a Motion to Compel Plaintiff's complete responses to Defendant's discovery requests.

Plaintiff disagrees that there are deficiencies in discovery but agrees that the discovery period should be extended by thirty (30) days in an effort to resolve the issues Defendants believe exist and in order to allow the Plaintiff to take the 30(b)(6) deposition of the Defendant. Plaintiff also agrees to discuss any and all alleged discovery issues at the time of the conference.

5. **Parties Recommendations Regarding How The Case Should Proceed**

Defendants' recommendation is that the discovery period should be extended for sixty days to accommodate additional discovery Defendants now believe is necessary in view of Plaintiff's failure to adequately or timely respond to Defendant's requests. Defendants do not suggest that any other date should be moved. Defendants intend to file a Motion for Summary Judgment respecting the copyright issues in the case prior to the November 5, 2007 deadline contained in the current scheduling order. It is Defendants' suggestion that the Court entertain a further status conference to be held once the Court

has under submission Defendants' Motion for Summary Judgment, since the Court's ruling on that Motion appears to be a necessary predicate to the Court's further consideration of whether Defendant's antitrust counterclaim as indicated in the Court's Order of May 25, 2007.

Plaintiff's recommendation is that the discovery period be only extended by thirty (30) days. Plaintiff anticipates filing a motion under Rule 11 of the F.R.C.P., as it is doubtful that there is any evidence that can support the counterclaim on alleged antitrust violations.

Plaintiff believes a further settlement conference with Judge Kay would be beneficial as many of the issues between the parties appear to be noneconomic.

Respectfully submitted,

**DATED:** October 15, 2007

**DUNLAP, GRUBB & WEAVER P.C.**

**/s/ Thomas M. Dunlap**

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**DATED:** October 15, 2007

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