

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

S. VICTOR WHITMILL,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 4:11-cv-752
v.	)	
	)	
WARNER BROS. ENTERTAINMENT INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF’S PROPOSED SCHEDULING PLAN  
FOR EXPEDITED TRIAL ON REQUEST FOR PERMANENT INJUNCTION**

Pursuant to Fed. R. Civ. P. 26(f), 42(b) and this Court’s May 24, 2011 Order, attorneys for the parties conferred as to scheduling and discovery plans for the trial on Plaintiff’s copyright infringement claim and request for a permanent injunction — separate from Plaintiff’s claims for damages and other relief. Because the parties were unable to agree on a scheduling plan for the equitable claims, Plaintiff proposes the following.

1. **Scope of this Scheduling Plan:** This proposed plan would limit discovery efforts to issues related to Plaintiff’s claim for equitable relief — including issues of malice and willfulness — and Defendant’s defenses thereto. Accordingly, depending on the resolution of Plaintiff’s request for a permanent injunction, there may need to be a second proposed scheduling plan for issues related to Plaintiff’s claims for monetary compensation.
2. **Discovery Plan for Permanent Injunction Trial:**
  - (a) Rule 26(a)(1) Disclosures by **June 8, 2011;**
  - (b) Responses to Plaintiff’s Expedited Discovery Requests (served April 29, 2011) by **June 8, 2011**

**Exhibit 1**

- (c) Additional Written Discovery (Interrogatories, Requests for Production of Documents, and Requests for Admissions):
  - (i) Served by **June 10, 2011**.
  - (ii) Responses served by **June 24, 2011**.
  - (iii) Motions to Compel (if needed): Filed by **July 1, 2011**.
- (d) Expert witnesses: No expert witnesses are needed with respect to Plaintiff's claim for injunctive relief. The parties reserve the right to designate expert witnesses, if necessary, in connection with a second scheduling plan for the damages phase of this matter.
- (e) Absent consent or leave of court, each side shall be limited to three (3) depositions and each party shall be limited to ten (10) interrogatories (including those already propounded and served).
- (f) All discovery shall be completed by **July 22, 2011**.

3. **Mediation**: Plaintiff believes that mediation might be productive after completion of discovery, but only if it does not delay the trial on the merits.

4. **Hearing on Permanent Injunction**

- (a) Plaintiff shall file his proposed preliminary injunction and the parties shall file a pretrial stipulation of facts, witness lists, exhibit lists, and deposition designations, and pretrial memoranda by **July 29, 2011**.
- (b) Objections to witness lists, exhibit lists, and deposition designations and motions in limine filed no later than **August 2, 2011**; replies thereto filed no later than **August 4, 2011**.
- (c) Matter will be ready for trial by **August 8, 2011**

(d) Length of trial: **2 day Jury Trial.**

*/s/ Geoffrey G. Gerber*

Michael A. Kahn (#35411MO)

mkahn@brickhouselaw.com

Pete Salsich III (#44886MO)

psalsich@brickhouselaw.com

Geoff G. Gerber (#47097MO)

ggerber@brickhouselaw.com

**The BrickHouse Law Group**

PROFESSIONAL CORPORATION

1006 Olive Street, Ste. 303

St. Louis, Missouri 63101-2048

Tel: (314) 932-1070

Attorneys for Plaintiff