

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

IN RE: CENTURLINK SALES
PRACTICES AND SECURITIES
LITIGATION

)
) File No. 17-MD-2795
) (MJD/KMM)
)
) Minneapolis, Minnesota
) July 23, 2018
) 2:30 to 2:55 p.m.
) **DIGITAL RECORDING**
)
)

BEFORE THE HONORABLE KATHERINE M. MENENDEZ
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE
(TELEPHONE CONFERENCE)

TRANSCRIBER:

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1 plaintiffs as well.

2 THE COURT: Okay. Is that it for plaintiffs'
3 counsel today? All right. I'm going to take silence as a
4 yes. And, Mr. Gudmundson, are you going to be taking a lead
5 in speaking today?

6 MR. GUDMUNDSON: Yes, Your Honor.

7 THE COURT: Excellent. Thank you. Let's turn to
8 the defendants and the proposed intervenors and who is here
9 on behalf of the defendants today?

10 MR. MCNAB: Good afternoon, Judge Menendez. Bill
11 McNab, Winthrop & Weinstine here in Minneapolis, on behalf
12 of the defendants and the proposed intervenors.

13 THE COURT: Okay, welcome, Mr. McNab. Who else is
14 joining you today, anyone?

15 MR. LOBEL: Good afternoon, Your Honor. This is
16 Douglas Lobel on behalf of the defendants and the proposed
17 intervenors.

18 THE COURT: Okay, great. Welcome, Mr. Lobel. Who
19 else is on the line on behalf of defendants?

20 MR. VOGEL: This is Davide Vogel also from Cooley,
21 Your Honor.

22 THE COURT: Okay. Great. Anyone else? Okay, and
23 I should mention that I am recording the call. I initiated
24 the recording before everyone started coming on the line.
25 The purpose of today's call is to talk about a request for

1 an extension in two respects. I want to first start by
2 making sure I understand the nature of the request and the
3 areas in disagreement.

4 It is my understanding that the plaintiffs are
5 seeking additional four weeks in which to submit their
6 memoranda in opposition to the three pending motions filed
7 by the defendants.

8 It is also my understanding that they seek an
9 extension of the discovery deadline to have it land on the
10 same date as the date for submission of those memoranda.

11 It is my third understanding that there is some
12 delay and that is of discovery, I'm sorry, that extension of
13 discovery specifically to accommodate additional time for
14 the plaintiffs to respond to defendant's discovery requests.

15 It's also my understanding that there has been
16 some extensions, some self-help extension of the discovery
17 deadlines as to information being provided by the defendants
18 to the plaintiffs in response to discovery requests, but if
19 those aren't in dispute, the parties have worked together to
20 accommodate that schedule.

21 First, on behalf of the plaintiffs, have I
22 correctly understood the areas in dispute and the things not
23 in dispute?

24 MR. GUDMUNDSON: I believe so, Your Honor, just
25 with a clarification that I think Your Honor recognized

1 which is the extension of the discovery deadline is not for
2 the purpose of plaintiffs serving additional discovery.

3 THE COURT: Right, okay. And, Mr. McNab, or,
4 Mr. Lobel, anybody for the defendants want to disagree with
5 my setting the table of the issues we need to talk about?

6 MR. MCNAB: Your Honor, Bill McNab. I think I'll
7 be taking the lead in the discussion for the defendant and
8 the proposed intervenors this afternoon. And I think that
9 you have accurately characterized.

10 I would just note for clarification what the Court
11 referred to as self-help, I believe was the rescheduling of
12 two depositions that were both to have occurred on July 19th
13 after we received the subpoenas and the requests for the
14 extension, although, we are debating how long the extension
15 should be on the briefing schedule. We recognize that the
16 plaintiffs were going to be receiving some documents, and it
17 made sense that they get those documents before they took
18 those last two depositions.

19 So we have by stipulation agreed that they will be
20 held next, I believe, Monday and Tuesday, and by then they
21 will have those documents.

22 THE COURT: Great. And I didn't mean to disparage
23 self-help. I'm a big fan. I just wanted to make sure I
24 understood what things needed to still be decided and what
25 did not and that seemed like it was not an issue that anyone

1 was asking me to weigh in on.

2 So it also is my understanding that the defendants
3 provisionally agreed during the meet and confer process to a
4 two-week extension of the briefing deadline, but did not
5 agree to an extension of the deadline by which the
6 plaintiffs have to provide their discovery responses; is
7 that correct?

8 MR. MCNAB: That is correct, Your Honor.

9 THE COURT: So I would like to hear first from the
10 plaintiffs about a couple of things. First, why we need
11 four weeks instead of the two that the defendants have
12 agreed to? And, second, why these two deadlines need to
13 remain linked?

14 MR. GUDMUNDSON: Thank you, Your Honor. I'm just
15 writing out your question. Your Honor, to answer the first
16 question, the four weeks is a product of conversations that
17 I have had with our briefing teams. The structure of our
18 group is such that we have a PFC, some lead firms and some
19 other firms, and they are organized into committees. And
20 the lead of our briefing committee is on the phone with us
21 today. It's Lori Feldman, and she and I have been in
22 constant communication throughout the discovery period,
23 throughout all of the efforts that we've been undertaking to
24 prepare three responsive memoranda to the motion to
25 intervene, motion to dismiss, and motion to compel

1 arbitration.

2 Each deposition that pops up creates new areas of
3 inquiry and analysis. I can give you a very brief example.
4 Just last week, I took the deposition of a declarant Ms.
5 Kimberly Arenzi, who testified about documents that were
6 produced very shortly before her deposition about
7 installation policies and the various things that are
8 undertaken there during a full installation with respect to
9 presenting arbitration terms to customers, for example.

10 The information arising from that deposition takes
11 thorough analysis and of the documents that were produced
12 just last week as well in order to constantly analyze,
13 number one, our current arguments legally, but also we're
14 undertaking a rather sizable factual compilation involving
15 38 named plaintiffs for whom the defendant has in its
16 opening papers made some pretty broad and sweeping remarks
17 but which require a much more thorough and detailed analysis
18 in order to respond to present the actual accurate facts
19 about their interactions with the company and the supposed
20 acceptance of arbitration policies, in addition to some
21 other issues related to where certain things took place
22 impacting intervention and jurisdiction.

23 And so to answer your question a bit more
24 directly, we've looked at the amount of work that has been
25 done, which has been substantial. I don't want to take

1 anything away from what the defendants have done. I don't
2 agree with the approach they have taken in their opposition
3 letter today. I think it's unfair, and it misstates a lot
4 of things. But putting that aside, the parties have
5 undertaken a lot of work.

6 I don't want to leave the Court with the
7 impression that the need for these additional weeks means
8 that something hasn't been done or some diligence hasn't
9 been undertaken in the past time we've had. It's not the
10 case. We've been very diligent. I think that, you know, if
11 you look at the timing of everything we've been before Your
12 Honor a couple of times. I think Your Honor has a pretty
13 good sense of the time frame that we've been on, and I think
14 has in fact has remarked to us on a couple of occasions how
15 truncated things seem to be considering the amount of work
16 we're trying to get done.

17 I do credit the defendant, and I credit our team
18 on the plaintiffs's side as well, for engaging in a lot of
19 work in a short period of time. To get to where we are
20 today, it had to take a lot of work, and yet it's taking
21 more time than we thought it would. The discovery is taking
22 more time. The compilation of facts from our own folks has
23 taken more time. These are pretty heady complex issues and
24 we're up to the challenge. It's just taking a bit more
25 time. And, so, again, to answer your question directly,

1 the four weeks is an honest assessment of where we think we
2 are.

3 THE COURT: Okay. Answer for me the question
4 about why -- I'm not sure that I understand, I'm not sure
5 that I get your argument about why your discovery responses
6 should somehow be linked to your briefing deadline? Have I
7 mischaracterized your position on that?

8 MR. GUDMUNDSON: I'm sorry, Your Honor. I was
9 just speaking to one of my colleagues. You have not
10 mischaracterized it, but I think it is a mischaracterization
11 to say as the defendant has that it's gamesmanship.

12 The simple fact of the matter is when we took a
13 look at these nearly 700 document requests, we saw a lot of
14 areas with overlap, a lot of things we're already
15 undertaking with respect to compiling facts for the papers
16 in opposition. These facts -- the facts are facts. They
17 don't necessarily change on a day-to-day basis, but new
18 things pop up such as the installation issues, other issues
19 throughout depositions and documents that were reviewing
20 that need to be addressed.

21 It's our simple proposition and, frankly, if we
22 had more time to do it all, we could get it done more
23 quickly because we're having to double track this because of
24 the timing of the service. But we're simply saying we don't
25 want to come back and serve these on a rolling basis. We

1 don't want to, you know, have two complete this work with
2 our plaintiffs on a premature basis for discovery purposes
3 only to go through and complete it again for the opposition
4 purposes.

5 We think that a much better way to do it is to
6 look and see what we've provided, look and see what's left,
7 and meet and confer quickly and get everything done that
8 way. We don't think there's -- and, frankly, it's
9 responsive. There's just things that we're producing that
10 are squarely on point.

11 So it isn't a matter of sandbagging the defendant
12 or anything like that. It's a matter of, you know, we're
13 not going to chicken scream. We're all adults. We're a
14 little taken aback that so much discovery was served so
15 clearly to make us double track and make it through all of
16 these efforts at the same time, but at the same time we can
17 take advantage of that to a certain degree and prepare those
18 responses while we're in the opposition because there is so
19 much overlap.

20 But, also, frankly, it's a sure amount of work at
21 issue. We have 693 document requests and 38 plaintiffs.
22 We're going to need more time.

23 THE COURT: Okay. Mr. McNab, tell me your
24 thoughts.

25 MR. MCNAB: If I can begin where Mr. Gudmundson

1 ended, Your Honor. I think it's important to note, first of
2 all, that it's not 693 document requests. It's a total of
3 693 discovery requests that are comprised of between three
4 and 10 requests for admission per plaintiff, seven document
5 requests per plaintiff, and between five and eight
6 interrogatories per plaintiff. There are 38 plaintiffs, so
7 the sum of that comes up with an average of 18 discovery
8 requests per plaintiff.

9 So it's not like we are burying them. Each
10 plaintiff is asked fundamentally similar questions. Some
11 more than others simply because of the allegations in their
12 individual portions of the complaint. So it's not trying to
13 double track. It's not trying to bury them.

14 If I may give you just an example, these are
15 intended to be targeted factual inquiries to go to the
16 issues that are to be dealt with in the motion. So, for
17 example, admit on a particular date you clicked to accept
18 the Qwest Internet agreement presented to you and the quick
19 connect flow attached to exhibit, et cetera.

20 Number two, admit that you received the
21 confirmation of service letter dated date certain. Attached
22 is Exhibit 50.

23 And three, admit that you did not cancel your
24 service within 30 days after receiving the confirmation
25 service letter, period.

1 These are the kinds of requests that we're putting
2 out there. Simple, direct, and they go to the very issues
3 of consent or consent to arbitrate and arbitrability. So
4 this is not some exercise in busy work. These are the
5 questions that the Court will want to hear the answers to
6 when it comes time to address these motions.

7 You know, it's curious too because in their
8 letter, the plaintiffs criticize the defendant for having
9 served the discovery requests coincidentally such that they
10 would be due on the same day as their briefs, but then he
11 moves this court to order the exact same result, so I'm not
12 quite sure what to make of that.

13 Now, they say on their letter on page 2 that
14 plaintiffs' counsel has undertaken the requisite factual
15 collection analysis and compilation for each named plaintiff
16 with respect to addressing the briefs. I can't understand
17 why they can't answer the simple question did you click to
18 connect?

19 Now, in the meet and confer, Your Honor, I want to
20 be very clear. Mr. Gudmunson suggests that somehow we
21 mischaracterized their position, but the sole basis that I
22 understood from two separate meet and confers, the sole
23 basis for the plaintiffs' request that they not answer this
24 discovery now is that they did not want to preview what will
25 be in their brief later.

1 Your Honor, I'm not aware of any exception in the
2 rules for that. And we will be prejudiced. The longer we
3 have to wait for these, the less time we'll have to figure
4 out which of the plaintiffs need to be deposed and which
5 ones don't and get that scheduled and get that done. These
6 are very simple basic discovery requests that are intended
7 to help us move toward the germane issues in the motions.

8 Finally, Your Honor, I have to say we play ball
9 all summer long. We followed the rules all summer long.
10 Sometimes we produced documents or information or responses
11 ahead of when the rules require. Shouldn't the plaintiffs
12 also have to play by the same rules?

13 MS. FELDMAN: Your Honor, this is Lori Feldman.
14 May I be heard? I'm out in the trenches working daily with
15 the plaintiffs on the factual analysis of the briefing. And
16 I would like to respond to Mr. McNab.

17 THE COURT: Sure.

18 MS. FELDMAN: Thank you. Now, when Mr. McNab
19 talks about just wanting a simple answer to the question did
20 plaintiffs click accept? It's a very tricky loaded answer
21 because it is just not as simple as a yes or no. And that
22 is what the Court is going to learn when it reads our
23 opposition papers. It's not a simple yes. It's not a
24 simple no. There are a variety of fact patterns that the
25 Court will hear about what happened when a customer signs up

1 for CenturyLink service. There's a variety of ways that
2 could happen either telephone, an installation tech comes to
3 their home.

4 Well, that installation tech actually is the one
5 who is clicking to accept for the plaintiff, and there are
6 maybe three, four, five different scenarios just within that
7 particular fact pattern. Or they can self install, and it
8 depends where they have their own modem or whether
9 CenturyLink is providing their modem. And they're just now
10 asking about whether they click connect or asking about
11 whether they clicked to agree to an auto pay or an auto
12 billing or whether they received a confirmation of service
13 letter. Well, again it's just not that clear-cut and dry.

14 The plaintiffs are going to explain their
15 understanding of the facts on each and every one of those
16 issues. Each one of the statements that are made with
17 respect to each of the 38 plaintiffs on an abundance of
18 issues not one, not two, not three, not four, not five, not
19 six, and there are so many in these charts that defendants
20 have blown up for the Court in connection with the motion to
21 stay. They have to rebut each and every one. There are
22 some that might be simple than others, but for most of them,
23 we are going to be setting forth the plaintiffs'
24 recollection and what we believe the actual facts are.

25 And so what we've been doing is we've been putting

1 those factual recitations together and that is going to be
2 compiled together for declarations, and it's going to be
3 compiled together in the legal briefing and our presentation
4 is going to look in some sense in a way such like the
5 defendant's presentation.

6 But we have so many legal and factual arguments
7 that we're putting together and many of those arguments are
8 layers and layers and layers (inaudible) because we're
9 dealing with computer click wrap. We're dealing with a
10 whole variety of ways in which defendants are contending our
11 clients assented to these arbitration provisions. So it's
12 really quite complex.

13 And so we need time to finish that and work on
14 that. And while the information in our brief will not
15 completely provide the defendants with all the answers to
16 their discovery responses, it will answer those questions,
17 and it will provide the basis for the depositions that they
18 didn't want to take.

19 You know, if we have to answer the questions right
20 now, it's just we're going to be working at cross purposes.
21 Our job is to come up with the recitation of what actually
22 happened and that's what we want to do. And it takes time
23 with the 38 plaintiffs, and it's the summer time and, you
24 know, we're working with plaintiffs. We just had a
25 plaintiff who just went on a vacation and you, literally, as

1 this person is leaving for vacation, we're getting a
2 signature.

3 You know, so we are trying our best, Your Honor.
4 We are trying our best and defense counsel, but as you know,
5 you know, it's difficult. People are away, and we're
6 digesting the information that's coming from the key
7 declarant in support of your motion. I mean, these
8 declarants have paragraphs with respect to each and every
9 one of those plaintiffs, and they opined on multiple items,
10 not just on did they click here? It was, you know, a very
11 big submission.

12 THE COURT: Okay, thank you.

13 MS. FELDMAN: Sure.

14 MR. MCNAB: Your Honor, may I respond briefly?

15 THE COURT: Yes, I was about to ask you.

16 MR. MCNAB: Thank you. I just have three points
17 I'd like to make in response to Ms. Feldman's comments.
18 With respect to the request for admission, yes, sometimes
19 it's frustrating when you receive them because they are in
20 the nature of a yes or no answer. Ms. Feldman suggested for
21 some of their clients, a yes or no may not suffice. That's
22 okay because each of those same plaintiffs received between
23 five and eight interrogatories asking the same questions
24 that will allow for whatever explanation, whatever facts
25 they have, and we want those facts. That's all we're asking

1 for, what are the facts? So we will welcome the answers to
2 the interrogatories if and when we see them.

3 Second, now we've just learned that even if we
4 wait eight weeks twice what the rules allow, we still won't
5 have answers to all of these, only some of them will be in
6 the brief and that's just shocking to me, Your Honor. I've
7 never been in a situation where somebody has put my client
8 through what my client has been through all this summer and
9 then said, now, we don't feel any obligation to respond to
10 any of the discovery requests that you've propounded on us
11 for eight or more weeks.

12 And then finally, Your Honor, Ms. Feldman said
13 that somehow answering these requests are working at cross
14 purposes. I don't understand that because the facts are the
15 facts, and whatever facts they would have to put in response
16 to our discovery requests are presumably then the very same
17 facts that will go into their brief.

18 We are entitled to discovery, and we're entitled
19 to the benefit of the rules, and all we're asking for is 18
20 including document requests, requests for admission and
21 interrogatories for each plaintiff focused virtually
22 entirely, almost entirely on this issue of a set to
23 arbitration and arbitrability, which is exactly what we're
24 supposed to be doing this summer. Thank you, Your Honor.

25 MR. LOBEL: Your Honor, this is Doug Lobel, may I

1 jump in with one brief point?

2 THE COURT: Yes, please.

3 MR. LOBEL: Your Honor, I just want you to
4 understand this is a very practical problem that we're faced
5 with because what we've just learned is there will be
6 certainly declarations of consumers. There may even be 38
7 declarations of 38 consumers. And if that's the case, Your
8 Honor, we need to get to it as soon as possible. Just
9 imagine the logistics and the difficulty of scheduling 38
10 consumer depositions in a two-month period.

11 Now, if we got answers to this discovery sooner
12 than the time in which they filed their brief, we can start
13 that process right away. If we have to wait until they file
14 their brief, then the very most we will have will be two
15 months to do these 38 depositions plus write the reply
16 briefs to all of these various briefs. And so this is not
17 an attempt to make life difficult for the plaintiffs. This
18 is a very real practical problem of logistics and time and
19 coordination that is affected by your ruling here. I just
20 wanted to add that point, Your Honor, thank you.

21 THE COURT: Thank you.

22 MR. GUDMUNDSON: Your Honor, this is Brian
23 Gudmunson. Could I have just a one minute response?

24 THE COURT: Yes.

25 MR. GUDMUNDSON: It's better to have a moving

1 target and that's really why we're opposed to disclosing any
2 positions before our oppositions are due.

3 For example, you know, it's in our papers but and
4 all these arguments have been well made, but we just found
5 out who the management companies are on July 9th. When we
6 asked for the information, Your Honor ordered it to be
7 produced on Monday. When we got the information, we
8 couldn't even find one of the entities. It turns out that
9 defense counsel couldn't even figure out who it was. And
10 that's, you know, they've got so many subsidiaries, it's
11 perhaps not any fault of their own.

12 But here we've got new entities that can not be
13 divided from the papers as they said, they change on a
14 day-to-day basis, we learn new things in depositions that
15 need to be addressed, and if we're somehow obligated to take
16 a firm position, and Ms. Feldman explained sort of the
17 mosaic that the defendants have created in their papers that
18 we need to respond to. And I think we all remember the
19 chart with all the what I call the blood splattered chart,
20 it really prejudices the plaintiff to have to take a
21 position before our papers are due and before all the
22 information is analyzed and out.

23 It doesn't prejudice the defense at all because
24 they're seeking the same open -- they were on the same time
25 frame already. As it stands, our responses were to be due

1 the same day as our oppositions were due. And here we are
2 asking for just that. And, moreover, saying if we do have
3 the additional time, it can be done. We're not trying to
4 sand bag or withhold information. We want to make sure it's
5 complete and that it analyzes everything that needs to be
6 analyzed. That's all I have.

7 MR. LOBEL: Your Honor, one final retort to that.
8 Whether any one of these customers received a confirmation
9 of service letter or whether they cancelled their service
10 within 30 days or whether they clicked to accept has nothing
11 to do with the identity of any particular CenturyLink
12 affiliate. It is their own behavior, their own conduct,
13 facts within their own knowledge regarding their own
14 personal experience. It doesn't have anything to do with
15 any of the discovery that's been served on the defendant or
16 the proposed intervenors.

17 THE COURT: Okay. Thank you.

18 All right. I've heard everybody out. I've read
19 the materials, and I also consulted with Judge Davis about
20 his schedule in this matter. I am going to rule right now
21 and issue a brief text only or minute-type order that
22 captures what I am telling you. I think everyone will be
23 somewhat unhappy with the lines I'm about to draw.

24 First of all, I'm not persuaded that it makes
25 sense for there to be a linkage between the plaintiffs'

1 disclosure of discovery responses to the defendant's
2 discovery requests and their filing of their opposition
3 briefing.

4 I understand why they would like that because they
5 would like to reveal the information at the same time that
6 they can contextualize it with substantial narrative
7 arguments about why it does or doesn't satisfy the criteria
8 for being a binding acquiescence to arbitration, but
9 discovery rules are separate from briefing rules and allow
10 each side to gather information on its own time frame, and
11 it generally is never the case that a party can wait until
12 their briefing is ready to encapsulate all of the
13 information before they disclose any information.

14 And in this case, while I understand that it isn't
15 as easy as a yes or no answer, that it is a yes but, or a no
16 and, or something different, and it varies between all of
17 the 38 plaintiffs. The facts are the facts. The legal
18 significance to be drawn from the facts is absolutely
19 something that both parties are going to attempt at great
20 length to persuade Judge Davis of, but I am not persuaded
21 that there is anything other than pure strategic advantage
22 that would necessitate tying the obligation of the
23 plaintiffs to respond to pretty solid middle of the road
24 basic discovery requests about the 38 named plaintiffs and
25 their opportunity to contextualize the facts in the

1 briefing. So I am not going to issue deadlines that line
2 those two up.

3 I am also persuaded not so much by anything
4 anybody has said on the phone today but by the reality of
5 everything that I've seen throughout the summer, but
6 everybody has been working very hard. And I'm not thinking
7 that anybody is trying to lolligag or drag their feet or do
8 anything other than do their best to comply with the
9 deadlines that Judge Davis and I have set for various
10 aspects of this case.

11 So I'm not accepting one side's invitation over to
12 find any sort of delay or lack of diligence on the part of
13 the other side. I think both sides have worked really hard.
14 I think that both sides have done a great deal to satisfy
15 significant demands and that's going to continue.

16 I am persuaded that additional time is appropriate
17 in this case both for the briefing and for the discovery
18 compliance, but I think it is not -- it makes no sense to
19 have that discovery be due at the same time as the briefing
20 deadline. At this point, I'm not going to say whether it
21 was sensible for the defendants to propound discovery to
22 make it due at the same time or not. I'm sure they had good
23 reasons for doing that, and I don't need to get into that,
24 but at this point, time is going to be of the essence, and
25 the defendants have the right to know this basic information

1 as they figure out who they are going to depose. And if we
2 wait until the big reveal of the opposition briefing to also
3 give these basic factual information to the defendants, it's
4 going to unnecessarily delay their ability to schedule
5 depositions for possibly 38, hopefully, fewer, but possibly
6 38 individual plaintiffs.

7 So with all of those things in mind, and I have
8 spoken with Judge Davis, and he has agreed that I can adjust
9 the schedule however I see fit within the bounds being asked
10 by the two different sides, so I'm going to do the
11 following:

12 I'm going to extend the plaintiff's deadline for
13 filing their opposition briefing to August 23rd as
14 requested. I think there's a lot of things that justify
15 this. I think there is no doubt that this is proven to be a
16 more complicated undertaking than originally anticipated. I
17 do think that the July 9th revelation is a very important
18 set of facts about who was responsible for the billing and
19 pricing and sales practices, has led to additional time
20 needed to analyze facts.

21 I am glad to hear that none of the requested
22 schedule adjustments are to further extend the plaintiff's
23 right to seek additional discovery, and I think that that's
24 great, and I think that's frankly a testament to both sides
25 in trying really hard to get the plaintiffs the information

1 that they need.

2 I am going to extend the deadline for the
3 plaintiffs to respond to the interrogatories by one week
4 from the current July 26th schedule, so that would make
5 it -- sorry, let me pull up my calendar, that would make it
6 August 2nd; is that right?

7 MR. MCNAB: Yes, Your Honor.

8 THE COURT: I'm going to make that deadline
9 August 2nd. So it gives one extra week from this Thursday
10 for the plaintiffs to get their ducks in a row on getting
11 that information as requested to the defendants, but I'm not
12 going to extend it for the full four weeks that were
13 requested by the plaintiffs. I'm not at all persuaded that
14 that additional time is necessary given the fairly
15 straightforward nature of the questions being asked.

16 I accept completely Ms. Feldman's iteration that
17 they're not actually that easy of an answer but that doesn't
18 mean that there are difficult facts to marshal.

19 So, and then I am going to leave the deadline for
20 the defendant's reply brief in place or in a two-month
21 place, so that would put it at October 23rd, but I have not
22 yet clarified with the defendants. That was the position
23 that you were taking with respect to the adjustments that
24 you were seeking. Does that remain the position that you're
25 taking given that you've kind of not prevailed on the

1 deadline, you still would like the two-month window for your
2 reply?

3 MR. MCNAB: Yes, Your Honor, that's acceptable.

4 THE COURT: Okay, I was hoping that would be the
5 case. So just to be clear, we are going to have the
6 plaintiffs' briefing due August 23rd. We are going to have
7 the defendants -- or the plaintiffs' responses to the
8 defendants outstanding discovery requests due August 2nd, so
9 that the defendants can get started on making plans for
10 depositions.

11 We are going to have the defendants and proposed
12 intervenors responsive deadlines be October 23rd.

13 The hearing will remain on November 14th unless
14 Judge Davis decides to move it back. I appreciated the
15 defendant's observation that this adjustment would reduce
16 roughly three weeks, gives us time to prepare for the
17 hearing, and I will leave it entirely to his discretion
18 about whether that's enough time or whether he wants to
19 adjust that hearing date back to give his team more time to
20 get ready. At this point, I'm not moving that date on my
21 own, and I'll communicate directly with his chambers to make
22 sure they're aware of the new schedule.

23 Does anybody have any questions or need any
24 clarification about the ruling?

25 UNIDENTIFIED SPEAKER: No, Your Honor.

1 MR. MCNAB: Nothing further from the defendants.
2 Thank you very much, Your Honor.

3 THE COURT: All right, so I know this isn't what
4 anybody really wanted, but I guess that means it's a good
5 middle road. We'll see.

6 I appreciate that you guys have made it whatever
7 adjustments are necessary to enable the last two defense
8 witnesses to be deposed by the plaintiffs. If there needs
9 to be any additional help from the Court in finalizing these
10 other discovery things that are outstanding, please let me
11 know. And, otherwise, I hope that everybody can get
12 everything done on time and get this wrapped up soon.

13 So thank you all very much. I'll issue a brief
14 order capturing this ruling, and we'll move ahead with the
15 next steps.

16 COUNSEL (collective response): Thank you, Your
17 Honor.

18 THE COURT: All right. Have a good day,
19 everybody.

20 (Court adjourned at 3:49 p.m.)

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REPORTER'S CERTIFICATE

I, Maria V. Weinbeck, certify that the foregoing is
a correct transcript from the digital audio record of
proceedings in the above-entitled matter.

Certified by: s/ Maria V. Weinbeck

Maria V. Weinbeck, RMR-FCRR