

JONES DAY

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JP014666

October 14, 2013

BY HAND AND EMAIL

Kevin Costello
Klein Kavanagh Costello, LLP
85 Merrimac Street, 4th Floor
Boston, MA 02114

Re: Subpoena *Duces Tecum* to John W. Henry;
Garber, et al., v. Office of the Commissioner of Baseball, et al.,
Civil Action No. 1:12-cv-03704-SAS (S.D.N.Y.)

Dear Mr. Costello:

Pursuant to Federal Rules of Civil Procedure 26, 30, and 45, this letter constitutes the formal response and objections, pursuant to Rule 45(c) of the Federal Rules of Civil Procedure, of non-party John W. Henry to Plaintiffs' subpoena *duces tecum* (the "Subpoena"), served on September 30, 2013, in connection with *Garber, et al., v. Office of the Commissioner of Baseball, et al.*, Civil Action No. 1:12-cv-03704-SAS, pending in the United States District Court for the Southern District of New York ("SDNY Antitrust Action"). Mr. Henry reserves all of his rights under the Federal Rules of Civil Procedure, the applicable local rules, and at law, including, without limitation, Mr. Henry's right to seek an order of the Court protecting him from annoyance, oppression, undue burden, or expense in connection with this lawsuit, and/or quashing or modifying the Subpoena and imposing sanctions.

Setting aside for a moment the breathtaking scope of your requests, Mr. Henry objects to your attempt to drag him personally into the SDNY Antitrust Action at the eleventh hour without any reasonable basis to believe he has information that you have not already obtained, or could not easily obtain, from one or more of the 23 defendants in that action. As we understand it, the SDNY Antitrust Action is focused on the actions of Major League Baseball ("MLB"), several companies that pursue MLB's commercial opportunities, nine of the thirty MLB clubs, the regional sports networks that televise those clubs' baseball games, and multichannel video programming distributors Comcast and DirecTV. Plaintiffs allege that the defendants have violated the Sherman Antitrust Act by engaging in two discrete activities: (1) entering into agreements "to eliminate competition in the distribution of [baseball] games over the Internet and television" by "divid[ing] the live-game video presentation market into exclusive territories, which are protected by anticompetitive blackouts" and (2) "collud[ing] to sell the 'out-of-market'

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packages only through [MLB].”¹ These claims implicate neither Mr. Henry nor any entity in which he has a controlling interest, and there is no basis for your attempt to burden Mr. Henry by procuring his documents and testimony in these circumstances.

The SDNY Antitrust Action has been ongoing for nearly a year and a half, and the firm deadline to complete fact discovery—November 29, 2013—is rapidly approaching. As we understand it, MLB alone has already produced nearly 200,000 documents totaling more than 500,000 pages, and other defendants have together produced at least 113,000 documents. Included among all these productions are, we understand, documents relating to Mr. Henry and squarely encompassed by the Requests you have now propounded to him. In addition, we understand that you and your colleagues have already noticed and/or taken fourteen depositions of fact witnesses, none of whom is an owner of an MLB club.

Mr. Henry is not a defendant in the SDNY Antitrust Action, nor are any entities in which he has a controlling interest. Nevertheless, in order to comply with your Requests, Mr. Henry would have to search through more than seven years of documents relating to a wide array of topics, many of which are completely irrelevant to the disputed issues in SDNY Antitrust Action. Moreover, most of the documents sought can be easily, and far more efficiently, obtained from the parties to the SDNY Antitrust Action, if they have not already been produced. In short, your request for production and the attendant attempt to perpetuate Mr. Henry’s testimony under oath are the Platonic Form of “unduly burdensome” third party discovery. Accordingly, Mr. Henry objects thereto and intends to pursue all rights available to him to terminate this unwarranted fishing expedition into his files and viewpoints.

General Objections

Mr. Henry objects generally to the Subpoena to the extent that it seeks to impose obligations on him exceeding those set forth in the Federal Rules of Civil Procedure, any applicable local rule of court, or the cases promulgated thereunder, or any extant orders or procedures governing the SDNY Antitrust Action.

Mr. Henry objects generally to the Subpoena to the extent it requires him to appear for a deposition in view of the fact that Plaintiffs have not obtained leave of court to conduct Mr. Henry’s deposition. Plaintiffs have exceeded the ten deposition limit imposed by Federal Rule of Civil Procedure 30(a)(2)(A)(i) and have not obtained consent from Defendants to conduct the deposition. In the event that the subpoena is not promptly withdrawn, Mr. Henry will timely file a Motion to Quash the Subpoena to more fully address his objections to appearing to testify at a deposition as commanded by the Subpoena.

¹*Garber, et al., v. Office of the Commissioner of Baseball, et al.*, Civil Action No. 1:12-cv-03704-SAS (S.D.N.Y.), Second Amended Class Action Complaint, ¶¶ 2, 11.

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Mr. Henry objects generally to the Subpoena on the grounds that it fails to provide a reasonable time within which he is required to comply.

Mr. Henry objects generally to the Subpoena to the extent that the burden and expense of producing the requested information greatly exceeds its likely benefits. Mr. Henry further objects to the Subpoena on the grounds that it does not provide a basis for the substantial burdens placed on him, a non-party, for the requests for information set forth therein, and on the grounds that it: (i) seeks information from a non-party which, in the first instance, can and should be sought directly from a party to the SDNY Antitrust Action; and (ii) would require Mr. Henry to incur unreasonable time and expense in order to comply with the requests set forth therein.

Mr. Henry objects generally to the Subpoena on the grounds that its document requests are overly broad, unduly burdensome, vague and ambiguous, fail to identify the documents sought with reasonable particularity, seek information not relevant to the SDNY Antitrust Action and not reasonably calculated to lead to the discovery of admissible evidence, including document requests that seek "all" documents and/or communications on topics that would or could capture essentially all, or virtually all, of Mr. Henry's documents. Such intrusive and burdensome document searches are particularly unwarranted because (i) Mr. Henry is a non-party and (ii) the practices and agreements at issue in the SDNY Antitrust Action are found in a relatively small number of readily identifiable documents that Plaintiffs most likely already possess.

Mr. Henry objects generally to the Subpoena to the extent that its requests for production are unduly cumulative or duplicative of other requests for production promulgated to Mr. Henry or of information already possessed by Plaintiffs in the SDNY Antitrust Action.

Mr. Henry objects generally to the Subpoena to the extent that its requests for production seek information that can be or has been obtained from a party to the SDNY Antitrust Action, including through certain of Plaintiffs' First Requests for Production of Documents Directed to All Defendants [Amended] ("Plaintiffs' RFPs to All Defendants").

Mr. Henry objects generally to the Subpoena on the grounds and to the extent that it seeks the production of information and materials that are protected by the attorney-client privilege, work product doctrine, or any other applicable privilege or protection from disclosure.

Mr. Henry objects generally to the Subpoena on the grounds and to the extent that it seeks the production of information and materials that are confidential, commercially-sensitive, and/or proprietary to Mr. Henry or corporate entities not named as Defendants in the SDNY Antitrust Action.

Mr. Henry objects generally to the Subpoena on the grounds and to the extent that it seeks the production of information and materials that Mr. Henry is barred from producing by: (i) a protective order or other restriction on use or dissemination in another case or governmental investigation; or (ii) confidentiality agreements with, or licensing restrictions imposed by, parties other than Mr. Henry.

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Mr. Henry objects generally to the Subpoena on the grounds that it requests documents within an overly broad time period. The Subpoena requires Mr. Henry to search over seven years' worth of documents, a search that would encompass hundreds of thousands of documents. If Mr. Henry were to search for and produce the information for the entirety of the time period requested, the production would be prohibitively intrusive, expensive, and time consuming. In light thereof, Mr. Henry objects to the Subpoena on the grounds that it is overly broad, unduly burdensome, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Mr. Henry objects generally to the Subpoena to the extent that it implies or presupposes that the documents requested constitute "all" documents or correspondence concerning the time period specified. Mr. Henry makes no representation as to whether the documents, if any, currently in his possession, custody, or control constitute "all" communications (as Mr. Henry understands that term) that existed concerning any particular time period, nor does Mr. Henry purport to have knowledge of "all" communications or other documents that are the subject of the specific requests.

Mr. Henry objects generally to the Definitions in the Subpoena on the grounds that, as applied to the individual document requests, the Definitions cause the requests to be overly broad and unduly burdensome, vague and ambiguous, and not stated with reasonable particularity, and to seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Mr. Henry objects generally to the Subpoena to the extent that the Definitions attempt to give meaning to terms beyond those terms' common and ordinary meaning, and beyond the meanings imposed by the Federal Rules of Civil Procedure, any applicable local rule of court, or the cases promulgated thereunder, or any extant orders or procedures governing the SDNY Antitrust Action.

Mr. Henry objects generally to the Subpoena to the extent that the Definitions attempt to vary the meaning of any defined term in any contract or agreement.

Mr. Henry objects generally to the Definitions of the terms "Document," "Communication," and "Electronically stored information" as set forth in the Subpoena on the grounds that these terms conceivably would require production of all electronic data, including any backup data, storage media disks or tapes containing any and all e-mail, communications, correspondence, documents, or other data as backed up from any computers, servers, or mainframes. If Mr. Henry were to search for and produce the data requested, the production would be prohibitively expensive and tremendously time consuming. In light thereof, Mr. Henry objects to the Subpoena on the grounds that it is overly broad, would cause undue inconvenience, burden and expense, would be unduly oppressive, and on the further grounds that it exceeds the scope of permissible discovery.

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Mr. Henry objects to the Definitions of the terms “Blackout,” “Blackout policy,” “Broadcast territory,” “Club,” “Complaint,” “Media,” “Policy,” and “procedure” on the grounds that they are vague, confusing and, to the extent understood, overbroad and seek documents neither relevant to the subject matter of the SDNY Antitrust Action nor reasonably calculated to lead to the discovery of admissible evidence.

Mr. Henry objects to the Definition of the term “Media policy” on the grounds that it is vague, confusing and, to the extent understood, overbroad and seek documents neither relevant to the subject matter of the SDNY Antitrust Action nor reasonably calculated to lead to the discovery of admissible evidence. Mr. Henry further objects to this Definition on the grounds that it is unclear which of the two Definitions provided for “Media policy” applies.

Mr. Henry objects to the Definitions of the terms “MLB” and “League” on the grounds that they are vague, confusing and, to the extent understood, overbroad and seek documents neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Mr. Henry further objects to these Definitions to the extent they seek documents with respect to Major League Clubs or other entities that are not named as defendants in the SDNY Antitrust Action.

To the extent Mr. Henry has objected to the Definitions of any one or more terms, Mr. Henry also objects to each specific document request that incorporates such Definitions.

Mr. Henry objects to the Instructions to the extent they purport to impose obligations beyond the Federal Rules of Civil Procedure, any applicable local rule of court, or the cases promulgated thereunder, or any extant orders or procedures governing the SDNY Antitrust Action, including to the extent they purport to require: (1) the production of information outside the personal knowledge of Mr. Henry; (2) the production of documents outside the personal possession, custody, or control of Mr. Henry, (3) the production of documents in the possession, custody or control of entities that Plaintiffs have not named as Defendants in this suit, (4) the production of documents that are unduly burdensome to retrieve, including archived documents; (5) the inclusion of certain information in the statement of privilege claim; and (6) that ESI be produced in a certain manner.

Mr. Henry objects to the Instruction to produce each document “in its entirety and without deletion, redaction or excision” regardless of the responsiveness of it, and he reserves the right to redact non-responsive portions of documents.

Mr. Henry objects to the Requests to the extent the various Requests use different (and often vague, ambiguous, and/or confusing) phrases that appear to try to describe similar concepts, including, for example, the following phrases:

- “video presentation of its own games via means other than broadcast television (Request No. 7);
- “video presentation of Red Sox games” (Request Nos. 9 and 10);

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- “distribution of games over television or the Internet” (Request No. 13); and
- “live presentation of major league professional baseball games” (Request No. 14).

Mr. Henry incorporates by reference all objections asserted by the MLB Defendants in their responses to Plaintiff’s First Request for Production of Documents (Amended).

Mr. Henry reserves his right to amend and/or supplement any response or objection herein.

Mr. Henry’s responses to these Requests are made preserving and without waiving: (i) all objections as to competency, relevancy, materiality, and admissibility of any documents produced or the subject matter thereof; (ii) all rights to object on any grounds to use of said responses or documents, or the subject matter thereof, in any proceeding, including the hearing or trial of this or any other action; and (iii) all rights to object on any grounds to requests for further responses to these or any other requests or other discovery requests, involving or relating to the subject matter of these Requests.

The statement of any objection in the following Specific Objections shall in no way waive or prejudice Mr. Henry’s assertion of the foregoing General Objections.

Specific Objections

Without waiving the foregoing General Objections, which Mr. Henry hereby incorporates by reference in each paragraph below, Mr. Henry responds to the Document Requests set forth in Exhibit A of the Subpoena as follows:

Document Request No. 1: All Your Documents, including Your communications, sent to or received from the League or its representatives during the Relevant Time Period Relating to Media Policy, Blackout Policy or Broadcast Territory during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 1 on the grounds that it is overbroad and unduly burdensome to the extent it requests “all” documents and communications on this topic. Mr. Henry objects to this Request on the grounds that by its nature, documents that are responsive to this Request are in the possession of, and should therefore be obtained from, MLB, a party to the SDNY Antitrust Action; he further objects to the extent that documents responsive to this Request have already been obtained from MLB or another party to the SDNY Antitrust Action, including through at least Plaintiffs’ RFPs to All Defendants Nos. 12, 13, and 14.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without

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the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 2: All Your Documents, including Your communications, sent to or received from any other Club or its representatives during the Relevant Time Period Relating to Media Policy, Blackout Policy or Broadcast Territory during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 2 on the grounds that it is overbroad and unduly burdensome to the extent it requests "all" documents and communications on this topic. Mr. Henry further objects to this Request to the extent it seeks documents concerning entities that are not parties in the SDNY Antitrust Action and to the extent it seeks documents that are not relevant to the SDNY Antitrust Action and not reasonably calculated to lead to the discovery of admissible evidence. Mr. Henry objects to this Request to the extent the information has been or can be obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs' RFPs to All Defendants Nos. 5, 12, and 13.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 3: All Your Documents, including Your communications, sent to or received from NESN during the Relevant Time Period Relating to Media Policy, Blackout Policy or Broadcast Territory during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 3 on the grounds that it is overbroad and unduly burdensome to the extent it requests "all" documents and communications on this topic. Mr. Henry further objects to this Request on the grounds that Plaintiffs' Definitions of "Media Policy," "Blackout Policy," and "Broadcast Territory" cause the Request to be overly broad and unduly burdensome, vague and ambiguous, and not stated with reasonable particularity, and to seek information that is neither relevant to the SDNY Antitrust Action nor reasonably calculated to lead to the discovery of admissible evidence insofar as the Complaint does not allege any impropriety relating to NESN. Mr. Henry further objects to this Request to the extent it seeks documents concerning entities that are not parties in the SDNY Antitrust Action and to the extent it seeks documents that are not relevant to the SDNY Antitrust Action and not reasonably calculated to lead to the discovery of admissible evidence.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without

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the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 4: All Your Documents, including Your communications, drafted by any current or former officers, directors, managers, or employees of the Red Sox that refer to the League or its business practices, arrangements, or agreements as anti-competitive or as a cartel.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 4 on the grounds that the terms “business practices,” “business ... arrangements,” “business agreements,” “anti-competitive,” and “cartel” are vague, ambiguous, and/or confusing. Mr. Henry further objects to this Request on the grounds that it is overbroad and unduly burdensome to the extent it requests “all” documents and communications on this topic. Mr. Henry further objects to this Request on the grounds that it is unduly burdensome since it is not feasible to conduct a search for such documents.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 5: All Your Documents Relating to Blackout policies, Broadcast Territory and geographical restrictions on media and/or media rights sales during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 5 on the grounds that it is overbroad and unduly burdensome to the extent it requests “all” documents and communications on this topic. Mr. Henry objects to this Request to the extent the information has been or can be obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs’ RFPs to All Defendants Nos. 5, 6, 7, 12, 13, 14, 20, and 21.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 6: All Red Sox agreements Relating to the Blackout policy during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 6 on the grounds that it is overbroad and unduly burdensome. Mr. Henry objects to this Request to the extent the information can be or has been obtained from

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a party to the SDNY Antitrust Action, including through at least Plaintiffs' RFPs to All Defendants Nos. 13 and 14.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 7: All Your Documents relating to the Red Sox interest, analysis, or consideration of the video presentation of its own games via means other than broadcast television, including via Internet streaming, Internet Protocol Television ("IPTV"), Video on Demand (VOD), or mobile devices during the Relevant Time Period. This includes all budgets, projections, estimates, or related studies or reports prepared or received by the Red Sox.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 7 on the grounds that it is overbroad and unduly burdensome to the extent it requests "all" documents and communications "relating to" this topic. Mr. Henry objects to this Request to the extent the information can be or has been obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs' RFPs to All Defendants No. 19.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 8: All Your Documents relating to the Red Sox interest, analysis, or consideration of the League's Interactive Media Rights Agreement during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 8 on the grounds that the term "Interactive Media Rights Agreement" is undefined and, therefore, vague, ambiguous, and/or unclear. Mr. Henry also objects to this Request on the grounds that the term "interest" is vague, ambiguous, and/or confusing, as used in the context of the Request. The Interactive Media Rights Agreement is a document that speaks for itself and that impacts a wide array of Red Sox rights and obligations.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

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Document Request No. 9: All Your Documents relating to the Red Sox interest, analysis, or consideration of the arrangement of rights to video presentation of Red Sox games as between the Red Sox and Major League Baseball Advanced Media (“MLBAM”) during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 9 on the grounds that it is overbroad and unduly burdensome to the extent it requests “all” documents and communications “relating to” this topic. Mr. Henry also objects to this Request on the grounds that the term “interest” is vague, ambiguous, and/or confusing, as used in the context of the Request. Mr. Henry construes this Request to seek communications between him and MLBAM. Such documents can be obtained from MLBAM, a party to the SDNY Antitrust Action, including through at least Plaintiffs’ RFPs to All Defendants Nos. 19, 39, 40, and 41.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 10: All Your Documents relating to the Red Sox interest, analysis (including economic analysis), or consideration of the video presentation of Red Sox games outside its designated Broadcast Territory during the Relevant Time Period, including by televising games nationally or via “superstations.”

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 10 on the grounds that it is overbroad and unduly burdensome, including to the extent it requests “all documents” “related to” this topic. Mr. Henry further objects to this Request on the grounds that the term “superstations” is undefined and, therefore, vague, ambiguous, and/or unclear. Mr. Henry objects to this Request to the extent the information can be or has been obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs’ RFPs to All Defendants No. 21.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 11: All Your Documents relating to the sharing of revenue between Clubs and between Clubs and the League during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 11 on the grounds that it is overbroad and unduly burdensome,

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including to the extent it requests “all documents” “relating to” this topic, which would constitute an undefinable universe of documents not reasonably susceptible to search and production. Mr. Henry objects to this Request to the extent the information can be or has been obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs’ RFPs to All Defendants No. 11.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 12: All Your Documents relating to policies, formulas, analyses regarding competitive balance between clubs during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 12 on the grounds that it is overbroad and unduly burdensome, including to the extent it requests “all documents” “relating to” this topic, which would constitute an undefinable universe of documents not reasonably susceptible to search and production. Mr. Henry objects to this Request to the extent the information can be or has been obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs’ RFPs to All Defendants No. 33.

In view of the Request’s overwhelming breadth and Plaintiffs’ ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 13: All Your Documents relating to competitive conditions in the market for the distribution of games over television or the Internet, including reports, studies or analyses relating to forecasted, projected, estimated, planed or actual: (i) market shares, (ii) consolidation, (iii) fixed or variable costs, (iv) pricing, (v) entry or exist conditions, (vi) demand/demand trends, or (vii) substitute products during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 13 on the grounds that the term “market for the distribution of games over the television or the Internet” is vague, ambiguous, legally argumentative and/or confusing. Mr. Henry further objects to this Request to the extent it purports to describe any “relevant market” under the antitrust laws. Mr. Henry further objects to this Request on the grounds that the terms “competitive conditions,” “market shares,” “consolidation,” “entry or exist conditions,” “demand/demand trends,” and “substitute products” are also vague, ambiguous, and/or confusing. Mr. Henry further objects to these Definitions to the extent they

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seek documents with respect to Major League Clubs or other entities that are not named as defendants in the SDNY Antitrust Action. Mr. Henry objects to this Request to the extent the information can be or has been obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs' RFPs to All Defendants Nos. 37 and 38.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

Document Request No. 14: All Your Documents relating to studies, reports and presentations received or prepared by the Red Sox relating to the market for live presentation of major league professional baseball games in the United States (including management reports and presentations, financial reports and presentations, planning analyses, budgets, forecasts, sales projections consulting and advisory reports and presentations) during the Relevant Time Period.

Response: In addition to the General Objections set forth above, Mr. Henry specifically objects to Document Request No. 14 on the grounds that the term "market for live presentation of major league professional baseball games" is vague, ambiguous, legally argumentative and/or confusing. Mr. Henry further objects to this Request to the extent it purports to describe any "relevant market" under the antitrust laws. Mr. Henry further objects to this Request on the grounds that it is overbroad and unduly burdensome, including to the extent it requests "all documents" on these topics. Mr. Henry further objects to these Definitions to the extent they seek documents with respect to Major League Clubs or other entities that are not named as defendants in the SDNY Antitrust Action. Mr. Henry objects to this Request to the extent the information can be or has been obtained from a party to the SDNY Antitrust Action, including through at least Plaintiffs' RFPs to All Defendants No. 39.

In view of the Request's overwhelming breadth and Plaintiffs' ability to more conveniently obtain any relevant information from a party to the SDNY Antitrust Action without the attendant burden on Mr. Henry, Mr. Henry will not produce documents responsive to this Request.

* * *

The foregoing objections are non-exhaustive, and Mr. Henry reserves the right to set forth additional and more detailed objections should a motion to quash the document requests portion of the Subpoena become necessary.

Please do not hesitate to contact me if you have any questions.

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Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Morrison", with a long horizontal line extending to the right.

Christopher M. Morrison

cc: David Friedman, Esq. (via email)
Ed Weiss, Esq. (via email)
Service List (via email)