ESTTA Tracking number: **ESTTA578863**
Filing date: **12/26/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198552
Party	Plaintiff Raising Cane's USA, L.L.C.
Correspondence Address	S LLOYD SMITH BUCHANAN INGERSOLL & ROONEY PC PO BOX 1404 ALEXANDRIA, VA 22314-1404 UNITED STATES lloyd.smith@bipc.com, holly.lance@bipc.com, florence.goodman@bipc.com, bassam.ibrahim@bipc.com
Submission	Opposition/Response to Motion
Filer's Name	Holly B. Lance
Filer's e-mail	holly.lance@bipc.com, lloyd.smith@bipc.com
Signature	/ Holly B. Lance /
Date	12/26/2013
Attachments	Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend.pdf(65607 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 1.pdf(237700 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 2.pdf(112354 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 3.pdf(69838 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 4.pdf(256127 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 5.pdf(146553 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 6.pdf(217406 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 7.pdf(84142 bytes) Raising Cane's Opposition to Fifty-Six Hope's Motion to Suspend Exhibit 8.pdf(127994 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Matter of Serial No. 77/549,263 *for the mark:* ONE LOVE RAISING CANE'S USA, LLC, Opposer, vs. FIFTY-SIX HOPE ROAD MUSIC LIMITED, Applicant.	Opposition No. 91198552 **OPPOSER/REGISTRANT RAISING CANE'S USA, LLC'S OPPOSITION TO PETITIONER/APPLICANT FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO SUSPEND PROCEEDINGS**
In re Matter of Registration No. 3,033,511 *for the mark:* ONE LOVE FIFTY-SIX HOPE ROAD MUSIC LIMITED, Petitioner, vs. RAISING CANE'S USA, LLC, Registrant.	Cancellation No. 92053461

Registrant/Opposer Raising Cane's USA, LLC ("Raising Cane's") opposes Petitioner/Applicant Fifty-Six Hope Road Music Limited's ("Fifty-Six Hope") Motion to Suspend, filed December 9, 2013, for the reasons set forth below.

The parties have been engaged in this *inter partes* dispute before the Trademark Trial and Appeal Board for nearly three years, since Fifty-Six Hope filed a Petition to Cancel Raising Cane's U.S. Registration No. 3,033,511 on December 27, 2010. The parties' discovery is nearly complete, pursuant to the timing allotted by the Board's September 19, 2013 order, which only allowed Raising Cane's to take the depositions of Fifty-Six Hope's 30(b)(6) witness and Michael Conley.

Given Fifty-Six Hope's long pattern of evading discovery, it would be prejudicial and fundamentally unfair to Raising Cane's to allow Fifty-Six Hope to further delay resolution of the parties' trademark dispute by filing a related suit in district court, which will likely take years to resolve. Fifty-Six Hope's allegations in its district court complaint against Raising Cane's, styled *Fifty-Six Hope Road Music, Ltd. v. Raising Cane's USA, LLC*, C.A. No. 1:13-cv-13110, are rooted in its claims before the Board. *See* Exhibit A to Fifty-Six Hope's December 9, 2013 Motion to Suspend. (Raising Cane's has filed a separate suit in Louisiana for declaratory judgment and will move to transfer the action if necessary).

Fifty-Six Hope's pattern of delay before the Board is well established. These depositions were first properly noticed in October 2012. In view of Fifty-Six Hope's multiple attempts to avoid the depositions, Raising Cane's prepared, but did not serve, a subpoena to compel the attendance of Raising Cane's 30(b)(6) witness. *See* attached September 23, 2013 correspondence, enclosed as Exhibit 1. Fifty-Six Hope claimed that the subpoena was "invalid and without force or effect, [and should Raising Cane's enforce the subpoena] Fifty-Six Hope Road will oppose Raising Cane's efforts and seek its attorneys' fees expended in so doing." *See* Exhibit 2. The parties held a meet and confer on October 2, 2013. While the parties were not

able to resolve their disagreement regarding the validity of Raising Cane's proposed subpoena, Fifty-Six Hope claimed that it would provide dates for Raising Cane's to conduct the depositions of Fifty-Six Hope's 30(b)(6) witness and Michael Conley. *See* Exhibit 3. A week later, and only after repeated reminders from Raising Cane's, did Fifty-Six Hope provide the witnesses' availability. *See* attached October 9, 2013 correspondence, enclosed as Exhibit 4. As Fifty-Six Hope's proposed dates were outside of the thirty-day limited discovery period provided in the Board's order, Raising Cane's necessarily had to file a request to extend the discovery dates to accommodate Fifty-Six Hope and its counsel. *See* Exhibit 5.

As the first deposition date approached, Raising Cane's contacted Fifty-Six Hope's counsel on numerous separate occasions to finalize logistics. During a phone call between the parties on November 26, 2013, Fifty-Six Hope's counsel suggested that the parties suspend the proceeding in favor of entering mediation. After Raising Cane's confirmed that same day that it wanted to move forward with the depositions, Fifty-Six Hope's counsel ignored all communications from Raising Cane's counsel regarding deposition logistics. *See* Exhibit 6. It was not until the evening before Mr. Conley's deposition and three days before Fifty-Six Hope's 30(b)(6) witness deposition was scheduled to take place in Los Angeles that counsel informed Raising Cane's that Mr. Conley would be represented by his own counsel, and that Fifty-Six Hope's 30(b)(6) witness deposition had to be rescheduled in both date and location. *See* Exhibit 7. Days before Fifty-Six Hope's 30(b)(6) re-scheduled witness deposition was due to take place, and without provocation or prior warning to Raising Cane's, Fifty-Six Hope filed an action in the District Court for the District of Massachusetts.

In *ITC Entertainment Group Ltd. v. Nintendo of America Inc.*, the Board deferred action on the petitioner's motion to stay pending the outcome in a corresponding district proceeding

because petitioner failed to show how the stay of the cancellation proceeding was in the interests of "judicial economy." 45 USPQ2d 2021, 2022-23 (TTAB 1998). Similarly, Fifty-Six Hope has failed to demonstrate to the Board why staying the combined cancellation/opposition proceeding is in the best interests of the parties. The parties are at the late stages of the Board proceeding, and Raising Cane's has expended taking part in the captioned proceeding since 2010.

Moreover, the leading trademark treatise, *McCarthy on Trademarks and Unfair Competition*, notes that district courts should strive "not to short-circuit the administrative tribunal that has already achieved jurisdiction over the issues." *Id.* at § 30:110 (4th ed. 2010); *accord, Dunn Computer Corp. v. LoudCloud, Inc.*, 133 F. Supp. 2d 823 (E.D. Va. 2001); *Circuit City Stores, Inc. v. Speedy Car-X, Inc.*, 35 USPQ2d 1703 (E.D. Va. 1995).

In summary, Fifty-Six Hope's district court complaint is untimely and highly prejudicial to Raising Cane's. This is yet another attempt by the Fifty-Six Hope to avoid a substantive ruling by the Board, and dodge the deposition of its Rule 30(b)(6) witness. Notably, the deposition of Michael Conley revealed that counsel did not even contact the deponent about scheduling the deposition until *the day before* the deposition took place. *See* Exhibit 8. In view thereof, Fifty-Six Hope should not be permitted to indefinitely delay this matter by initiating an action in federal district court.

Accordingly, Fifty-Six Hope's Motion to Suspend should be denied.

Respectfully submitted,

RAISING CANE'S USA, LLC

By Holly B. Lance

Bassam N. Ibrahim
S. Lloyd Smith
Holly B. Lance
Buchanan Ingersoll & Rooney, P.C.
P.O. Box 1404
Alexandria, VA 22313-1404
(703) 836-6620
Attorneys for Opposer/Registrant

Dated: December 26, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER/REGISTRANT RAISING CANE'S USA, LLC'S OPPOSITION TO PETITIONER/APPLICANT FIFTY-SIX HOPE ROAD MUSIC LIMITED'S MOTION TO SUSPEND PROCEEDINGS** was served this 26th day of December, 2013 by first-class mail, postage prepaid, on:

Jill M. Pietrini, Esq.
Paul Bost, Esq.
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067

Florence Goodman

Florence Goodman

EXHIBIT 1

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Monday, September 23, 2013 1:37 PM
To: Jill Pietrini (JPietrini@sheppardmullin.com); Paul Bost (PBost@sheppardmullin.com)
Cc: Ibrahim, Bassam; Goodman, Florence J.; Lance, Holly B.
Subject: Raising Cane's v. 56 Hope (our ref: 1032733-000078)
Attachments: ScannedFile (28).pdf

Dear Paul and Jill –

As you are aware the Board has ordered that discovery is extended to October 18, 2013 only for the limited purpose of Raising Cane's taking Fifty Six Hope's corporate 30(b)(6) witness and the deposition of Michael Conley.

A subpoena for Fifty Six Hope to appear for its 30(b)(6) deposition on October 10, 2013 is attached. In *Rosenruist-Gestao E Servicos LDA v. Virgin Enterprises, Ltd.*, 511 F.3d 437 (4th Cir. 2007), the Fourth Circuit ruled that a foreign party is required to obey an US District Court for the Eastern District of Virginia subpoena, pursuant to Rule 30(b)(6) notice, in a Board proceeding. Please confirm right away that you will accept service and that Fifty Six Hope will appear in response to the subpoena so that we can determine whether we must seek the assistance of the US District Court for the Eastern District of Virginia.

These are the same 30(b)(6) deposition topics we the have previously noticed. We note the boiler plate objections you sent us to these topics and Fifty Six Hope's prior refusal to produce a witness for Topics 20 and 21. If you intend to raise the same objections to the subpoena, are you available for a meet and confer to discuss these objections today or tomorrow?

We look forward to hearing from you very soon, so that we can resolve any issues and meet the discovery deadline.

Regards,

Lloyd

S Lloyd Smith
Shareholder

1737 King Street
Suite 500
Alexandria, VA 22314-2727
703 838 6514 (o)
202 527 3637 (c)
lloyd.smith@bipc.com

vCard | Bio | BIPC.com | Twitter | LinkedIn

Issued by the
UNITED STATES DISTRICT COURT
For the Eastern District of Virginia

SUBPOENA IN A CIVIL CASE

Raising Cane's USA, LLC

v.

Fifty-Six Hope Road Music Limited

Case Nos.:[1] 91198552; 92053461 (consolidated; pending before the Trademark Trial and Appeal Board)

To:
Fifty-Six Hope Music Limited
c/o Jill Pietrini, Sheppard Mullin Richter Hampton LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067

X: YOU ARE HEREBY COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

X: YOU ARE HEREBY COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. See Exhibit A for deposition topics.

PLACE OF DEPOSITION	DATE AND TIME
Buchanan Ingersoll & Rooney , P.C. 1737 King Street, Suite 500 Alexandria, Virginia 22314-2727	October 10, 2013 9:00 a.m.

X: YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE:	DATE AND TIME:

X: YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES:	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE	DATE: September 23, 2013
Attorney for Raising Cane's	

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
S. Lloyd Smith
Buchanan Ingersoll & Rooney, PC, 1737 King Street, Suite 500, Alexandria, VA 22314-2727 Phone: (703) 836-6620

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

[1] If action is pending in district other than district of issuance, state district under case number

PROOF OF SERVICE

SERVED	DATE	PLACE
SERVED ON (PRINT NAME)		MANNER OF SERVICE
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C &D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney=s fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) if a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert=s opinion of information not describing specific events or occurrences in dispute and resulting from the expert=s study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expenses to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT A

The Definitions in Opposer/Registrant's First Set of Interrogatories are incorporated herein.

TOPICS FOR DEPOSITION

1. Petitioner's or its licensees use of Petitioner's alleged ONE LOVE mark.

2. Petitioner's or its licensees use of Petitioner's alleged ONE LOVE mark in connection with "restaurant services."

3. Petitioner's pending trademark applications for ONE LOVE in the United States Patent and Trademark Office.

4. The goods and services marketed and/or sold under Petitioner's alleged ONE LOVE mark.

5. Promotion and marketing of Petitioner's goods and services under the alleged ONE LOVE mark.

6. Sales of Petitioner's goods and services under the alleged ONE LOVE mark.

7. Distribution of Petitioner's goods and services under the alleged ONE LOVE mark.

8. Targeted or actual purchasers of Petitioner's goods and services.

9. Petitioner's first use of the alleged ONE LOVE mark.

10. Market research concerning Petitioner's alleged ONE LOVE mark or Registrant's Mark.

11. Goods and services for which Petitioner intends to use the alleged ONE LOVE mark.

12. Actual confusion that Petitioner is aware of between Petitioner's alleged ONE LOVE mark and Registrant's Mark.

13. Third-party use of the mark or phrase "one love."

14. All research, report, studies, investigations, surveys, searches and opinions concerning any mark comprised of or containing "one love," including but not limited to Petitioner's alleged ONE LOVE mark.

15. All agreements concerning Petitioner's alleged ONE LOVE mark.

16. Any other enforcement actions or proceedings involving Petitioner's alleged ONE LOVE mark.

17. The basis of all factual assertions in Petitioner's Amended Petition for Cancellation.

18. The basis of all factual assertions in Petitioner's Answer to the Notice of Opposition.

19. Petitioner's knowledge of Registrant's Mark, and the services offered by Registrant.

20. Petitioner's corporate structure, document retention policy, and compliance with discovery in this case.

21. Communications with Petitioner concerning Registrant or Registrant's use of ONE LOVE.

EXHIBIT 2

Lance, Holly B.

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Thursday, September 26, 2013 4:17 PM
To: Smith, S. Lloyd; Jill Pietrini
Cc: Ibrahim, Bassam; Goodman, Florence J.; Lance, Holly B.
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Lloyd:

The Eastern District of Virginia does not have jurisdiction to compel the deposition of Fifty-Six Hope Road Music Limited pursuant to FRCP 45 or 35 U.S.C. § 24. Among other reasons, Fifty-Six Hope Road, unlike the defendant in *Rosenruist-Gestao E Servicos LDA v. Virgin Enterprises, Ltd*., 511 F.3d 437 (4th Cir. 2007), did not designate counsel within the jurisdiction of the Eastern District of Virginia pursuant to 15 U.S.C. § 1051(e). As you well know, neither Fifty-Six Hope Road nor any of its witnesses, representatives, designees, or agents for service of process with respect to this matter are located within the Eastern District of Virginia. 37 CFR § 2.120(b) ("The deposition of a natural person shall be taken in the Federal judicial district where the person resides or is regularly employed or at any place on which the parties agree by stipulation"); 37 C.F.R. § 2.120(c)(2) ("The deposition of a [foreign party present in the U.S.] shall be taken in the Federal judicial district where the witness resides or is regularly employed, or, if the witness neither resides nor is regularly employed in a Federal judicial district, where the witness is at the time of the deposition"); *Jain v. Ramparts Inc.*, 49 U.S.P.Q.2d 1429, 1431 (TTAB 1998) (general rule in federal district court that a plaintiff is required to make itself available for examination in district where suit is brought does not apply in Board proceedings). Raising Cane's service of the subpoena on Fifty-Six Hope Road's trial counsel is also invalid, as none of Fed.R.Civ.P. 45(b)(2)'s subparts have been satisfied. *See also* E.D. Va. Local Civil Rule 45(g). *See Eli Lilly & Co. v. Gottstein*, 617 F.3d 186, 192 (2d Cir. 2010) (subpoena issued through Alaskan state court was without legal force in Massachusetts where recipient was served). Raising Cane' subpoena is also invalid because it has not included sufficient witness fees pursuant to 28 U.S.C. §§ 1821 (b),(c), and (d). *See In re Dennis*, 330 F.3d 696, 704-705 (5th Cir. 2003) (tender of witness fee without any mileage allowance is insufficient and renders service of subpoena invalid). The foregoing is not meant to be an exhaustive list of why Raising Cane's subpoena is invalid and/or why the Eastern District of Virginia lacks jurisdiction over Fifty-Six Hope Road.

Should Raising Cane's seek to enforce this subpoena, which is invalid and without force or effect, Fifty-Six Hope Road will oppose Raising Cane's efforts and seek its attorneys' fees expended in so doing.

Paul Bost
Los Angeles | x12249
SheppardMullin

From: Smith, S. Lloyd [mailto:lloyd.smith@bipc.com]
Sent: Monday, September 23, 2013 10:37 AM
To: Jill Pietrini; Paul Bost
Cc: Ibrahim, Bassam; Goodman, Florence J.; Lance, Holly B.
Subject: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Dear Paul and Jill –

As you are aware the Board has ordered that discovery is extended to October 18, 2013 only for the limited purpose of Raising Cane's taking Fifty Six Hope's corporate 30(b)(6) witness and the deposition of Michael Conley.

A subpoena for Fifty Six Hope to appear for its 30(b)(6) deposition on October 10, 2013 is attached. In *Rosenruist-Gestao E Servicos LDA v. Virgin Enterprises, Ltd.*, 511 F.3d 437 (4th Cir. 2007), the Fourth Circuit ruled that a foreign party is required to obey an US District Court for the Eastern District of Virginia subpoena, pursuant to Rule 30(b)(6) notice, in a Board proceeding. Please confirm right away that you will accept service and that Fifty Six Hope will appear in response to the subpoena so that we can determine whether we must seek the assistance of the US District Court for the Eastern District of Virginia.

These are the same 30(b)(6) deposition topics we the have previously noticed. We note the boiler plate objections you sent us to these topics and Fifty Six Hope's prior refusal to produce a witness for Topics 20 and 21. If you intend to raise the same objections to the subpoena, are you available for a meet and confer to discuss these objections today or tomorrow?

We look forward to hearing from you very soon, so that we can resolve any issues and meet the discovery deadline.

Regards,

Lloyd

S Lloyd Smith
Shareholder

1737 King Street
Suite 500
Alexandria, VA 22314-2727
703 838 6514 (o)
202 527 3637 (c)
lloyd.smith@bipc.com

vCard | Bio | BIPC.com | Twitter | LinkedIn

Buchanan Ingersoll & Rooney PC

KNOW GREATER PARTNERSHIP

TAX ADVICE DISCLAIMER: Any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein. If you would like such advice, please contact us.

Above email is for intended recipient only and may be confidential and protected by attorney/client privilege.

If you are not the intended recipient, please advise the sender immediately.

Unauthorized use or distribution is prohibited and may be unlawful.

EXHIBIT 3

Lance, Holly B.

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Wednesday, October 02, 2013 4:16 PM
To: Smith, S. Lloyd
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Lloyd:

I'm diligently working on following up on our phone call of today, particularly as relates to providing you with dates for the depositions of 56 Hope Road and Mike Conley. Jill is out of town in deposition preparation, however, which is making our efforts to coordinate schedules more difficult. I will try to email you by close of business today but it may not be until after close of business or tomorrow.

Paul Bost
Los Angeles | x12249
SheppardMullin

From: Smith, S. Lloyd [mailto:lloyd.smith@bipc.com]
Sent: Tuesday, October 01, 2013 1:44 PM
To: Paul Bost
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Paul –

I will call you at 10:30 PST, 1:30 EST.

- Lloyd

From: Paul Bost [mailto:PBost@sheppardmullin.com]
Sent: Tuesday, October 01, 2013 4:16 PM
To: Smith, S. Lloyd
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Sorry, Lloyd. I have to reschedule due to a pressing matter in another case. I can do later today – say 5 p.m PST – or any time after 9:30 a.m. PST tomorrow.

Paul Bost
Los Angeles | x12249
SheppardMullin

From: Smith, S. Lloyd [mailto:lloyd.smith@bipc.com]
Sent: Monday, September 30, 2013 5:45 AM
To: Paul Bost
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

EXHIBIT 4

Lance, Holly B.

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Friday, October 04, 2013 12:01 AM
To: Paul Bost
Cc: Smith, S. Lloyd; Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: Re: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Lloyd, we are still diligently working to get you dates. I will be in touch tomorrow.

Sent from my iPhone

On Oct 2, 2013, at 3:15 PM, "Paul Bost" <PBost@sheppardmullin.com> wrote:

> Lloyd:
>
> I'm diligently working on following up on our phone call of today, particularly as relates to providing you with dates for the depositions of 56 Hope Road and Mike Conley. Jill is out of town in deposition preparation, however, which is making our efforts to coordinate schedules more difficult. I will try to email you by close of business today but it may not be until after close of business or tomorrow.
>
> **Paul Bost**
> Los Angeles | x12249
> **SheppardMullin**
>
> ---
>
> **From:** Smith, S. Lloyd [mailto:lloyd.smith@bipc.com]
> **Sent:** Tuesday, October 01, 2013 1:44 PM
> **To:** Paul Bost
> **Cc:** Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
> **Subject:** RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)
>
> Paul –
>
> I will call you at 10:30 PST, 1:30 EST.
>
> - Lloyd
>
> ---
>
> **From:** Paul Bost [mailto:PBost@sheppardmullin.com]
> **Sent:** Tuesday, October 01, 2013 4:16 PM
> **To:** Smith, S. Lloyd
> **Cc:** Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
> **Subject:** RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)
>
> Sorry, Lloyd. I have to reschedule due to a pressing matter in another case. I can do later today – say 5 p.m PST – or any time after 9:30 a.m. PST tomorrow.
>
> **Paul Bost**
> Los Angeles | x12249
> **SheppardMullin**

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Friday, October 04, 2013 11:12 AM
To: Paul Bost
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Dear Paul,

Given the length of time that has transpired, we cannot wait indefinitely for you to provide us deposition dates. We appreciate that you will get back to us today.

We have the following understanding from our meet and confer:

1. The parties are unable to resolve the subpoena issue. You continue to assert that 56 Hope is not required to appear in response to our subpoena. We disagree.

2. With respect to individual objections, you have agreed to withdraw your "unlimited in time" objections. Further, you have agreed to withdraw your objections to producing a witness for deposition topics 20 and 21, subject to our clarifications. For Topic 20, a witness will testify about the chain of title to ONE LOVE, 56 Hope's corporate structure to the extent documents identify other entities using the ONE LOVE Mark, 56 Hope's document search for this litigation, and general document retention practices. For Topic 21, you will produce a witness to testify as to any non-attorney client privileged communications between third parties and 56 Hope concerning Raising Cane's for its ONE LOVE Mark so that we can determine whether there has been any actual confusion. You are not willing to withdraw any other objections but intend to provide witnesses for Topics 1-19, subject to any objections you may make at the deposition itself.

If you disagree with our characterization of our meet and confer, please let us know.

Regards,

Lloyd

From: Paul Bost [mailto:PBost@sheppardmullin.com]
Sent: Friday, October 04, 2013 12:01 AM
To: Paul Bost
Cc: Smith, S. Lloyd; Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: Re: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Lloyd, we are still diligently working to get you dates. I will be in touch tomorrow.

Sent from my iPhone

On Oct 2, 2013, at 3:15 PM, "Paul Bost" <PBost@sheppardmullin.com> wrote:

Lloyd:

Lance, Holly B.

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Friday, October 04, 2013 6:53 PM
To: Smith, S. Lloyd
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: Re: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

I don't have my notes in front of me but that appears to accurately reflect our conversation. I think my withdrawal of the "unlimited in time" objections was withdrawn to the extent the topic was relevant to issues of first use. We're working on dates.

Sent from my iPhone

On Oct 4, 2013, at 10:12 AM, "Smith, S. Lloyd" <lloyd.smith@bipc.com> wrote:

Dear Paul,

Given the length of time that has transpired, we cannot wait indefinitely for you to provide us deposition dates. We appreciate that you will get back to us today.

We have the following understanding from our meet and confer:

1. The parties are unable to resolve the subpoena issue. You continue to assert that 56 Hope is not required to appear in response to our subpoena. We disagree.

2. With respect to individual objections, you have agreed to withdraw your "unlimited in time" objections. Further, you have agreed to withdraw your objections to producing a witness for deposition topics 20 and 21, subject to our clarifications. For Topic 20, a witness will testify about the chain of title to ONE LOVE, 56 Hope's corporate structure to the extent documents identify other entities using the ONE LOVE Mark, 56 Hope's document search for this litigation, and general document retention practices. For Topic 21, you will produce a witness to testify as to any non-attorney client privileged communications between third parties and 56 Hope concerning Raising Cane's for its ONE LOVE Mark so that we can determine whether there has been any actual confusion. You are not willing to withdraw any other objections but intend to provide witnesses for Topics 1-19, subject to any objections you may make at the deposition itself.

If you disagree with our characterization of our meet and confer, please let us know.

Regards,

Lloyd

From: Paul Bost [mailto:PBost@sheppardmullin.com]
Sent: Friday, October 04, 2013 12:01 AM
To: Paul Bost
Cc: Smith, S. Lloyd; Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: Re: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Monday, October 07, 2013 11:00 AM
To: Paul Bost
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Paul –

As you know, we have been very patient in attempting to schedule depositions. We are disappointed that we did not receive dates from you Friday. If we don't have any proposed depositions dates by Wednesday we will be forced to file a motion to compel compliance with the subpoena.

Regards,

Lloyd

From: Paul Bost [mailto:PBost@sheppardmullin.com]
Sent: Friday, October 04, 2013 6:53 PM
To: Smith, S. Lloyd
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: Re: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

I don't have my notes in front of me but that appears to accurately reflect our conversation. I think my withdrawal of the "unlimited in time" objections was withdrawn to the extent the topic was relevant to issues of first use. We're working on dates.

Sent from my iPhone

On Oct 4, 2013, at 10:12 AM, "Smith, S. Lloyd" <lloyd.smith@bipc.com> wrote:

> Dear Paul,
>
> Given the length of time that has transpired, we cannot wait indefinitely for you to provide us deposition dates. We appreciate that you will get back to us today.
>
> We have the following understanding from our meet and confer:
>
> 1. The parties are unable to resolve the subpoena issue. You continue to assert that 56 Hope is not required to appear in response to our subpoena. We disagree.
>
> 2. With respect to individual objections, you have agreed to withdraw your "unlimited in time" objections. Further, you have agreed to withdraw your objections to producing a witness for deposition topics 20 and 21, subject to our clarifications. For Topic 20, a witness will testify about the chain of title to ONE LOVE, 56 Hope's corporate structure to the extent documents identify other entities using the ONE LOVE Mark, 56 Hope's document search for this litigation, and general document retention practices. For Topic 21, you will produce a witness to testify as to any non-attorney client privileged

Lance, Holly B.

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Wednesday, October 09, 2013 5:00 PM
To: Smith, S. Lloyd
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Lloyd:

Fifty-Six Hope Road's 30(b)(6) representative(s) is/are available for deposition in New York, New York between December 4-6, 2013, and Mike Conley is available for deposition in Jacksonville, Florida between December 3-6, 2013. Scheduling these depositions is complicated by the fact that Jill Pietrini, lead counsel for Fifty-Six Hope Road, is having surgery shortly and will not be able to travel while she's recuperating. We will stipulate to an extension of Raising Cane's deadline to conduct these depositions given that these dates fall after October 18, 2013. Please confirm the withdrawal of the subpoena.

Thanks,

Paul

Paul Bost
Los Angeles | x12249
SheppardMullin

From: Smith, S. Lloyd [mailto:lloyd.smith@bipc.com]
Sent: Monday, October 07, 2013 8:00 AM
To: Paul Bost
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: RE: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

Paul –

As you know, we have been very patient in attempting to schedule depositions. We are disappointed that we did not receive dates from you Friday. If we don't have any proposed depositions dates by Wednesday we will be forced to file a motion to compel compliance with the subpoena.

Regards,

Lloyd

From: Paul Bost [mailto:PBost@sheppardmullin.com]
Sent: Friday, October 04, 2013 6:53 PM
To: Smith, S. Lloyd
Cc: Goodman, Florence J.; Ibrahim, Bassam; Lance, Holly B.; Jill Pietrini
Subject: Re: Raising Cane's v. 56 Hope (our ref: 1032733-000078)

I don't have my notes in front of me but that appears to accurately reflect our conversation. I think my withdrawal of the "unlimited in time" objections was withdrawn to the extent the topic was relevant to issues of first use. We're working

EXHIBIT 5

ESTTA Tracking number: **ESTTA565509**
Filing date: **10/17/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198552
Party	Plaintiff Raising Cane's USA, L.L.C.
Correspondence Address	S LLOYD SMITH BUCHANAN INGERSOLL ROONEY PC PO BOX 1404 ALEXANDRIA, VA 22314 1404 UNITED STATES holly.lance@bipc.com, florence.goodman@bipc.com, lloyd.smith@bipc.com
Submission	Stipulated/Consent Motion to Extend
Filer's Name	Holly B. Lance
Filer's e-mail	holly.lance@bipc.com, lloyd.smith@bipc.com
Signature	/s/ / Holly B. Lance /
Date	10/17/2013
Attachments	Raising Cane's Motion to Extend Discovery.pdf(73477 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Matter of Serial No. 77/549,263 *for the mark:* ONE LOVE RAISING CANE'S USA, LLC, Opposer, vs. FIFTY-SIX HOPE ROAD MUSIC LIMITED, Applicant.	Opposition No. 91198552 **OPPOSER/REGISTRANT RAISING CANE'S USA, LLC'S STIPULATED MOTION TO EXTEND LIMITED DISCOVERY AND OTHER DEADLINES FOR SIXTY (60) DAYS**
In re Matter of Registration No. 3,033,511 *for the mark:* ONE LOVE FIFTY-SIX HOPE ROAD MUSIC LIMITED, Petitioner, vs. RAISING CANE'S USA, LLC, Registrant.	Cancellation No. 92053461

Registrant/Opposer Raising Cane's USA, LLC ("Raising Cane's") moves, with Petitioner/Applicant Fifty-Six Hope Road Music Limited's ("Fifty-Six Hope") consent, to extend discovery an additional sixty (60) days for the limited purpose of deposing Fifty-Six Hope's witnesses, and to extend all subsequent deadlines dates sixty (60) days.

The Board's September 19, 2013 order granted Raising Cane's motion to extend discovery for the limited purpose of taking discovery depositions of Fifty-Six Hope's witnesses under Fed. R. Civ. P. 30(b)(6) and Michael Conley. Raising Cane's respectfully requests that the Board extend the discovery deadline an additional sixty (60) days for the same limited purpose to accommodate the schedules of Fifty-Six Hope's witnesses. Counsel for the parties have conferred, and Fifty-Six Hope consents to this motion.

Raising Cane's proposes that the deadlines be reset to the following dates:

Deadline for Depositions of Fifty-Six Hope's Witnesses	**12/17/2013**
Raising Cane's Pretrial Disclosures Due	**1/31/2014**
Raising Cane's 30-day Trial Period Ends	**3/17/2014**
Fifty-Six Hope's Pretrial Disclosures Due	**4/1/2014**
Fifty-Six Hope's 30-day Trial Period Ends	**5/16/2014**
Raising Cane's Rebuttal Disclosures Due	**5/31/2014**
Raising Cane's 30-day Testimony Period Ends/ Rebuttal Period Ends	**7/15/2014**
Fifty-Six Hope's Rebuttal Disclosures Due	**7/30/2014**
Fifty-Six Hope's 15-day Rebuttal Period Ends	**8/29/2014**
Raising Cane's Brief as Plaintiff Due	**10/28/2014**
Fifty-Six Hope's Brief as Defendant/Plaintiff Due	**11/28/2014**
Raising Cane's Reply Brief and Brief as Defendant	**12/27/2014**
Fifty-Six Hope's Reply Brief Due	**1/11/2015**

Respectfully submitted,

RAISING CANE'S USA, LLC

By Holly B. Lance

Bassam N. Ibrahim
S. Lloyd Smith
Holly B. Lance
Buchanan Ingersoll & Rooney, P.C.
P.O. Box 1404
Alexandria, VA 22313-1404
(703) 836-6620
Attorneys for Opposer/Registrant

Dated: October 17, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER/REGISTRANT RAISING CANE'S USA, LLC'S MOTION TO EXTEND DEADLINES SIXTY (60) DAYS** was served this 17th day of October, 2013 by first-class mail, postage prepaid, on:

Jill M. Pietrini, Esq.
Paul Bost, Esq.
SHEPPARD MULLIN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067

Michelle A. Jackson

EXHIBIT 6

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Tuesday, November 26, 2013 8:10 PM
To: Jill Pietrini (JPietrini@sheppardmullin.com)
Cc: Paul Bost (PBost@sheppardmullin.com); Ibrahim, Bassam; Lance, Holly B.; Goodman, Florence J.
Subject: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Importance: High

Jill,

Following up on our conversation today, our client is not interested in mediation at this time. We will move forward with the depositions previously scheduled for Dec. 3 and Dec. 5.

Please advise if you have a specific location in mind for Tuesday's deposition in Jacksonville to begin at 9 a.m. If not, we will obtain a conference room for the deposition at a hotel near the airport, and will provide you with the details shortly.

We will take the deposition of Fifty-Six Hope's 30(b)(6) witness at your office in Los Angeles on Thursday, December 5 at 9 a.m., pending instructions regarding an alternate location.

We will see you on Tuesday. If necessary, please feel free to contact my associate Holly Lance (holly.lance@bipc.com) with any details regarding the logistics of the depositions.

Regards,

Lloyd

S Lloyd Smith
Shareholder

1737 King Street
Suite 500
Alexandria, VA 22314-2727
703 838 6514 (o)
202 527 3637 (c)
lloyd.smith@bipc.com

vCard | Bio | BIPC.com | Twitter | LinkedIn

Buchanan Ingersoll & Rooney PC
KNOW GREATER PARTNERSHIP

Lance, Holly B.

From: Lance, Holly B.
Sent: Wednesday, November 27, 2013 3:09 PM
To: Smith, S. Lloyd; Jill Pietrini (JPietrini@sheppardmullin.com)
Cc: Paul Bost (PBost@sheppardmullin.com); Ibrahim, Bassam; Goodman, Florence J.
Subject: RE: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Categories: In DM, #3442723 : 1032733 : 000078 : ALX1_General

Dear Jill and Paul,

As we have not heard from you regarding a preferred location in Jacksonville, we have arranged for the deposition to take place in a conference room at the Crowne Plaza Jacksonville Airport, at the following address:

14670 Duval Road
Jacksonville, Florida 32218.

In addition, we have scheduled a court reporter for Thursday's deposition to take place at your office – please let us know if the deposition will take place elsewhere.

I hope you have an enjoyable Thanksgiving holiday.

Best regards,

Holly

Holly Lance
Associate

1737 King Street
Suite 500
Alexandria, VA 22314-2727
703 838 6526 (o)
holly.lance@bipc.com

vCard | Bio | BIPC.com | Twitter | LinkedIn

Buchanan Ingersoll & Rooney PC

KNOW GREATER PARTNERSHIP

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Sunday, December 01, 2013 5:56 PM
To: Lance, Holly B.; Jill Pietrini (JPietrini@sheppardmullin.com)
Cc: Paul Bost (PBost@sheppardmullin.com); Ibrahim, Bassam; Goodman, Florence J.
Subject: RE: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Paul and Jill –

We will be flying to Jacksonville tomorrow afternoon (Dec. 2) for Mr. Conley's December 3 deposition, and it will be highly impractical to switch the location in Jacksonville after tomorrow morning East Coast time, so please tell us right away if you wish to switch the location in Jacksonville.

- Lloyd

From: Lance, Holly B.
Sent: Wednesday, November 27, 2013 3:09 PM
To: Smith, S. Lloyd; Jill Pietrini (JPietrini@sheppardmullin.com)
Cc: Paul Bost (PBost@sheppardmullin.com); Ibrahim, Bassam; Goodman, Florence J.
Subject: RE: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Dear Jill and Paul,

As we have not heard from you regarding a preferred location in Jacksonville, we have arranged for the deposition to take place in a conference room at the Crowne Plaza Jacksonville Airport, at the following address:

14670 Duval Road
Jacksonville, Florida 32218.

In addition, we have scheduled a court reporter for Thursday's deposition to take place at your office – please let us know if the deposition will take place elsewhere.

I hope you have an enjoyable Thanksgiving holiday.

Best regards,

Holly

Holly Lance
Associate

1737 King Street
Suite 500
Alexandria, VA 22314-2727
703 838 6526 (o)
holly.lance@bipc.com

vCard | Bio | BIPC.com | Twitter | LinkedIn

Buchanan Ingersoll & Rooney PC

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Monday, December 02, 2013 2:17 PM
To: Lance, Holly B.; 'Jill Pietrini (JPietrini@sheppardmullin.com)'
Cc: 'Paul Bost (PBost@sheppardmullin.com)'; Ibrahim, Bassam; Goodman, Florence J.
Subject: RE: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Paul and Jill –

Please confirm ASAP that Mr. Conley will appear for his deposition tomorrow morning at 9 a.m. in Jacksonville as previously scheduled.

Your lack of response to our most recent emails concerning the exact location in Jacksonville for Dec.3, combined with the fact that none of the support staff in your office seem to be aware of any plans for either of you to attend the deposition is causing us concern. We do not want to waste time and expense traveling to Jacksonville this evening if Mr. Conley is not going to appear for his deposition tomorrow morning.

Regards,

Lloyd

From: Smith, S. Lloyd
Sent: Sunday, December 01, 2013 5:56 PM
To: Lance, Holly B.; Jill Pietrini (JPietrini@sheppardmullin.com)
Cc: Paul Bost (PBost@sheppardmullin.com); Ibrahim, Bassam; Goodman, Florence J.
Subject: RE: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Paul and Jill –

We will be flying to Jacksonville tomorrow afternoon (Dec. 2) for Mr. Conley's December 3 deposition, and it will be highly impractical to switch the location in Jacksonville after tomorrow morning East Coast time, so please tell us right away if you wish to switch the location in Jacksonville.

- Lloyd

From: Lance, Holly B.
Sent: Wednesday, November 27, 2013 3:09 PM
To: Smith, S. Lloyd; Jill Pietrini (JPietrini@sheppardmullin.com)
Cc: Paul Bost (PBost@sheppardmullin.com); Ibrahim, Bassam; Goodman, Florence J.
Subject: RE: Depositions of Michael Conley and Fifty-Six Hope's 30(b)(6) Witness (Our Ref. 1032733-000078)

Dear Jill and Paul,

As we have not heard from you regarding a preferred location in Jacksonville, we have arranged for the deposition to take place in a conference room at the Crowne Plaza Jacksonville Airport, at the following address:

14670 Duval Road
Jacksonville, Florida 32218.

EXHIBIT 7

Lance, Holly B.

From: Smith, S. Lloyd
Sent: Monday, December 02, 2013 7:45 PM
To: Paul Bost; Jill Pietrini
Cc: Lance, Holly B.; Ibrahim, Bassam; Johnson, Carrie; Goodman, Florence J.
Subject: Conley depo

Paul- Could you please forward the contact information for Mr. Conley's counsel so that we can avoid any logistical problems in the morning? Your lack of cooperation on Mr. Conley's deposition and your failure to disclose that he has separate counsel has been very disappointing And caused unnecessary inconvenience to us.

- Lloyd

Sent from my iPhone

Lance, Holly B.

From: Paul Bost <PBost@sheppardmullin.com>
Sent: Monday, December 02, 2013 9:08 PM
To: Smith, S. Lloyd; Jill Pietrini
Cc: Lance, Holly B.; Ibrahim, Bassam; Johnson, Carrie; Goodman, Florence J.; Tim Ervin (Tim@gallant-ervin.com); Beth Anderson
Subject: RE: Conley depo

Lloyd:

Tim Ervin is defending Mike Conley at his deposition tomorrow. Per our agreement over the phone, the deposition will begin at 10 a.m. I've copied Mr. Ervin on this email, and his email address is Tim@gallant-ervin.com. I disagree with your contention that we have not cooperated regarding Mike Conley's deposition or that our actions have caused any unnecessary inconvenience to you. As I mentioned to you over the phone, your email setting the location of the deposition did not request a response from us confirming the location of the deposition or that it was proceeding as scheduled. While I appreciate your office's calls today to confirm that the deposition is going forward (even though these calls seem to predicated on your belief that our witnesses have not shown up for depositions in the past, which is not true), my understanding is that Ms. Pietrini indicated to you last week that, short of the parties agreeing to mediation, it was going forward as scheduled. Moreover, Jill and I were out of the office all day attending hearings downtown and temporarily working out of a conference room in our downtown office.

As relates to this matter, please be advised that we need to continue the deposition scheduled for Thursday until December 12. Doreen Crujeiras, 56 Hope Road's 30(b)(6) designee, has to attend to medical issues related to her child during the latter half of this week and will be unavailable. Please confirm that you are available on December 12.

Paul Bost
| Los Angeles | x12249
SheppardMullin

-----Original Message-----
From: Smith, S. Lloyd [mailto:lloyd.smith@bipc.com]
Sent: Monday, December 02, 2013 4:45 PM
To: Paul Bost; Jill Pietrini
Cc: Lance, Holly B.; Ibrahim, Bassam; Johnson, Carrie; Goodman, Florence J.
Subject: Conley depo

Paul- Could you please forward the contact information for Mr. Conley's counsel so that we can avoid any logistical problems in the morning? Your lack of cooperation on Mr. Conley's deposition and your failure to disclose that he has separate counsel has been very disappointing And caused unnecessary inconvenience to us.

- Lloyd

Sent from my iPhone
TAX ADVICE DISCLAIMER: Any federal tax advice contained in this communication (including attachments) was not intended or written to be used, and it cannot be used, by you for the purpose of (1) avoiding any penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein. If you would like such advice, please contact us.

Above email is for intended recipient only and may be confidential and protected by attorney/client privilege.

EXHIBIT 8

1 **the use of One Love.**
2 Q All right. And whose use of One Love?
3 **A Raising Cane's.**
4 Q All right. And do you have any interest
5 in the outcome of this case?
6 **A No.**
7 Q It doesn't matter to you whether Raising
8 Cane's uses One Love or not?
9 MR. ERVIN: Objection.
10 THE WITNESS: I don't have a -- I don't
11 own the company anymore or anything like that.
12 I have nothing that would come my way on that,
13 financially or anything.
14 BY MR. SMITH:
15 Q Do you have any financial interest in Bob
16 Marley merchandise sales at present?
17 **A No.**
18 Q What did you do to prepare for your
19 deposition here today?
20 **A Not as much as you would think. You**
21 **know, we didn't even get word that we were doing**
22 **this really until yesterday. So, yeah, not much.**

1 attorney/client privileged conversation.
2 **A Sure. I understand.**
3 **You know, I don't know, maybe, maybe it**
4 **was a year ago, if this was going on, "Mike, you**
5 **might have to be deposed in this case." And then I**
6 **never heard anything back on it. And then Tim had**
7 **said something to me.**
8 MR. ERVIN: Well, you can't talk about
9 what you and I talked about.
10 THE WITNESS: Okay. Well, maybe a couple
11 of times in the last year, that, "ey, you might
12 have to get deposed in this case." But I
13 didn't -- there was a sudden one for today.
14 Like I said, I knew yesterday to come here for
15 this today.
16 BY MR. SMITH:
17 Q And before that, when was the last time
18 somebody has asked you about this case or told you
19 you might be deposed?
20 **A Let me see. It was after we sold the**
21 **company. It was in the last year. I don't know,**
22 **maybe four months ago, something like that.**