

EXHIBIT B

Stein, Micah D.

From: Katz, Jennifer [jkatz@oag.state.md.us]
Sent: Wednesday, February 08, 2017 3:34 PM
To: Medlock, Stephen M.; Rice, Sarah
Cc: Kimberly, Michael B.; Hughes, Paul W.; Webb, Brantley; Stein, Micah D.
Subject: RE: Benisek v. Lamone, discovery schedule [MB-AME.FID1259210]

Steve,

We have considered your proposal and agree that a 3-week extension of the discovery schedule makes the most sense at this point.

Given our prior correspondence on the issue, is there a reason that you have not complied with the relevant non-parties request to depose President Miller and Speaker Busch in Annapolis and Governor O'Malley in Baltimore?

Finally, with regard to your letter concerning the 30(b)(6) deposition, we believe a meet and confer is necessary. Sarah and I are available Friday morning.

Best,
Jennifer

Jennifer Katz
Assistant Attorney General, Civil Division
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
jkatz@oag.state.md.us
(410) 576-7005

From: Medlock, Stephen M. [mailto:SMedlock@mayerbrown.com]
Sent: Wednesday, February 08, 2017 9:34 AM
To: Katz, Jennifer <jkatz@oag.state.md.us>; Rice, Sarah <srice@oag.state.md.us>
Cc: Kimberly, Michael B. <MKimberly@mayerbrown.com>; Hughes, Paul W. <PHughes@mayerbrown.com>; Webb, Brantley <BWebb@mayerbrown.com>; Stein, Micah D. <MStein@mayerbrown.com>
Subject: RE: Benisek v. Lamone, discovery schedule [MB-AME.FID1259210]

Jennifer and Sarah:

Our counter-proposal is a simple, three-week extension of the discovery deadline. We cannot agree to a piecemeal extension applicable to only certain, cherry-picked aspects of discovery. As we explained during our phone call, your proposal would require Plaintiffs to waive their right (at a minimum) to move to compel should the parties come to an impasse regarding party discovery. This is of particular concern as Defendants have not produced any documents in response to several of our document requests and recently provided a 30(b)(6) witness with multiple pages of what appear to have been coached answers to deposition questions. We are not aware of any case in which the plaintiffs were required, as you propose, to waive their right to file further motions to compel in order to secure an extension of the discovery deadline. We are highly doubtful any such cases exist, particularly where, as here, the need for the extension was a consequence the defendants' conduct.

Although we would prefer not to burden the Court with this dispute, we cannot accept your proposal to extend the discovery deadline on such one-sided terms. You should not be able to pick and choose the consequences of your strategy to slow the discovery process.

To resolve this dispute, we propose the following: All remaining deadlines in the parties' Scheduling Order will be extended by three weeks, to and including March 3, 2017. This position is simple, fair, and consistent with routine practice. We propose three weeks for two reasons: first, it is a compromise between our initial offer of two weeks and your counter-offer of four weeks, and second, it covers each of the proposed deposition dates that you have offered for the remaining deponents. Our proposal extends all discovery rights on even-handed terms for both Parties and allows the parties to complete all of the noticed depositions in a timely manner. If you do not agree to these common sense terms, we will raise this issue with the Court in a separate statement in the joint status report; we are confident that the Court will agree with our approach.

Please let us know by close of business today whether you agree to our proposal.

In addition, we agree to depose the following individuals on these dates:

2/17/17: Senator Muse, beginning at 9am
2/21/17: Richard Stewart, beginning at 9am
2/24/17: Speaker Busch, beginning at 10am
2/27/17: Delegate Anderson, beginning at 8am
2/28/17: Jeanne Hitchcock, beginning at 4pm
3/2/17: 30(b)(6) designee, beginning at 9am
3/3/17: Governor O'Malley, beginning at 9am
3/3/17: President Miller, beginning at 1pm

You'll note that we are proposing that the deposition of Martin O'Malley occur on March 3rd. We have conflicts that prevent us from depositing Governor O'Malley on the dates you provided (including the deposition of Speaker Busch). Please let us know if that date and time works for you.

Your email does not mention the location of these depositions. Therefore, we assume that there is no objection to holding these depositions at the Washington, D.C. offices of Mayer Brown. Please let us know if you have any objections to this location. We will send amended deposition subpoenas to you via email shortly.

Regards,

Steve

Stephen M. Medlock

Mayer Brown LLP

1999 K Street NW | Washington, DC 20006

T: (202) 263-3221 | F: (202) 263-5221

smedlock@mayerbrown.com



From: Katz, Jennifer [<mailto:jkatz@oag.state.md.us>]

Sent: Tuesday, February 07, 2017 5:24 PM

To: Medlock, Stephen M.; Kimberly, Michael B.; Hughes, Paul W.; Webb, Brantley; Stein, Micah D.

Cc: Rice, Sarah

Subject: Benisek v. Lamone, discovery schedule

Counsel,

As we discussed on the phone today, on behalf of the non-party GRAC members and other legislators, the AG's Office will be filing a request for review by the 3-judge court, to be filed by the end of this week. In addition, in order to preserve Governor O'Malley's right to assert his legislative privilege, the AG's Office will be filing a short motion on his behalf, incorporating by reference arguments made on behalf of the GRAC members.

We understand your concerns about extending the discovery schedule and are sympathetic to them. We also agreed to your request for a compressed discovery schedule and do not see the need for a full extension of the discovery period. We hope to be able to reach a resolution and propose the following terms. We are available tomorrow to discuss.

We agree that if the pending motion to compel is resolved in your favor, including the issue of control, the Defendants will supplement all discovery responses for which the objection was made to the extent necessary to comply with the order, and reserve the right to ask for appropriate time to do so.

We agree to seek to extend the discovery period solely with respect to the non-party documents and depositions contemplated in Judge Bredar's order compelling compliance, and any motions practice required to resolve issues that arise with respect to those documents and depositions.

We agree to extend expert discovery for however long you deem necessary.

We do not agree to extend fact discovery for purposes of serving any new discovery requests or the issuance of new subpoenas.

We do not agree to extend the discovery period to allow for the filing of motions to compel raising issues related to the Defendants' discovery responses not already raised in your initial motion to compel, or any other matter you raise with us before February 10.

Below are dates supplied to us by non-parties on which they are available for deposition.

Senator Muse

Feb. 17

Feb. 24

Delegate Anderson

Feb. 13

Feb. 20

Feb. 27.

The earlier, the better for him – he can start as early as 8 a.m.

House Speaker Busch

Feb. 24, beginning at 10am

Senate President Miller

March 3, 1-6 p.m.

Jeanne Hitchcock

Feb. 22, all day

Any of the following days after 4pm:

Feb. 15

Feb. 21

Feb. 27-Mar. 1

Richard Stewart

Feb. 21

Feb. 16

March 1

Governor O'Malley

Feb. 22

Feb. 24

30(b)(6)

March 2

Best,
Jennifer

Jennifer Katz
Assistant Attorney General, Civil Division
Office of the Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
jkatz@oag.state.md.us
(410) 576-7005

Please consider the environment before printing this email

LEGAL DISCLAIMER - The information contained in this communication (including any attachments) may be confidential and legally privileged. This email may not serve as a contractual agreement unless explicit written agreement for this purpose has been made. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or any of its contents is strictly prohibited. If you have received this communication in error, please re-send this communication to the sender indicating that it was received in error and delete the original message and any copy of it from your computer system.

This email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. If you are not the named addressee you should not disseminate, distribute or copy this e-mail.