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Report of Proceedings
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

SHELDON LANGER, RONALD M.)
YERMACK, LANCE GOLDBERG, on)
behalf of themselves and)
other similarly situated,)
Plaintiffs,)

vs.

No. 2014 CH 00829

CME GROUP, INC., a Delaware)
Corporation; THE BOARD OF)
TRADE OF THE CITY OF)
CHICAGO, INC., a Delaware)
Corporation,)
Defendants.)

REPORT OF PROCEEDINGS had at the hearing
in the above-entitled cause before the Honorable
Celia G. Gamrath, Judge of said Court, in
Room 2508, Richard J. Daley Center, Chicago,
Illinois, on 19th day of February, 2019 at 2:03 p.m.

JOB NO. 153933

1 Report of Proceedings
2 APPEARANCES:

3
4 MASSEY & GAIL
BY: SUYASH AGRAWAL, ESQ.
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5
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7
8 -- and --
9 SUSMAN GODFREY
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11 Houston, Texas 77002

12
13 Appeared on behalf of the Plaintiffs;

14
15 Skadden, Arps, Slate, Meagher & Flom
BY: TIMOTHY FREY, ESQ.
16 ALBERT HOGAN III, ESQ.
MARCIE LAPE, ESQ.
17 155 North Wacker Drive
Chicago, Illinois 60606

18
19 Appeared on behalf of the Defendants.
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1 Report of Proceedings

2 MR. AGRAWAL: Your Honor, Suyash
3 Agrawal for plaintiffs. My co-counsel, Steve
4 Susman, would like to participate by phone.
5 I'll put him on speaker, but I anticipate
6 doing most of the talking.

7 THE COURT: Thank you.

8 MR. AGRAWAL: Sure.

9 MR. HOGAN: Good afternoon, Judge. Al
10 Hogan for CME.

11 MS. LAPE: Marcie Lape for defendants.

12 MR. FREY: And Tim Frey for
13 defendants, your Honor.

14 MR. SUSMAN: Hello.

15 MR. AGRAWAL: Mr. Susman, we're in
16 court here. I've informed the Judge that you
17 will be on the phone with us. I will try to
18 do most of the talking, but, of course, there
19 may be questions since you have participated
20 in some of the discussion with opposing
21 counsel. So please stand by.

22 THE COURT: Good afternoon.

23 So approximately --

24 MR. SUSMAN: Afternoon, your Honor.

25 THE COURT: Approximately an hour ago

1 Report of Proceedings
2 I received plaintiffs' and defendants' status
3 reports.

4 Have you exchanged those?

5 MR. AGRAWAL: We have.

6 MR. HOGAN: Yes.

7 THE COURT: I understand you did have
8 at least one mediation session with retired
9 Judge Anderson, and unfortunately it appears
10 that those discussion were not fruitful.

11 MR. AGRAWAL: That's a fair
12 characterization, your Honor.

13 THE COURT: Have you made any attempts
14 to go back to the table since that October
15 mediation session?

16 MR. AGRAWAL: Speaking for the
17 plaintiffs, based on the tenor of those
18 discussions, we certainly want to be
19 respectful of the confidentiality of them.
20 It's pretty apparent to us that further
21 discussion at this point, with or without a
22 mediator, are not going to advance the ball.

23 MR. HOGAN: I think that's right,
24 Judge. We had what I would characterize as
25 very good discussions. Judge Anderson did a

1 Report of Proceedings
2 very nice job. The parties were -- listened
3 to each other, but I think the conceptual
4 gaps in this case right now prevent the kind
5 of common ground to seeing our way to a
6 potential resolution.

7 THE COURT: So in terms of moving
8 forward to trial, from reading the status
9 reports it appears that plaintiff is quite
10 anxious to get to trial. If my math is
11 correct, it looks like you think you can get
12 there in nine months, and defendant has a
13 longer time frame in mind.

14 MR. HOGAN: I think that's fair,
15 Judge. I'm not sure the plaintiffs believe
16 nine months. We talked about this. We did
17 engage in discussions. And the subject of
18 the trial date was one that -- and this is
19 consistent with where I have been in the
20 past, your Honor.

21 I think in most cases but in this
22 case in particular -- take for instance the
23 recent document discovery that we went
24 through, we talked about it in our status
25 report. Judge there's nothing that having or

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2 not having a trial date did to accelerate or
3 speed up that process. We worked as quickly
4 as we could to get through a massive amount
5 of documents.

6 So now as we sit here, we see there
7 is a class certification issue, and there is
8 a dispositive motion issue. And given our
9 familiarity with the way the Court operates,
10 we expect your Honor's going to, we hope,
11 take those two issues and provide them the
12 same level of attention which we have
13 proceeded with the rest of the case.

14 So we strongly believe that a trial
15 date right now is illusory, and instead with
16 your Honor's guidance we should pick what the
17 next target is and work very hard to get to
18 that target. And I think parties, at least,
19 are in agreement that class certification is
20 that next target. And so our thought is --
21 and not to rush the plaintiffs if they feel
22 that more discovery is necessary, but they
23 had talked about a May date for class
24 certification motions. If they're good doing
25 that, we can target getting that motion on

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2 file. We are requesting 120 days of
3 discovery after that. And then between us
4 and your Honor we get through that issue and
5 figure out what's the shape of the case and
6 what's the fastest way to get to the next
7 step, if the next step is still in front of
8 us.

9 MR. AGRAWAL: May I for just a second,
10 your Honor?

11 THE COURT: Yes.

12 MR. AGRAWAL: Sure.

13 So I think your Honor correctly
14 surmised that plaintiffs are eager to push
15 this case along. This is, as you know, a
16 2014 case. When this case was filed, I
17 remember walking over here myself. My child
18 was six months old. She's now in
19 kindergarten. And at this pace, she might be
20 in high school by the time the case is
21 adjudicated.

22 We are eager to get through
23 discovery and have both dispositive motions
24 and class certification motions adjudicated
25 in an expeditious manner. There is a basic,

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2 I think, disagreement about how we go about
3 doing that. And our view is that there is no
4 reason why in this particular case class
5 certification proceedings should not run
6 parallel with dispositive motion practice.

7 THE COURT: It's not unusual for the
8 class cert to come first.

9 MR. AGRAWAL: Sure. But in the
10 proposal that we have laid out, we would move
11 for class cert first, but there's no reason
12 for the entire process to be held up while
13 that is taking place. We think that the
14 schedule that we have proposed would permit
15 the parties to get class certification
16 addressed and soon thereafter be in a
17 position for dispositive motions to be filed,
18 if any.

19 You know, we, frankly, are -- given
20 the nature of this case, these are
21 shareholders we are talking about. We don't
22 really understand the need for 120 days of
23 additional discovery following a motion for
24 class certification. The class
25 representatives will be deposed during the

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2 course of normal fact discovery, presumably.
3 To the extent that there are any experts that
4 are -- any experts that are identified and
5 whose report support plaintiff's motion for
6 class certification, those experts, there
7 wouldn't be -- you know, we're not talking
8 about a half dozen experts here. It will be
9 a finite number. We think those experts can
10 be deposed soon after a motion for class
11 certification along with the reports are
12 tendered.

13 So we don't understand the need for
14 120 days, and I think that, you know, we are
15 concerned about starting to benchmarks where
16 there's four months of additional fact
17 discovery after those motions are filed. So
18 those are, sort of, I think the two big
19 issues. We do agree that a May 31st fact
20 discovery cutoff makes sense. We'll move for
21 class certification as soon as we reasonably
22 can, but those are the two issues;
23 concurrent -- whether merits on dispositive
24 motion practice and class cert should move
25 concurrently and whether they need this much

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 2 time to deal with class certification
 3 discovery following our filing.
 4 MR. HOGAN: Two things, Judge. First
 5 is that I don't want you to have the
 6 impression that we're proposing that no work
 7 is done on anything other than class
 8 certification. I actually believe once we
 9 see the class certification motion, maybe by
 10 the nature of the discovery that the
 11 plaintiffs take prior to that time, certainly
 12 once we see that motion, then the discovery
 13 that we're asking for -- the period that
 14 we're asking for is 120 days. When we're on
 15 the back end of resolving class
 16 certification, I do not envision then staring
 17 at a whole new fact discovery process. It
 18 may be the case that we can get to the back
 19 end of class cert and say, Really, discovery
 20 is done but your Honor's question is right on
 21 point.

22 In this case in particular, we do
 23 not know how they are going to meet their
 24 class burdens. I remember I went back and
 25 looked at the transcript from the last

1 Report of Proceedings
 2 hearing. There were class discussions
 3 cropping up even then with respect to how
 4 this case is going to be shaped after class
 5 certification. The current schedule that the
 6 plaintiffs are proposing, as best we can
 7 determine, would require us to file a
 8 dispositive motion three days after briefing
 9 on class certification is done. And we feel
 10 strongly that the nature of our dispositive
 11 motion is going to be influenced by how this
 12 court resolves class certification. So I
 13 don't think they are completely sequential
 14 processes, but I think we have to get that
 15 class certification done and assess what then
 16 a dispositive motion looks like. That's not
 17 a year, but it's not before your Honor rules
 18 on it. It's certainly not three days after
 19 briefing.

20 THE COURT: Is this a case where both
 21 parties agree that class cert is going to
 22 apply for all issues or is this a case where
 23 there is a possibility that certain issues
 24 will be parsed out, where some are certified
 25 as class and others are not?

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 2 MR. AGRAWAL: So since, I guess, we'd
 3 be moving for class cert, let me give you our
 4 preliminary thinking on that, and this is of
 5 course subject to what we see in the course
 6 of discovery.

7 So the short answer to that question
 8 is, no, we don't anticipate certain issues
 9 being parsed for class treatment and other
 10 issues being segregated for individualized
 11 treatment. Now, defendants have in our
 12 conversations with them variously suggested
 13 that there might be needs for subclasses
 14 here. And, as your Honor may recall, we
 15 actually, just based on our discussions with
 16 them, and our sort of -- our failure to
 17 understand what any case where you have
 18 shareholders -- different series of
 19 shareholders, all of whom have the same
 20 bundle of contractual rights in a breach of
 21 contract case, we have struggled to
 22 understand what the concerns the defendants
 23 have, you know, sort of generally describe to
 24 us what those issues are.

25 So we tried to serve an

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 2 interrogatory. The Court said, You're not
 3 going to make the defendants give us those
 4 interrogatories. So we will be moving for
 5 class certification. There may be some
 6 subclass issues. And subject to what we
 7 might surprisingly find between now and the
 8 end of fact discovery, you know, reserving
 9 those rights, we do think they'll probably be
 10 a single class cert issue for all -- class
 11 certification for adjudication of all issues
 12 and no individualized treatment at this
 13 point.

14 MR. HOGAN: That's not surprising.
 15 That would have been my guess is that they
 16 believe that every issue in the case can be
 17 subject to class treatment. I just don't
 18 know how they're going to get there.

19 THE COURT: Because that is a
 20 possibility in this case from what I have
 21 know and what I have seen, I think that goes
 22 to defendants' point to say there is no
 23 possible way that dispositive motions could
 24 be filed three days later or on the heels of
 25 a class cert motion.

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1 MR. AGRAWAL: Your Honor, the math is
 2 not three days necessarily. I mean, as long
 3 as we're on the conceptual same page that
 4 merits will proceed concurrently with class
 5 cert and that things are not going to be put
 6 off, you know, to see what happens with class
 7 certifications for purpose of merits. Look,
 8 there's always the possibility a new witness
 9 shows up, a tranche of documents shows up,
 10 there's a named plaintiff that's added. All
 11 of those possibilities we acknowledge, and I
 12 think the parties are very capable of working
 13 them out. What we don't want to do is
 14 de facto or by order or by agreement start
 15 bifurcating merits and class cert issues. We
 16 have done too much too long, and we want to
 17 get to the bottom of things so that as soon
 18 as reasonably possible after class
 19 certification the dispositive motion
 20 practice, you know, can begin.

21 THE COURT: Quite frankly, the Court's
 22 opinion, generally speaking, is bifurcation
 23 is not necessarily a bad idea because they
 24 really are distinct questions, right? So
 25

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1 we're looking at class cert as a procedural
 2 type motion versus the merits. Having said
 3 that, the court is well aware that
 4 bifurcation can unduly prolong litigation.
 5 There could be unnecessary duplication, and
 6 it sounds like a good amount of time, a good
 7 amount of documents have already been
 8 exchanged and depts taken that would run
 9 simultaneously as to merits as well as class
 10 cert. I'm certainly encouraging that. I'm
 11 not going to interfere with that.

12 But, realistically, I do not see how
 13 the Court is going to decide the class cert
 14 issue and then the parties turn around and
 15 within a few weeks' time get dispositive
 16 motions on file. There is a likely more
 17 discovery to be done thereafter. So let's
 18 take it from the standpoint of finishing
 19 discovery to the best extent possible, moving
 20 forward as you have been doing. Let's get a
 21 timeline for the class cert motion to be
 22 filed.

23 Are you anticipating it being fully
 24 briefed by summer?
 25

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1 MR. AGRAWAL: So, you know, that -- we
 2 can tell you how quickly -- based on what we
 3 know right now, how quickly we can move.

4 THE COURT: Mr. Hogan mentioned May.
 5 What's --

6 MR. AGRAWAL: Yeah. Oh, in terms of
 7 the opening papers, yeah, absolutely we
 8 anticipate having it done either by close of
 9 fact discovery or potentially before fact
 10 discovery but almost certainly within a short
 11 period of time after the close of fact
 12 discovery if we're talking about May 31st.

13 THE COURT: Do you expect this class
 14 certification motion to be decided on the
 15 papers or do you expect an evidentiary
 16 hearing?

17 MR. AGRAWAL: So, as your Honor can
 18 imagine, often the real shooting on class
 19 cert ends up being on the reply. We will
 20 come forward and tell you all of the
 21 wonderful reasons why there's no reason why
 22 this case can't be class certified, and then
 23 the defendants will file an opposition brief
 24 that will identify all the 46,000 issues
 25

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1 that -- individualized issues that, you know,
 2 refute any class treatment. And then it's
 3 really at that point that the issues start to
 4 become crystallized where we understand,
 5 Okay, you know, this is why they're
 6 contesting class certification. It's in the
 7 reply brief, and at that point we're in a
 8 position to know can this be adjudicated on
 9 the papers or does it need a hearing -- does
 10 it need an evidentiary hearing? At this
 11 point I can't imagine we're going to need an
 12 evidentiary hearing.

13 So what I might suggest is that we
 14 reserve that question until we've either seen
 15 their opposition or submitted our reply brief
 16 and shown up for a clerk status at which
 17 point we can either tell the Court what
 18 we're -- we're submitting this on the papers,
 19 or we can suggest to the Court if some
 20 alternate treatment is warranted, or the
 21 Court may tell us, Here's what I'd like to
 22 know now that you guys submitted these
 23 papers.

24 THE COURT: Any comments?
 25

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MR. HOGAN: I think it's a good idea to wait and see in terms of an evidentiary hearing. I actually think the prospects for that in this case are higher than they are in the average class case. I really do think there are going to be substantial issues regarding whether these named plaintiffs represent the interest of, you know, two exchanges with multiple levels of membership; plaintiffs here who have leased their members versus folks who trade.

So, look, there's going to be a lot of issues. I think we should wait and see what kind of a, frankly, class certification hearing your Honor wants to conduct with both parties' input once we get through with the briefing.

So I come back to the reply. I'm not sure how long the plaintiffs want for the reply. I suggest we either think about that now or even wait until you see our opposition, but coming back to what the defendants are requesting, once they get their class cert portion on file, I would

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traditional way? We'll file our motion and -- on a reasonable date to present and confer with them, and see if we can get a briefing schedule following that.

THE COURT: There is the potential that defendant will only need 30 to 60 days depending on what discovery and depositions are taken prior to this motion, correct? I mean there is that chance.

MR. HOGAN: I couldn't agree more that we'll know more once we see their motion.

THE COURT: When do you want to put it on file? Here's what I want to do.

I don't want you to wait until May to put your motion on file and then hear from Mr. Hogan that now he needs 150 to 180 days because not enough has been done between now and May.

MR. AGRAWAL: Again, if we're proceeding as we have been, right, if we're proceeding as we have been, then neither plaintiffs nor defendant should be staying their hand on any discovery they think they need either for class cert or merits. I

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like 120 days. I can't imagine there aren't going to be expert issues involved in this. And I can't imagine that there aren't going to be complicated factual issues, and I think that's a sufficient time to get our opposition filed.

MR. AGRAWAL: So since we are at this juncture -- we don't understand why they need 120 days. Why don't we just proceed the normal way? We'll file our class cert. We'll set it for presentment. We'll meet and confer with them before and see if we can reach agreement on a deadline to submit their opposition. Maybe we will come around to -- they'll convince us that 120 days is warranted. They'll tell us what additional discovery they think they need. We'll be able to tell them when -- if we have expert reports, we'll be able to tell them for deposition, so we'll be able to sort of map that out.

So rather than just baking in four months into the schedule on an anticipated need for all of that, why don't we do it the

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think that we can be in a position certainly by, you know, the middle of May to file it. If we file it sooner, then you know, even better. But I'm loathe to commit my colleagues to, you know -- what if we committed to having it on file by the 17th May?

THE COURT: All right. So that's the third Friday in May. And I am going to suggest that today we give defendants 90 days to conduct additional class and expert discovery. If that's impossible, I'm sure I will hear from you, but let's build in a schedule today so that there is a target and so that everybody is incentivized to continue to move forward.

MR. HOGAN: Okay.

THE COURT: All right?

MR. AGRAWAL: Great.

And so just to be clear, that's 90 days, and then we're anticipating an opposition brief after those three months?

THE COURT: Yes.

MR. AGRAWAL: Not just discovery and

1 Report of Proceedings
2 then they come back and tell us this is how
3 much time we need. So the parties should
4 endeavor to complete all discovery they need
5 and get their opposition brief on file within
6 those three months.

7 THE COURT: So the opposition brief
8 will ideally be due sometime probably end of
9 September.

10 Is that realistic.

11 MR. HOGAN: 90 days, Judge, would be
12 the end of August.

13 THE COURT: Right, and to get your
14 brief on file end of September.

15 MR. FREY: So 90 days for discovery.

16 MR. HOGAN: I understand. So 90 days
17 for discovery plus briefing.

18 THE COURT: That should be ample time.

19 MR. HOGAN: Yes, yes. I think that's
20 right.

21 MR. AGRAWAL: We think that's a lot
22 time, your Honor. That's the 120 days
23 they're asking for. Let's get the motion on
24 file and actually find out what they need to
25 do. These things are like buckets. The

1 Report of Proceedings
2 bigger the bucket, the more time it takes.
3 So maybe we'll be convinced that -- at that
4 point in time -- and we'll come you ourselves
5 and say, Here's our motion, this is what they
6 told us they need to do, they want to depose
7 these 17 people, these 4 experts. Yes,
8 that's going to take 90 days. But, if not,
9 then let's try to move this thing along.

10 THE COURT: So that's perfectly fine.
11 But if you tell me they only need to take two
12 and they tell me they need seven-plus, I'm
13 still giving them the 90 days.

14 MR. AGRAWAL: Fair enough.

15 THE COURT: At that point the 90 days
16 begins to run when again --

17 MR. AGRAWAL: We'll come in a week
18 after --

19 THE COURT: Sure. You can do --

20 MR. AGRAWAL: We'll come in before
21 Memorial Day weekend after -- we'll file on
22 the 17th. We'll come in, you know, the 23rd
23 or the 24th, sometime after everybody has had
24 a chance to look at the motion --

25 THE COURT: Mr. Hogan it appears

1 Report of Proceedings
2 Mr. Agrawal is concerned that this gives you
3 your full 120 days.

4 Do you think it's possible to shave
5 off an extra 15 to 25 days of the schedule
6 the Court proposed and have your brief on
7 file perhaps early September, early to mid
8 September.

9 MR. HOGAN: (No response).

10 THE COURT: I'm just looking at the
11 calendar. And to your point, it's a 2014
12 case. Two weeks is not going to make a
13 difference.

14 MR. HOGAN: Judge, I hate to say this
15 out loud, but I'm going to. I actually have
16 a vacation planned at the beginning of
17 September that I have committed, and that is
18 going to -- it's my --

19 THE COURT: The Court thinks it's wise
20 today to set a real timeline.

21 I will say that, Mr. Agrawal, should
22 your motion for class cert come ready and
23 prepared in April, you can always notice it
24 up and we can adjust accordingly. But
25 anticipating that it's coming mid-May, I have

1 Report of Proceedings
2 no problem proposing the schedule of 90 days,
3 plus that 45-day period to get the brief on
4 file.

5 MR. AGRAWAL: Okay.

6 THE COURT: If Mr. Hogan comes to me
7 and says, I need more than 90 days for
8 discovery, I may just say, Eat some of your
9 time for the brief. You should be working on
10 it anyway, which I suspect you will be.

11 MR. AGRAWAL: Okay.

12 THE COURT: Let's get this teed up and
13 come back after that response -- or that
14 opposition brief is filed. If you need a
15 status date between now and October, of
16 course, we could give you one, but I don't
17 expect to do anything substantively really
18 until we see what that looks like.

19 MR. HOGAN: And, Judge, we put in our
20 status report but this may be a one-off
21 discussion. We did talk about how we may be
22 filing a targeted motion to compel. I don't
23 know if you picked that up in our status
24 report. That's a one-off discovery issue.
25 So we may be back over the next several

1 Report of Proceedings
2 weeks. It's a quick issue -- a couple of
3 quick issues. I just didn't want your Honor
4 to let us leave here believing you would not
5 hear from us on those short briefing issues.

6 THE COURT: And you have had a 201(k)
7 in connection with this?

8 MR. HOGAN: Yes.

9 MR. AGRAWAL: Yes.

10 THE COURT: And is this issue ripe
11 where you'd like to get it out in the open
12 right now or do you want to continue with
13 your own 201(k) conference?

14 MR. AGRAWAL: No. I mean, look, it's
15 pretty simple. There's two issues. One is
16 they have asked us to identify literally
17 everybody we've talked to, not our witnesses
18 or potential witnesses but literally everyone
19 the lawyers or our clients have spoken to.
20 So I guess if they want to move to compel on
21 that, we're not inclined to start identifying
22 interrogatory answers everybody we or our
23 clients have talked to.

24 And second there is a dispute over
25 what we view as contention interrogatories.

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2 actually handling argument on that, so can
3 we --

4 THE COURT: It would simply be for
5 presentation.

6 MR. AGRAWAL: Oh, I see.

7 THE COURT: If you don't need a date,
8 you can work out a briefing schedule. That's
9 fine too.

10 MR. HOGAN: I'm pretty confident we'll
11 be able to work out a briefing schedule.

12 MR. AGRAWAL: Yeah, no question.

13 THE COURT: So what I'd like to do,
14 though, is just for my own schedule, I'd like
15 to know when you anticipate filing a motion
16 to compel? It looks like it would probably
17 be sometime early to mid-March.

18 MR. HOGAN: No, we were thinking about
19 filing next week. It's going to be very to
20 the point.

21 THE COURT: So we are out to February
22 19th.

23 You're going to file it by?

24 MR. HOGAN: By the 29th -- I'm sorry,
25 March the 1st.

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2 Again, let them -- I think we're at issue on
3 that. So I don't think that in this case
4 either side is running prematurely to the
5 court to seek relief without appropriately
6 exhausting 201(k) discussions, so maybe we'll
7 see their papers and change our mind. Of
8 course, we'll have those conversations, but I
9 think we can go ahead -- they can go ahead
10 and file their motion and we'll look at it
11 and set a briefing schedule and argue them as
12 appropriate.

13 THE COURT: So would you like a status
14 date in which you could just piggyback a
15 motion, or do you want to simply e-file it
16 and get a date that can be set out of the
17 clerk's office?

18 MR. HOGAN: It's easier to get a date.

19 MS. LAPE: Easier to get a date now,
20 yes.

21 MR. HOGAN: Easier to get a date now,
22 if we could.

23 MR. AGRAWAL: And my only challenge is
24 is that one of my colleagues who is not here
25 on the phone is probably going to be the one

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2 MR. AGRAWAL: That's fine. We'd love
3 to have it filed on the 29th.

4 THE COURT: Early to mid March, right?
5 So if you file by the 1st, why don't we put a
6 briefing schedule in it today that says
7 anticipated motion to compel due March 1st.

8 How much time does plaintiff want to
9 respond? I recognize you say you have not
10 seen it, but let's just build it in.

11 MR. AGRAWAL: Yeah. Why don't we ask
12 for the 22nd only because of spring breaks, I
13 don't know what my colleagues spring breaks
14 are.

15 THE COURT: Mr. Hogan, would you like
16 reply brief?

17 MR. HOGAN: Yes. We'll take 7 days.

18 MR. AGRAWAL: I don't want my
19 colleague to have to work on her spring
20 break.

21 MR. HOGAN: In terms of coming back to
22 court to argue this, I am going to tell you
23 that it probably will not be until sometime
24 in mid to late April at best.

25 MR. AGRAWAL: Okay.

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 2 MR. HOGAN: Okay.
 3 THE COURT: So why don't we look at
 4 that schedule looks like. I'll check my
 5 book. I'll check my clerk's. And I'll see
 6 if I can give you an argument date today.
 7 MR. HOGAN: If your Honor can hold
 8 hearing before mid to late April for good of
 9 my health, maybe we'll make reply due the
 10 5th.
 11 MR. AGRAWAL: Yeah, we're fine with
 12 that.
 13 THE COURT: Okay. Anything else?
 14 MR. AGRAWAL: No.
 15 MR. HOGAN: No, thank you, Judge.
 16 MR. AGRAWAL: I'm looking at this
 17 calendar. If you're talking about mid to
 18 late April, we're seeing a lot of dates X'd
 19 out in April.
 20 Are we looking really at the 19th,
 21 the 22nd, and 29th? I mean, are the non-X'd
 22 out dates are the likely candidates?
 23 THE COURT: Yes, but I have my own --
 24 MR. AGRAWAL: Other challenges as
 25 well. Understood.

1 Report of Proceedings
 2 THE COURT: I could possibly adjust
 3 certain things. Those are my extremely busy
 4 days.
 5 MR. AGRAWAL: Fair enough, your Honor.
 6 THE COURT: So I'm trying not to set
 7 too many things on those dates.
 8 MR. AGRAWAL: Fair enough.
 9 THE COURT: Prepare that schedule.
 10 And in terms of status on class cert motion
 11 and response, maybe do a second order. I
 12 know you all like to type up those orders
 13 from time to time and exchange them.
 14 MR. AGRAWAL: We do.
 15 MR. HOGAN: Yes.
 16 THE COURT: Just make sure I'll get
 17 that, do you think I'll get it by --
 18 MR. AGRAWAL: Tomorrow?
 19 THE COURT: -- tomorrow?
 20 MR. HOGAN: For sure.
 21 THE COURT: The briefing schedule on
 22 the motion to compel, let's do that day --
 23 MR. AGRAWAL: Sure.
 24 THE COURT: In terms of the class
 25 cert, go back to the office, why don't you

1 Report of Proceedings
 2 construct something, and we will have you
 3 come back in October on that, correct?
 4 MR. HOGAN: That's right.
 5 THE COURT: The Court's going to want
 6 some time to look at the motion, so send it
 7 to me when it's filed. I'm going to want to
 8 take time to look at the opposition brief
 9 before you step up, and we'll see what we're
 10 going to do next.
 11 MR. AGRAWAL: After the opposition?
 12 THE COURT: Yes.
 13 MR. AGRAWAL: Before the reply?
 14 THE COURT: Yes.
 15 MR. AGRAWAL: Right.
 16 THE COURT: But I'd give you a date
 17 sometime in October. If yours is due end of
 18 September, come back maybe mid-October. It
 19 will give me some time to take a look, block
 20 out some time, and we'll figure out the next
 21 step.
 22 MR. AGRAWAL: Okay.
 23 THE COURT: Okay?
 24 MR. AGRAWAL: Terrific. Thank you,
 25 your Honor.

1 Report of Proceedings
 2 THE COURT: Thank you.
 3 MR. HOGAN: Thank you Judge.
 4 MR. AGRAWAL: Thank you, your Honor.
 5 THE COURT: Thank you.
 6 MR. FREY: Thank you, your Honor.
 7 (Which were all the proceedings
 8 had in the above-entitled cause
 9 on this date.)
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Report of Proceedings
STATE OF ILLINOIS)
) SS:
COUNTY OF C O O K)

I, MARY ANN CASALE, Certified Shorthand Reporter of the State of Illinois and Notary Public of the County of Cook, do hereby certify that I caused the proceedings in the above-captioned cause to be reported in shorthand and that the foregoing is a true, complete, and correct transcript of said proceedings as appears from my stenographic notes so taken and transcribed under my personal direction.

IN WITNESS WHEREOF I do hereunto set my hand and affix my notarial seal at Chicago, Illinois, this 27th day of February, 2019.

MARY ANN CASALE, CSR, RPR, CLVS, CMRS
Notary Public, Cook County, Illinois
Illinois CSR License No. 084-002668

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