Pages 1-40

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Vince Chhabria, Judge

RICHARD KADREY, et al., Plaintiffs, vs. META PLATFORMS, INC., Defendant.	**NO. 3:23-cv-03417-VC**
ENTREPRENEUR MEDIA, LLC, Plaintiff, vs. META PLATFORMS, INC., Defendant.	**NO. 3:25-cv-09579-VC**
CHICKEN SOUP FOR THE SOUL, LLC, Plaintiff, vs. META PLATFORMS, INC., Defendant.	**NO. 3:26-cv-02333-VC**

REPORTED REMOTELY BY: Layli Phillips, CSR, RPR, CRR
CSR No. 14402, Official U.S. Reporter

CAMBRONNE INC., et al.,

Plaintiffs,

vs. **NO. 3:26-cv-03725-VC**

META PLATFORMS, INC.,

Defendant.

COGNELLA, INC.,

Plaintiff,

vs. **NO. 3:26-cv-04053-VC**

META PLATFORMS, INC.,

Defendant.

MICHAEL SULLIVAN, et al.,

Plaintiffs,

vs. **NO. 3:26-cv-06793-VC**

META PLATFORMS, INC., et al.,

Defendants.

San Francisco, California
Friday, July 31, 2026

TRANSCRIPT OF REMOTE ZOOM VIDEOCONFERENCE PROCEEDINGS

APPEARANCES:

For Plaintiffs Kadrey:

BOIES SCHILLER FLEXNER LLP
44 Montgomery Street, Floor 41
San Francisco, CA 94104
BY: MARGAUX POUEYMIROU, ATTORNEY AT LAW

BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, NW
Washington, DC 20005
BY: ANNABEL WEINBACH, ATTORNEY AT LAW

BOIES SCHILLER FLEXNER LLP
55 Hudson Yards
20th Floor
New York, NY 10001
BY: DAVID L. SIMONS, ATTORNEY AT LAW

For Plaintiff Entrepreneur Media, LLC:

HUESTON HENNIGAN LLP
523 West 6th Street, Suite 400
Los Angeles, CA 90014
BY: MOEZ M. KABA, ATTORNEY AT LAW
LEE A. LINDERMAN, ATTORNEY AT LAW

NEWMEYER & DILLION LLP
2033 N. Main Street, Suite 500
Walnut Creek, CA 94596
BY: HARLYE CARLTON, ATTORNEY AT LAW

For Plaintiffs Chicken Soup for the Soul, LLC, Cambronne Inc., and Cognella, Inc.:

STRIS & MAHER LLP
17785 Center Court Drive N, Suite 600
Cerritos, CA 90703
BY: LAUREN E. MARTIN, ATTORNEY AT LAW

FREEDMAN NORMAND FRIEDLAND LLP
155 E. 44th Street, Suite 915
New York, NY 10017
BY: KYLE W. ROCHE, ATTORNEY AT LAW

(APPEARANCES CONTINUED ON FOLLOWING PAGE)

APPEARANCES: (CONTINUED)

For Plaintiffs Sullivan:

SLARSKEY LLC
825 Third Avenue, 32nd Floor
New York, NY 10022
BY: DAVID SLARSKEY, ATTORNEY AT LAW

GAW POE LLP
One Embarcadero Center, Suite 1200
San Francisco, CA 94111
BY: RANDOLPH GAW, ATTORNEY AT LAW

ARCHSTONE LAW GROUP
Riverside Center, 275 Grove Street
Suite 2-400
Newton, MA 02466
BY: BRENDA ULRICH, ATTORNEY AT LAW

For Defendant:

DUNN ISAACSON RHEE LLP
401 9th Street, NW
Washington, DC 20004
BY: KYLE N. SMITH, ATTORNEY AT LAW
MERYL GOVERNSKI, ATTORNEY AT LAW

COOLEY LLP
3175 Hanover Street
Palo Alto, CA 94304-1130
BY: MARK R. WEINSTEIN, ATTORNEY AT LAW

COOLEY LLP
1299 Pennsylvania Avenue, NW
Suite 700
Washington, DC 20004
BY: PHILLIP E. MORTON, ATTORNEY AT LAW

Friday, July 31, 2026 **10:12 a.m.**

P R O C E E D I N G S

---oOo---

THE COURTROOM DEPUTY: Now calling Civil Cases 23-3417, Kadrey, et al., vs. Meta Platforms, Inc.; 25- --

THE COURT: You can just call them as the Kadrey -- as the Meta cases, and the record will reflect which cases they are.

THE COURTROOM DEPUTY: Okay.

THE COURT: So anybody new want to make an appearance?

MR. SLARSKEY: Good morning, Your Honor. This is David Slarskey. I represent Michael Sullivan and his co-plaintiffs in the 26-6793 case that was recently related.

THE COURT: Okay. Great. Hi.

MR. SLARSKEY: Joined by co-counsel Randy Gaw and Brenda Ulrich.

THE COURT: Anyone else?

MS. GOVERNSKI: Your Honor, this is Meryl Governski from DIR. I have recently joined the Meta team.

THE COURT: Hi.

Anyone else new?

MR. SIMONS: Yes, Judge. I'm David Simons from Boies Schiller Flexner on behalf of the Kadrey plaintiffs. I don't think I've ever appeared before you, so.

THE COURT: All right. Welcome to the party.

MR. SIMONS: Thank you, sir.

THE COURT: Anyone else? Okay. Let's see. How to proceed.

Maybe, Mr. Kaba, I'll start with you and ask you -- let's put together an agenda for things we should discuss here today. So give me a list.

MR. KABA: Sure, Your Honor. I -- we can talk about the progress of the depositions because I know the court has had interest in that.

THE COURT: Great.

MR. KABA: There have been -- there are a couple of things that were teed up in the CMC statement that I am hopeful, given the statement and the response, that we are going to be able to work out between the parties.

THE COURT: Okay. Give me a list of things we should -- give me a list of everything we should cover today from your standpoint.

MR. KABA: Okay. We would --

THE COURT: Even if it's just getting a quick update or flagging an issue.

MR. KABA: Sure. I think the status of the custodial productions. We had a rule from last time. The identification of 30(b)(6) witness, just given sort of where we are in the case schedule.

And then an issue that Your Honor had raised last time,

which was just making sure we understand we do have a conference scheduled with Magistrate Judge Hixson. I'm sure the court knows about that. Just making sure we understand kind of what should come -- what we should raise with you versus what we should address with Magistrate Judge Hixson.

And then I think from our perspective, that should be it, at least for these cases. And, of course, Mr. Slarskey is here and is also just joining the party, so I don't know if there's anything else the court wants to discuss on that front.

THE COURT: Okay. Why don't we start with those issues, and then we'll see if anybody has anything else.

I guess for -- at the moment, Mr. Slarskey, what I'll say is that we need to set a schedule for your case that is obviously different from the one that we've set for these other cases. And if more cases come in, we would probably put those on the same schedule as yours, at least, you know, if more -- more come in in the next couple of months or something.

So you didn't -- I believe that your case got related to these before you had a chance to put together a case management statement. Is that right?

MR. SLARSKEY: That's correct.

THE COURT: Okay. Do you think it makes sense to just, you know, we're meeting every couple weeks in these cases to try to keep it -- keep things on schedule and under control. Do you think it just makes sense for us to set a schedule for

your case, kind of the next wave of cases, at our next status conference?

MR. SLARSKEY: That's fine, Your Honor. I could give you 30 seconds if it would be helpful --

THE COURT: Sure.

MR. SLARSKEY: -- on how we've reached out and already had an initial conversation with Meta's counsel. I think we are basically on the same page. We also view this as part of -- we're aware that the court has blocked out a next wave of litigation. We are certainly not interested in holding up your current discovery plan.

Our case is on behalf of textbook authors specifically. Ms. Ulrich has been representing textbook authors for many, many years. Mr. Gaw is local in San Francisco. I'm in New York. I've worked with textbook authors for the better part of a decade. I don't know if the court has had a chance to look at the complaint --

THE COURT: Not yet.

MR. SLARSKEY: -- but the complaint alleges effectively some market substitution issues that are very unique to textbook authors insofar as AI can be trained to effectively replace textbooks, which is different than fiction or unique works, and so textbook authors in particular are looking for those issues to be heard and raised and litigated.

What that means practically, we think, is that most if not

all of the discovery that's already being done will be relevant to our case. And then we will probably have some focused expert-related discovery targeted at substitution issues more specifically. We're mindful of the court's summary judgment decision, which we cotton to very much, that market substitution is a key issue that needs to be developed.

And our view is that a second wave of litigation or second wave of cases, we can do that with a focused approach that doesn't stand in the way of the fact development that's being done here.

THE COURT: Yeah. And so it's a proposed class action on behalf of all textbook authors?

MR. SLARSKEY: Yes, Your Honor.

THE COURT: All textbooks. Okay.

And I guess my initial reaction to what you have said is that, you know, as discussed in my summary judgment ruling, right, the issues presented by a claim on behalf of textbook authors could be quite distinct from the issues presented by a claim brought by fiction writers or whatever, right?

And so I guess my initial reaction is that we would also want to make sure that your case doesn't get held up by cases that come in later, potentially. Particularly if they are not on behalf of fiction -- I mean, excuse me, textbook authors. But obviously we can cross that bridge when we come to it. We don't know when the next case will come in.

But I assume that in your case, we should set a fairly aggressive schedule but one that doesn't interfere with the -- you know, and it's not -- it doesn't mean your case has to wait until we're done adjudicating these other cases, of course. But we can set an aggressive schedule that won't delay things in the cases that have already been filed.

MR. SLARSKEY: Yeah. Look, our view is that much of the fact that -- we need to get our hands around the fact discovery that has been done.

THE COURT: Sure.

MR. SLARSKEY: And there is likely --

THE COURT: And there's no reason why that shouldn't start happening now.

MR. SLARSKEY: Right, and then there will likely be a targeted discovery plan focused at these market substitution issues that are unique for textbooks. But the trains may come into the station at the same time at some point.

THE COURT: Yeah. Okay.

MR. SMITH: Your Honor, Kyle Smith from Meta. May I address the court on the trains, if you will?

THE COURT: Sure, yeah.

MR. SMITH: So we've discussed with Your Honor in a prior conference a matter called Elsevier v. Meta that was filed --

THE COURT: Is that the one in SDNY?

MR. SMITH: Exactly. And to summate and be perhaps a little imprecise, that is a putative class action brought on behalf of essentially all authors: Textbook, fiction, nonfiction, et cetera, everyone. So to boil it down, there are overlapping class actions. There's actually four of them pending now: Two in Your Honor's court, two in the SDNY. Mr. Slarskey's putative class action is a subset of the Elsevier putative class.

Meta has moved to transfer the Elsevier class action from the SDNY to the Northern District of California. That motion of transfer is sub judice. It's been fully briefed. Judge Castel has not yet heard argument on it. It's not clear whether he will, but a ruling could come at any time.

Meta's stance in our conferrals with Mr. Slarskey and his colleague or actually with Mr. Slarskey's colleague laid out a proposed path forward, which is ideally the venue of the Elsevier action will be known soon. Meta believes it should be in this court. The plaintiffs in that case do not believe it should be in this court. Judge Castel will decide that.

If it is in this court, then Meta's view is it makes sense to talk about the plan, schedule, arrangements, et cetera, for Mr. Slarskey's action and that Elsevier action all together, given the overlap.

THE COURT: Okay. Yeah. I mean, that sounds good. But I don't think any of that changes the fact that, you know,

you can start sharing, you know, turning over discovery from the other cases to Mr. Slarskey now. I mean, he's going to be able to get that stuff one way or another.

And you can start -- and, of course, we'll need to do some coordination with the other class action if it comes here. But for now, you can, you know, let's -- and I don't know what the right answer is about whether it should come here or not. But for now we'll just deal with the cases we have and, you know, operate on the assumption that we're proceeding with Mr. Slarskey's case and, you know, put together a schedule for that in advance of our next status conference.

MR. SMITH: Right. And, Your Honor, Meta has not made a formal appearance in that case as yet. The time to respond to the complaint runs, I believe, it's September 8th.

THE COURT: I assume you've accepted service for --

MR. SMITH: It was waived, yes. That led to the September 8th date.

And there is a somewhat of a complication in that case in that Mark Zuckerberg is a named defendant in that action. He -- service was waived as to Mr. Zuckerberg. His counsel has not appeared yet. We did have a chance to confer with them along with --

THE COURT: Oh, he's going to have separate counsel?

MR. SMITH: Yes. He will be represented by separate counsel in this action.

THE COURT: Okay.

MR. SMITH: In the Elsevier case, that's the posture as well.

THE COURT: Okay.

MR. SMITH: So in all events --

THE COURT: Why is Zuckerberg named as a separate defendant? I mean, I know that you didn't make the decision, but I find myself wondering why. Well, like what's the point of naming Zuckerberg as a defendant other than to maybe annoy him?

MR. SMITH: Meta certainly has those questions. I will say Mr. Zuckerberg in the Elsevier action has filed a pre-motion letter with Judge Castel while the case is there, seeking dismissal of the causes of action against him. We would be happy to direct Your Honor to that pre-motion letter that Mr. Zuckerberg filed laying out the reasons why he does not believe he should be a defendant in the cases.

I don't want to speak for him given that he will be represented in short order in this court.

THE COURT: Yeah. I mean, we'll cross that bridge when we get to it, but I'm thinking back. I'm sort of -- you said that he's named as a defendant in the SDNY case, too.

Sort of surprised by that because I'm thinking back to the Facebook MDL that I had, and, you know, it seems like most of the responsible lawyers -- plaintiff's lawyers in that MDL did

not name Zuckerberg as a separate defendant, including the lawyers who, I believe, have brought the SDNY action. And I'm just not -- sort of scratching my head at why he should be separately named as a defendant here.

But in any event, we'll cross that bridge if and when we get to it.

MR. SMITH: Okay. And the matter of discovery, we do not wish to interject red tape, but one important condition precedent to production of any discovery would be a protective order.

THE COURT: Of course.

MR. SMITH: We'd like to work with Mr. Slarskey and his colleagues on getting that in order. I suppose -- should we plan to set the conference for that matter shortly after the responsive pleading deadline, which is September 8th?

THE COURT: I just think you all should -- I mean, there should be no -- there should be no hiccups in getting a protective order in place and a protocol in place because we have these other cases where you already have them in place, so I'll just direct you to get those in place before the next case management conference.

MR. SMITH: Okay. We'll proceed accordingly. Thank you, Your Honor.

THE COURT: All right. And then, Mr. Smith, while I'm talking to you, did you have anything to add to the agenda that

Mr. Kaba rattled off, things that we ought to discuss today?

MR. SMITH: No bill of particulars, Your Honor. The -- there are challenges in discovery on both sides. I don't know how deep into them we need to get today, particularly given next Wednesday's conference with Judge Hixson.

THE COURT: Right. I mean, I got together with Judge Hixson, and we decided that we both should be doing regular conferences with you all, and so that's one of the items on Mr. Kaba's agenda, and let's talk about that now.

I think that it will, you know, there will inherently be some difficulty in determining, you know, what should -- what Judge Hixson should be dealing with and what I should be dealing with. I think that difficulty is inherent in the fact that we're both going to be meeting with you regularly. But I think we should both be meeting with you regularly, given the challenges in this case and given the need to move the case forward and keep the case on schedule.

I would -- I cannot possibly imagine that there will be any continuances in these -- in this first wave of cases. So -- and so it requires the judges to work hard and meet with you all regularly to make sure that that -- that everything stays on track.

I think generally, you know, we'll have our conferences, and I may decide some things, and then, you know, anything that

I haven't decided that's in the normal realm of discovery dispute, you should just tee it up with Judge Hixson, and he and I will stay in communication, and we'll coordinate on what we're working on and, you know.

But Judge -- I'm going to jump in and decide some stuff in the interest of expediting things. But anything that I don't jump in and decide, you can -- you should just assume that Judge Hixson has full authority to deal with it in the discovery realm.

Is that good enough for now? I know it's not perfect.

MR. KABA: Yes. Yes, Your Honor. I think we'll work to figure out the lines insofar as there are lines to be discerned as we kind of continue through the process.

THE COURT: Yeah. And I noticed there was one thing -- particular thing that you asked me to deal with today, and I'm happy to do that. And there may be a couple other things that I want to weigh in on or give guidance on today.

So what was the thing that, Mr. Kaba, you asked me -- there was one thing that you asked me to do. I think it was related to the identification of 30(b)(6) witnesses?

MR. KABA: Yeah. So, Your Honor, if I may just start a little bit, the context might help a little bit here.

THE COURT: Yeah.

MR. KABA: So we have -- just as a follow-up on those -- on the topics, we, along with the three C plaintiffs,

have now deposed seven folks. Four additional people are already on schedule, and we have requested dates for five more. So that will take us up to 16 of the 20 percipient Meta employees that we've talked about.

Last time we discussed, Your Honor, three former employees. Two of them have now been served with subpoenas. One of them is in Canada. I don't think we're going to have the time to go through that process to get their deposition. We're looking into it now, but, you know, we will probably find an alternative way to get that information. And then we have the --

THE COURT: What's the name of that witness?

MR. KABA: I will ask, if I may, Mr. Linderman.

MR. MORTON: It's Kenneth Heafield, Your Honor. Phillip Morton for Meta. Kenneth Heafield is his name.

THE COURT: Okay. Thanks.

MR. KABA: So that takes us through a lot of the witnesses, at least that we have so far. As I mentioned to the court last time, we wanted to reserve a few just because we want to get through some more depositions and we want to get the custodial documents so we know who people we're talking to, we need to sort of connect those nodes a little bit.

But then we have this 30(b)(6). We -- Entrepreneur served its 30(b)(6) notice on July 2nd. We have not -- we don't have an identification of witnesses for those topics. What we would

like is a date by which Meta will identify the witnesses for those topics and the scope of the topics that Meta will actually produce witnesses for because then we may need to go to either this court or to Magistrate Judge Hixson and say, this is too narrow of a scope. Our scope is actually broader than this, and we believe we're entitled to the broader scope, 30(b)(6) testimony on the broader scope. So that's the one ask for the court.

The other issue I had on my agenda is the custodial documents. We --

THE COURT: Let's hold off on that for a second and just deal with the 30(b)(6) thing.

MR. KABA: Sure.

THE COURT: So, Mr. Smith or whoever is speaking for Meta today, what -- where are we with identifying the 30(b)(6) witnesses? And what should I do about it?

MR. MORTON: Yes, Your Honor. Phillip Morton for Meta. So we have served responses to the 30(b)(6) notice. We did that, I believe, last week, the day, so they have our views on the scope of those topics. We have already designated witnesses for 3 topics out of the 20. We expect to have a witness at the end of August that will cover the bulk of the topics. And we'll give them a more specific identification of which ones he will be covering. We could definitely do that next week. And then we'll work --

THE COURT: You said by the end of August. What do you mean, by the end of the August, that you would put him up at the end of August?

MR. MORTON: Correct, yes. He's already been scheduled for three days at the end of August for deposition.

THE COURT: Okay.

MR. MORTON: Yes. And then one thing I want to note is we do not have a 30(b)(6) notice from the C plaintiffs in this case, and we would like to have that as soon as possible so that we can make sure that we're efficiently addressing 30(b)(6) discovery in this matter.

THE COURT: Okay.

MR. ROCHE: Yes, Your Honor.

THE COURT: Go ahead.

MR. ROCHE: Yeah. The 30(b)(6) notice is coming today. We spent a little bit of time on updating it, given some of the stuff we learned in the depositions this week. But as noticed in the case management conference, it was going to be served today. So I am going to take a look at it after this call and address a few topics, and it will be out before close of business Eastern time.

THE COURT: Okay. And so I'm going to order Meta to identify all 30(b)(6) witnesses by Thursday, August 6th.

MR. KABA: And then we will address disputes over scope, Your Honor, with Magistrate Judge Hixson unless --

because -- that we can present it to him at that time.

THE COURT: Yep. That sounds good. You were -- was -- anything else on 30(b)(6) witnesses, or were you going to talk about custodial productions?

MR. KABA: I was just going to talk about custodial productions.

THE COURT: Go ahead.

MR. KABA: And I don't actually think there's anything for the court to do, really, on this topic right now. I wanted to give the court an update and just, you know, and be really transparent. The court has seen it in the case management statements, both sides have had some issues with getting the custodial files out within the four days. Both sides are trying to push ahead.

Regardless, I do believe -- I will just note it so I can say I said it: On July 31st hopefully both sides will agree where custodial files have come late that we will get an opportunity, a fair opportunity, to examine witnesses on anything new that has come out if those witnesses have already been examined.

But if not, we may need to come back either to Your Honor or to Judge Hixson to say, hey, we need two more hours, we just got another, you know, hundred really relevant things that we'd like to ask about. I just made up the numbers, but --

THE COURT: Yep.

MR. KABA: I didn't want the court to think that this has gone perfectly. It has not, not from our side certainly, and we believe not from Meta's side either, but we're trying to work through this.

THE COURT: I don't know if anybody was expecting it to go perfectly, and part of what we've been contemplating here is that some depositions will probably need to be reopened, hopefully not too many, but that's just -- that's the reality that we're living with.

MR. KABA: Yeah. So we didn't have anything to address, and as I said, as more specific kind of nitty-gritty issues come up, we'll try to work it out with Meta or we'll take it to Judge Hixson.

THE COURT: Okay. Now what about non-30(b)(6) depos? I saw there was some discussion of some individuals that haven't been scheduled yet. I had some thoughts about that, but is there anything in particular on your mind about the depositions?

MR. KABA: There is -- no. I mean, I think we're waiting on dates. We have not gotten, to the best of my knowledge, and my colleague Mr. Linderman can correct me, Meta has not declined to produce folks for the most part. There is one witness who we would like to depose who is going on medical leave --

THE COURT: That's the person who -- I'll just use

their initials, WL --

MR. KABA: Yes.

THE COURT: -- since it may relate to a medical issue.

MR. KABA: Yep.

THE COURT: I want to -- I was curious about that. So what do you -- what do you think -- what are you hoping to learn about from deposing WL?

MR. KABA: We identified some of the topics in our notice, but why don't I let Mr. Linderman, if that's okay with the court, address some of the more specifics.

THE COURT: Sure.

MR. LINDERMAN: Hi, Your Honor. Yes, Ms. Lu was somebody who had been serviced in two of the prior depositions as a data engineering point of contact on Meta's use case taxonomy documents.

THE COURT: Can you tell me what that is? That was another question I was going to ask. You keep referring to that in the case management statement, but I don't know what that means.

MR. LINDERMAN: Yes. You know, we've learned how Meta has an LLM of its own which tags prompts that users enter into its system and categorizes them by use case and topics and then uses that categorized data --

THE COURT: What is "use" -- forgive my ignorance. What does "use case" mean?

MR. LINDERMAN: So, for example, are you using it for personal conversation? Are you using it to learn? Are you using it for the topic of business and finance? And so it categorizes each prompt so that then they turn around and take some of that data, and our understanding, which we believe Ms. WL can help fill in, is then what happens to that data that's compiled? Where does it go in terms of how do they use it to fine-tune the models? How do they use it to test various improvements in areas that we believe are quite relevant to our clients' works?

And given that she was named as the data engineering point of contact on these topics, we thought that she was an obvious target for a deposition, and we're just seeking --

THE COURT: When you say she was named as the data engineering point of contact on these topics, do you mean for purposes of the litigation or do you mean sort of for business purposes?

MR. LINDERMAN: I mean on the internal Meta taxonomy documents, there will be a list of six names for the various functions, and it will say, here's the point of contact for the data science function; here's the point of contact for the data engineering function. She's listed on some of those internal documents.

THE COURT: That all sounds like stuff that you could easily get from other people.

MR. LINDERMAN: Okay. We are --

THE COURT: That's my -- I'm not making a definitive ruling on that. But I, you know, this is somebody who is going out on medical leave, and I don't know what the issue is. I don't know if people are at liberty to tell me what it is, but I don't --

I think there is a tendency to think that like every witness is -- like it's super important to take their deposition. And the reality is that I think most of these witnesses, it's not that important to take their deposition for the ultimate adjudication of the case.

And this seems like one of those people to me.

MR. LINDERMAN: If I may, Your Honor, I hear you, and I think that that's totally reasonable. What we would ask for is that her custodial file get produced so that we have a better understanding of who she's been communicating with on that data engineering team. And without getting her on schedule, that kind of gets lost in the shuffle.

THE COURT: It doesn't -- that does -- seems totally reasonable to ask that they go ahead and produce her custodial files.

MR. LINDERMAN: That would be acceptable to us as long as we have enough time to then identify who might be the appropriate replacement.

THE COURT: All right. So when are we going to

require that to be produced? Seven days from today?

MR. MORTON: Your Honor, I don't think we can possibly provide that seven days from today. She was just identified last week as a potential custodian, and we are working on pulling her documents, but I don't think we'll be able to do it within seven days from today.

THE COURT: Okay. We'll make it 11 days. August 12th is the deadline for producing her, her custodial documents.

MR. KABA: And we'll promptly identify someone or talk to Meta about identifying an alternative.

THE COURT: If necessary.

MR. KABA: If it's necessary, exactly. And, Your Honor, just to be clear, there are plenty of people who have come up that we've said we're not -- we don't need these depositions, and we're actually trying very hard not to even use the nine hours that Your Honor has given us --

THE COURT: Okay.

MR. KABA: -- to move these along.

THE COURT: So the other one was Scissors. And I was just curious, like, why can't we -- I know that she's on paid time off until August 10th, but why can't we at least get like a date scheduled for her before that?

MR. MORTON: We would like to be able to talk to her about her schedule and make sure that the timing works for her and --

THE COURT: Yeah, but why can't -- I mean, can't you do that?

MR. MORTON: Meta tries to respect the vacations of people that -- and when they are on vacation and try not to, you know, disturb that.

THE COURT: Okay. All right.

MR. MORTON: But we're committed to get a date as soon as possible when she gets back.

THE COURT: Okay. All right. And then there's discussion of a deposition of Zuckerberg. So he -- do I remember correctly that he was deposed -- he's been deposed already in these cases?

MR. MORTON: That's correct, Your Honor. In the Kadrey case.

MR. KABA: In December of 2024, I believe.

THE COURT: Okay. And I understand that it's possible that the Kadrey plaintiffs didn't cover what they needed to cover. But you rattle off a few topics, Mr. Kaba, that you think were not covered by the Kadrey plaintiffs.

The first was -- let's see. Kadrey did not address the quality of Meta's AI outputs and whether they substitute for or dilute the market for copyrighted works.

Why would that be an appropriate topic for a deposition of Zuckerberg? I can't imagine that Zuckerberg is going to have any knowledge of that that you can't get from other witnesses.

In fact, there are other witnesses who are going to have much better knowledge of that than Zuckerberg.

MR. KABA: Yeah. Our view is, Your Honor, that Mr. Zuckerberg has been at the helm of Meta's AI efforts and the improvement of those efforts to pivot away from certain approaches that Meta has taken towards AI, for example, the shift to this Superintelligence Labs and why, what is the ca- -- what is the -- the use business case for the --

THE COURT: Let me just interrupt you there.

MR KABA: Sure.

THE COURT: I'm asking specifically -- I mean, I read this paragraph that you wrote about the things that the Kadrey plaintiffs didn't address with Zuckerberg, right?

MR. KABA: Yeah.

THE COURT: And the first thing you list is the AI outputs and whether they substitute for or dilute the market for copyrighted works.

Now, we know that the Kadrey plaintiffs didn't -- not only did they not depose Zuckerberg about that, but they didn't develop a record on that at all. But why would -- I'm asking about that specific issue. Like if you were to come to me and say, we want to take Zuckerberg's deposition, and we want -- the single topic we want to discuss with him is that, the -- that first issue --

MR. KABA: You would deny it.

THE COURT: You've got to be kidding me. Like, you're not going to be able to take his deposition on that. There's no information that he has that you can't get in higher quality from other witnesses.

MR. KABA: Yeah. And my -- our effort, Your Honor, in providing that list was not to meet the apex standard, have we exhausted -- that was not the point. The point was we didn't -- unlike the other witnesses where like we just want to question them, we wanted to make sure everybody understood these were the things we would question him about so we could -- so there was -- it was not to say that he is the exclusive or the best source for any of these things, but those were the --

THE COURT: So can you explain to me what you genuinely need to talk to him about? Because it doesn't seem like that first topic is one of them, is something that you genuinely need to talk to him about.

MR. KABA: We genuinely would like to talk to him about -- I think the two things that are -- well, I genuinely want to talk to him about all of those things, but the two things that he might be uniquely situated to talk about, Your Honor, or the few things are this shift that Meta has made since that deposition from what we've described as Meta AI to this Meta Superintelligence Labs approach. The goal --

THE COURT: Can you tell me -- can you give me a

couple sentences on that? Explain that to me.

MR. KABA: Yeah. They -- so Meta shifted from its original approach to essentially industrial scale purchase and scanning of works to feed into its LLM model. That -- that shift had happened in mid-2025, and we want to understand why, what was the business case for it, what were the resources that went into it. So that's one topic.

We want to talk about --

THE COURT: Presumably it was to avoid copyright infringement liability going forward, right? Or part of it?

MR. KABA: Maybe.

THE COURT: Okay.

MR. KABA: But that's a part of it.

Mr. Zuckerberg's also -- was sort of very much tip of the spear, we believe, and we understand on this effort as a whole and understanding Meta's business case for doing this, why has this been important, the whole operation, not just this shift, you know, the understanding of how Meta's users are interacting and the goals for it, how it will expand and occupy more and more space because, as we all understand, Meta's goal is to have people engage for as long as possible looking as -- at as much as possible. That is something that Mr. Zuckerberg, we think, is uniquely qualified to respond to.

THE COURT: Yeah, that stuff, I mean, a lot of that stuff presumably was covered by the Kadrey plaintiffs. I mean,

I guess --

MR. ROCHE: Can I be heard on this issue? Because I think there's an additional point that bears merit on this --

THE COURT: Go ahead.

MR. ROCHE: So I think Your Honor is correct that a lot of the information related to what Your Honor will ultimately decide on the question of fair use and the question of law there, you know, you probably could get from different witnesses under -- from Zuckerberg.

But the Ninth Circuit's model instructions for statutory damages on the question of the -- the -- what the jury hears who is ultimately going to decide under the question of statutory damages goes to the jury, it -- the -- so there's six factors that the pattern jury instructions list out for what the jury needs to decide on in determining statutory damages.

And those factors are -- hold on, I've got them -- the -- whether the infringement was intentional or willful, the need to penalize the infringer.

And I think Mr. Zuckerberg, as far as his directive and his knowledge as the person in charge ultimately at the end of the day of making the decision to engage in these commercial practices, to the reward that he received in the form of developing the AI products that Meta is profiting by, and the future state of how this is going to impact Meta's business, I think a jury is ultimately going to need to weigh this,

Mr. Zuckerberg's testimony on these issues, in determining what the appropriate statutory damages are.

And I -- so I take Your Honor's point on some of the issues, we probably can get from different witnesses, and I'm sensitive to that, but I do think that a deposition in asking him certain direct questions --

THE COURT: Can I just cut you off for a second and say I wasn't going in the direction of saying, you know, you can't take Zuckerberg's deposition. I assume that it would be appropriate to take Zuckerberg's deposition again, even though it was already taken by the Kadrey plaintiffs.

But I am -- my radar has gone off on the question of whether your -- you would be overdoing it, and I just think that it's important, you know, with any, you know, apex deposition -- is that what they call it, apex deposition? Apex witness --

MR. KABA: Yes, Your Honor. Yeah.

THE COURT: -- to, you know, to be mindful of not, you know, wasting the person's time and not harassing the person, and so some of this stuff might already have been covered in the prior deposition. Some of these topics, I think, are, you know, it doesn't make sense to be asking Zuckerberg questions about, like market dilution.

But I'm not suggesting -- I mean, I have been -- I'm assuming that it will be appropriate to take his deposition

again, and you should get that on schedule ASAP. But you need to be mindful of the, you know, what you're going to be covering with him and work, you know, in good faith with Meta on sort of limiting the topics that are going to be discussed.

MR. KABA: Yeah. And I -- Your Honor, if I could just add one point to what you said, and we are mindful.

I'm often on the other side of the V representing clients and get apex witness deposition notices and have the very same concerns that you've identified. But even if the Kadrey plaintiffs covered aspects of Meta's business strategy up through December 2024, this space has changed quickly and has expanded quickly, right?

THE COURT: I totally understand that, and there may also be things about, you know, there may be stuff from previously that the Kadrey plaintiffs didn't cover adequately that you need to get into. I understand. I understand all of that.

MR. KABA: Yeah. And we are -- we will very much work with Meta on the dates that Mr. Zuckerberg has available, on any time restrictions that he has. We're not doing this to impose -- like this is not like some sort of litigation pressure point for us.

THE COURT: Right. But I want to see -- I want to see -- at our next status conference, there should be a deposition date for Zuckerberg on calendar. And if there's

not, I will pick a date of my choosing for Zuckerberg's deposition to be taken.

MR. SMITH: Your Honor, may I address the court for Meta on this issue?

THE COURT: Sure.

MR. SMITH: Meta, with all respect, doesn't agree with the court's assumption that the deposition is appropriate. We would like the opportunity to brief the issue. We can submit it to Your Honor or to Judge Hixson, whoever --

THE COURT: You can brief it. You can brief it to me. I would be very shocked if I concluded that these plaintiffs who -- this is their case, you know, the -- Kadrey is not their case. They were not here for Kadrey. I would be shocked if I agreed with you that Zuckerberg's deposition should not be taken in this case.

So you can file a motion with me if you want on that. It can be an administrative motion. But meanwhile, there -- I am requiring that Zuckerberg's deposition be scheduled before the next status conference.

MR. SMITH: Okay. Well, we'll proceed accordingly, and we'll confer with Mr. Kaba and Mr. Roche to discuss if there -- the parameters, limits, to see if there's some agreement that can be reached and if -- and otherwise brief the issues to Your Honor.

THE COURT: Yeah, okay. All right. Anything else on

depositions?

MR. ROCHE: One thing --

MR. KABA: Sorry. Go ahead. I was just going to say that's all we had on, at least, the agenda for the Entrepreneur plaintiffs -- plaintiff.

MR. ROCHE: One thing for the three C's plaintiffs I just want to put on the court's radar, so we heard you from last conference. We are ready to get this discovery on both offense and defense done, on the timeline.

We have seven key witnesses on our end. We have provided dates. We have worked with Meta and provided dates. I know Mr. Morton, you know, we're going to give him the 30(b)(6) today. I would ask that we get dates on the calendar today. I don't think we need to -- but I do think we need to firm up the dates, just given the level of coordination.

And the other thing I would ask is for some of them we can do it in person, but we're going to be triple covering these depositions to get all of them done in the month of August, and so I would ask that, you know, for the ones that we need to have remote that they can be remote.

MR. SMITH: May I respond to Mr. Roche, Your Honor?

THE COURT: Yeah.

MR. SMITH: Meta has received the dates. We appreciate them. In essence it's a jigsaw puzzle to make sure we get a schedule that like fits together. Meta will be

responding to those dates in very short order. We would like the opportunity to get back to Mr. Roche with dates by Tuesday, and if there's any remaining unscheduled depositions, we can take it up with Judge Hixson on Wednesday.

THE COURT: That's fine.

MR. SMITH: Yeah.

THE COURT: All right. So get back to him with the dates by Tuesday.

MR. SMITH: Very well. Thank you, Your Honor.

THE COURT: Okay. What else? Anything else?

MR. ROCHE: Nothing else from the three C's.

THE COURT: Anything on Kadrey? I didn't see anything in the case management statement.

MR. SIMONS: Yeah, Your Honor, this is David Simons on behalf of the Kadrey plaintiffs. I don't think there's anything necessarily ripe for Your Honor unless -- we're always happy to hear any guidance that you have on the issues raised there, but otherwise, we're happy to stand down and bring any issues up next week once they are more fully ripe.

THE COURT: Okay. When is our next status conference? Do we have one scheduled, or do we need to do that?

MR. KABA: A week from today, same time.

THE COURT: We have another one a week from today, same time. That's the 7th?

MR. KABA: Yeah. Your Honor, you set that, I think,

maybe two conferences ago or the last conference. But we -- I didn't see it on the court's calendar yet that Your Honor publishes.

THE COURT: Okay. So I -- so that's fine. I'm happy to meet next week. The one question I have for you is do you think -- do you all think that it would be useful -- I mean, I'm looking at the -- looking at my screen, and I'm looking at all the lawyers who could be in the middle of depositions right now and all that other stuff, right, so I want to strike a balance between, you know, making sure I'm available to help move this along but not taking up too much of your time.

So should we -- do you think that it would make sense to have a further CMC next week, or would it make more sense to do it two weeks from now?

MR. MORTON: I think, Your Honor, it would be better if we had these maybe on a two-week cadence because it does take a lot of time away from people working on things like depositions and getting discovery done, having these on a weekly cadence. If something comes up that we need to talk to Your Honor about earlier, we're certainly happy to reach out to the court.

THE COURT: So you're meeting with Hixson when?

MR. MORTON: On Wednesday, Your Honor.

THE COURT: Wednesday the 5th?

MR. MORTON: Yes.

MR. KABA: Two weeks is fine with us, too, Your Honor, on the 14th or if Your Honor wants to just leave it open and we can come back to the court if we need a status conference on the 14th, we can do that.

THE COURT: Definitely don't want to -- definitely not open.

MR. KABA: Yeah.

THE COURT: So let's have a CMC on the 14th.

Bhavna, do you have a sense from our calendar whether we should do that at 10:00 a.m. with the other CMCs or specially set it?

THE COURTROOM DEPUTY: I think we should specially set it. We have about six CMCs on calendar. I don't know if they will go away or not, but just --

THE COURT: Let's do -- we'll schedule it for 1:00 p.m. We may end up moving it to the morning if some of those other CMCs go away just so that we're not -- I know some of you are on the East Coast, and 1:00 p.m. here is 4:00 p.m. Friday on the East Coast. But for now we'll schedule it for 1:00 p.m. on August 14th.

Joint case management statements due on the 12th. And I think you all have your marching orders.

Mr. Slarskey, you will have a protective order in place by then and an ESI protocol, and you'll be proposing a schedule in your joint case management statement. And you -- in your case,

you know, Meta should start sharing discovery ASAP from the other cases as soon as those protocols are in place.

And then you all have your other marching orders in the other cases, and we'll see you on the 14th. If you all decide if you need to talk to me before the 14th, just reach out to Bhavna, and we'll get something scheduled.

MR. ROCHE: Your Honor, if I may, at the risk of raising something at the last minute.

THE COURT: It's okay.

MR. ROCHE: The one issue I foresee is, you know, I understand there's a forthcoming motion on the deposition for Mr. Zuckerberg. I do think Mr. Zuckerberg's deposition is going to be important for us to -- in determining those last couple witnesses we identified as far as who ultimately called the shots and everything that was going on here and why.

And so I think, you know, would -- I would like to keep a couple depositions in the bank of the 20 and prior to us taking Mr. Zuckerberg's deposition. I think it's fine. I just -- I want to flag for the court, you know, if we're arguing in two weeks on whether or not the deposition should even move forward and then we don't get dates until the very end of August --

THE COURT: Oh, I think -- I -- so I want to make sure I was clear. Zuckerberg's deposition must be scheduled by the time we meet for the next case management conference.

MR. ROCHE: Okay.

THE COURT: And you can operate on the assumption that his deposition is going forward. I would be very surprised if I agreed with Meta or Mr. Zuckerberg or whatever that his deposition should not be allowed to take place.

And I'm also happy to say that it should be on calendar -- the deposition should take place no later than August 28th.

MR. ROCHE: Okay. Your Honor, is there any way you can move that up a few days because I think the close of fact discovery is September 4th?

THE COURT: Yeah. August 26th, that's fine.

MR. ROCHE: That would be good. Thank you.

THE COURT: Zuckerberg's deposition will take place no later than August 26th.

MR. SMITH: Your Honor, one final item, if I may, from Meta. We would like to apprise Your Honor, if there is a ruling on the transfer of the Elsevier case, we will apprise Your Honor promptly one way or the other, I suppose, because it's germane either way. And we do not know when that may come down. But the motion is fully briefed, so.

THE COURT: Yeah, that's fine. I mean, it shouldn't -- regardless of what is decided in that case, it's not -- it shouldn't affect anything that we're doing here until the case arrives, and then we'll have a conversation about how it should affect what we're doing here.

But even if the case gets transferred, keep doing what

you're doing until the next status conference. It shouldn't delay anything that you're scheduled to do.

MR. SMITH: Yes, Your Honor. Thank you.

THE COURT: Okay. Thanks. Have a good weekend.

THE COURTROOM DEPUTY: Court is adjourned.

(Proceedings adjourned at 11:01 a.m.)

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

DATE: 31st of July, 2026

Layli Phillips, CSR No. 14402, RPR, CRR
Official United States Reporter