

**UNITED STATES COPYRIGHT ROYALTY JUDGES**  
**The Library of Congress**

*In re*

**DISTRIBUTION OF 2004, 2005, 2006, 2007,  
2008, and 2009 Cable Royalty Funds**

**DOCKET NO. 2012-6 CRB CD  
2004-09 (Phase II)**

*In re*

**DISTRIBUTION OF 1999, 2000, 2001, 2002,  
2003, 2004, 2005, 2006, 2007, 2008, and 2009  
Satellite Royalty Funds**

**DOCKET NO. 2012-7 CRB SD  
1999-2009 (Phase II)**

**ORDER SUSPENDING CASE SCHEDULE**

On September 23, 2013, the Copyright Royalty Judges issued a Case Scheduling Order (Schedule) regarding the conduct of the two captioned proceedings. The Schedule tracked statutory and regulatory mandates regarding the progress and completion of copyright royalty distribution proceedings. For the reasons set forth in this Order, the Judges, *sua sponte*, suspend the Schedule, pending further order.

In preparing the Schedule, the Judges were cognizant that certain stages of the proceedings, most notably the discovery stage, might not cleave with precision to the best-case statutory timeline or to the resulting published Schedule. In fact, during the months of June and July 2014, participants in the captioned proceedings filed six separate two-party discovery motions and a related motion to strike a portion of one witness's written testimony. The motions are complex and interrelated, requiring the Judges to consider them in bulk.

The Copyright Act obliges the Judges to order a settlement conference period following the completion of discovery relating to Written Direct Statements. *See* 17 U.S.C. § 803(b)(6)(C)(x). The statute provides that the settlement conference period be “during a 21-day period following the 60-day discovery period specified in clause (iv)...” *Id.* (emphasis added). Clause (iv) prescribes a 60-day discovery period, “except for discovery ordered by the ...Judges in connection with resolution of motions...and disputes pending at the end of [the] period.” *Id.* at (iv). Thus, completion of initial discovery actually occurs when the Judges resolve the pending discovery motions.

In drafting the Schedule for the captioned proceedings, the Judges assumed, advisedly, completion of discovery in 45-days.<sup>1</sup> To date, however, the Judges have not resolved all pending

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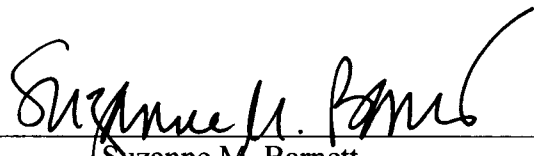
<sup>1</sup> The statute mandates 60 days of discovery in all proceedings, yet incongruously requires the Judges to adopt extant discovery regulations relating to distribution proceedings. The regulations that carried over from the prior statute

discovery disputes. Once the Judges issue the order resolving discovery disputes, the participants will require a reasonable time to exchange and analyze the additional information. A settlement conference informed by full discovery is more likely to end successfully.

Commencement of the statutory settlement conference period is significant, as it starts an 11-month clock, at the end of which the Judges must issue a determination. The statute does not require that the Settlement Conference Period commence at the scheduled end of the initial discovery period, only that it commence after the completion of initial discovery. Initial discovery will end with issuance of the issues currently under advisement. If, and to the extent, the Judges must change intermediate deadlines during the 11-month determination calendar, they will do so by separate order.

To avoid unnecessary perfunctory activity by the participants and to assure circumstances to maximize the productivity of a settlement conference among the participants, the Judges hereby **SUSPEND** the Schedule issued on September 23, 2013, to the extent events have not already transpired.<sup>2</sup> The Judges will issue a revised Case Schedule in due course.

**SO ORDERED.**

  
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Suzanne M. Barnett  
Chief Copyright Royalty Judge

DATED: July 23, 2014.

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provide for only a 45-day discovery period in distribution proceedings. See 37 C.F.R. § 351.6. In fashioning the Schedule, the Judges adhered to the 45-day practice.

<sup>2</sup> On the Schedule, the date for filing Amended Written Direct Statements was July 8, 2014. All activities and deadlines from and after July 8, 2014, are suspended.