

## KOLENICH LAW OFFICE

9435 Waterstone Blvd. Suite 140 Cincinnati, OH 45249

(513) 444-2150 – Fax (513) 297-6065-cell (513) 324-0905-JEK318@gmail.com

---

October 23, 2021

Via ECF

*RE: Sines et al. v. Kessler et al. 3:17-cv-72*

Dear Judge Moon,

Defendants Kessler, Damigo, and Identity Evropa (“Defendants”) write to express their objection to plaintiffs’ letters suggesting severance of defendant Cantwell. Plaintiffs have spent much of the last several months filing pleadings urging the Court to deny Mr. Cantwell a continuance. As grounds plaintiffs stated :

“In Cantwell’s “Motion to Amend Discovery, Pretrial, and Trial Schedules (inc. Doc 991) and to Extend Filing Deadlines” (ECF 1099), Cantwell asks the Court – five weeks before trial – to “reconsider its prior construction of his timely motion to sanction the Plaintiffs” by continuing the trial date and other deadlines because he was delayed in accessing certain discovery and case materials while incarcerated. ECF 1099 at 1-3. The Court has considered and rejected Cantwell’s motion for sanctions and there is no basis for the Court to reconsider, see ECF 951 at 2. This Court has also held numerous conferences and issued several orders regarding trial dates and scheduling in this action. E.g., ECF 461; ECF 597; ECF 874; ECF 965; ECF 991. Dozens of lawyers, parties, and witnesses have made substantial logistical and financial commitments in reliance on the October 25 trial date and this eleventh hour request for a continuance from a single defendant is baseless.” *ECF 1108 at p.2*

Plaintiffs also noted, at ECF 1108 and 1195, that much of the discovery Cantwell complains of not having access to is prohibited to him as a pro se litigant pursuant to the case confidentiality order (ECF 167). Plaintiffs have further represented to the Court, at ECF 1194, 1212, and 1217, that the testimony Cantwell intends to elicit from third party witnesses is inadmissible in various grounds. Moreover, Mr. Cantwell is a necessary party to this litigation. See *In re Apple iPhone Antitrust Litig.*, 874 F. Supp. 2d 889, 899 (ND Cal 2012) (explaining that a party is a necessary party where a court must evaluate the conduct of a co-conspirator to properly consider a conspiracy plaintiff’s claims.)

The Court has been aware of Mr. Cantwell's objections since at least April 2021. The plaintiffs have been opposing Cantwell and not caring about his allegations of procedural or substantive rights for at least that long. See ECF 945 filed April 26, 2021. Defendants object to the Court flip flopping on its Cantwell rulings, at the mere letter based request of the plaintiffs, less than 48 hours before trial. The defendants have invested considerable time and expense into preparing a defense strategy that assumes the presence of Mr. Cantwell as a party defendant at trial.

Defendants suggest to the Court that a middle way is possible, whereby the plaintiffs are not allowed to dump their Cantwell problem onto the defense, and Cantwell's objection can be substantially alleviated. Defendants respectfully suggest that Mr. Cantwell will be fairly treated if he is permitted to introduce exhibits that are relevant without regard to whether or not he timely included them on an exhibit list. Defendants further observe that Mr. Cantwell's objection based on "I don't know what is in the box next to me" is a red herring. The plaintiffs do not have to produce rebuttal exhibits and the relevant remainder of their list has been well known to Cantwell since before the case was even filed (Discord posts, Cantwell's own internet broadcasts and communications with other defendants, etc.)

Defendants respectfully urge the Court not to sever Mr. Cantwell from this case.

Respectfully,

s/\_\_\_\_\_  
James E. Kolenich

CERTIFICATE OF SERVICE

ECF participants via the Court's CM/ECF system. Non participants were served as follows;

Richard Spencer  
richardbspencer@icloud.com  
[richardbspencer@gmail.com](mailto:richardbspencer@gmail.com)

Christopher Cantwell Christopher Cantwell - Inmate: 00991-509  
Central Virginia Regional Jail  
13021 James Madison Hwy.  
Orange, VA 22960

Vanguard America  
c/o Dillon Hopper  
dillon\_hopper@protonmail.com  
Robert "Azzmador" Ray  
[azzmador@gmail.com](mailto:azzmador@gmail.com)

Elliott Kline a/k/a Eli Mosley  
eli.f.mosley@gmail.com  
deplorabletruth@gmail.com  
[eli.r.kline@gmail.com](mailto:eli.r.kline@gmail.com)

\_\_\_\_s/\_\_\_\_\_  
James Kolenich