

## Bradley E. Heard

---

**From:** Bradley E. Heard [[bheard@heardlawoffices.com](mailto:bheard@heardlawoffices.com)]  
**Sent:** Thursday, May 10, 2007 11:48 AM  
**To:** 'Stefan Ritter'  
**Cc:** 'Brian Mellor'; 'Elizabeth Westfall'  
**Subject:** RE: ACORN v. Cox

Stefan,

I'll see if I can clear 10:00 a.m. on Monday with Brian and Elizabeth for a conference call; then we can all just dial in. I will let you know when I hear back from them. Your suggestion as to depositions is one of the items we can discuss when we all talk. My general thought is that you wouldn't need to hold off on all the depositions, just the ones arguably implicated by your motion to compel. At any rate, we can discuss this further. Thanks.

BEH

---

**From:** Stefan Ritter [<mailto:sritter@law.ga.gov>]  
**Sent:** Wednesday, May 09, 2007 5:17 PM  
**To:** Bradley E. Heard  
**Subject:** RE: ACORN v. Cox

I will go ahead and notice the depositions and be agreeable to working on dates and times as appropriate with the notices just continuing to the dates and times we agree upon. The whole purpose was to try to give you a chance to cooperate with that before notices went out. But I am still willing to cooperate on dates and times to the extent we can agree. The record bears out that I've been trying to do that the last month plus when I could have issued notices a month ago. I understand travel will be necessary unless you want to bring witnesses to Atlanta.

I have a meeting already scheduled for 9:30 a.m. Friday. If I can move it we can meet then. I am willing to meet Monday, too; I would say let's plan to meet here at 10:00 a.m.

One other thought as to the depositions: I anticipate that my clients' motion to compel will be granted in whole or part. After I receive the requested discovery I will need to take a new round of depositions. I am willing to wait on the depositions until the motion is resolved to clarify the scope of the depositions, which will prevent duplicative travel and expenses. But I will need a written order (presumably by consent) allowing me to take the depositions at such time. Let me know your thoughts on this.

-- Stefan

---

7/18/2007

**From:** Bradley E. Heard [<mailto:bheard@heardlawoffices.com>]  
**Sent:** Wednesday, May 09, 2007 4:40 PM  
**To:** Stefan Ritter  
**Cc:** 'Brian Mellor'; 'Elizabeth Westfall'  
**Subject:** RE: ACORN v. Cox

Stefan:

As I stated previously, I'm not going to continue sparring with you via email over these issues. For the record, prior to your email of 5/3, when you asked about depositions, the only other communication that I received from you after your letter of 3/30 is an email on 4/16, which was in response to our production of additional documents and which stated nothing about depositions. If you sent something else, it surely didn't reach me. I also did not receive any voicemails from you during that interim.

In any event, you still haven't provided me with a proposed deposition schedule, as I've now repeatedly asked. You will need to make some basic choices about whom you wish to depose and where you wish to travel between now and June 4. Once you do that, I will have the necessary information to determine if that's a workable plan, as far as the witnesses are concerned. To the extent we have any control over the witnesses, and to the extent the witness himself or herself is not otherwise objectionable, we will endeavor to be as flexible as possible in making them available on those days. We are under no obligation to make out-of-town witnesses (even 30(b)(6) witnesses) available in Atlanta prior to trial, and we do not intend to do so -- particularly where, as here, we believe your requests are well beyond the bounds of relevance and reasonableness. As I said, I've never met and do not know of Ron Sykes. However, if he is someone you wish to depose, we'll endeavor to find out where he lives and whether he is (or ever was) in ACORN's employ.

I did receive your email suggesting a meeting tomorrow at your offices. Tomorrow's not good for me; however I could possibly meet in person at 9:30 a.m. on Friday, or pretty much anytime on Monday. I don't know that we need to meet in person for this, however. In fact, it may be better simply to arrange a conference call where Brian and/or Elizabeth can be available as well. I'll see what their availability is for Friday and Monday and get back with you. In the meantime, if you could work on getting us a proposed schedule for the depositions you wish to take, that would help us tremendously. Thanks.

BEH

---

**From:** Stefan Ritter [<mailto:sritter@law.ga.gov>]  
**Sent:** Wednesday, May 09, 2007 2:35 PM  
**To:** Bradley E. Heard  
**Subject:** RE: Request for in camera conference with the Court

**Let's take some of the comments in your email:**

**"You did not respond to us, as invited, until more than a month later. " That is just flatly false. And, respectfully, I can document it both with email and phone records.**

"Once you responded, we gave you dates that counsel would be available for depositions, and invited

you to propose specific dates for deposing specific witnesses." **That is (most kindly put) a misrepresentation of what occurred. But of course you're also evidently ignoring the interim communications.**

"You again failed to do so and, instead, telephoned the Court and falsely suggested that we were not being cooperative in discovery. I still don't understand your behavior in this regard, but it is what it is." **Again your statements are at best a gross distortion of what actually transpired. Not only does it ignore interim communications but misstates what happened. And, of course, it is perfectly correct to ask for a conference with the Court. Indeed, your opposition to addressing the situation with the Court speaks volumes about your unwillingness to cooperate.**

"In any case, to help you with your planning . . ." **I think you've got it wrong. My clients can notice the depositions of witnesses at will. See FRCP 45. I have tried to cooperate to help you, your witnesses' schedules, and your planning. If you do not want that courtesy, let me know.**

"I'm not sure who Ron Sykes is . . ." **He's identified by some recent ACORN documents as in charge of the operations of Atlanta ACORN. You know, your client.**

"Ed DuBose, as you know, lives in Columbus, GA, but we may consent to making him available in Atlanta on a convenient date, if you can articulate a basis for deposing him after he's already testified extensively in open court . . ." **You are referring to his testimony at the preliminary injunction hearing? That obviously was not a deposition. So, yes, I think I will want to depose him.**

"We won't consent to Brian Mellor's deposition . . ." **Well, I think that's a problem since he is the author of the only document you initially produced (and maybe some of the few subsequent ones). I do not think you can use a document in which you claim I cannot depose the author. I am also concerned about Mr. Mellor's continued representation in this case; but I am not the one choosing to put the document forward.**

"So, again, we need to know whom you intend to depose and when you propose to do so. Then, we can start the process of clearing dates and availability." **I think you already clearly know this – it is in my email, below, and my prior correspondence.**

"Your fee claim for Dana Williams' deposition would be without merit. As the state chairperson for GA-ACORN, he was reasonably knowledgeable . . ." **I think that is not correct, and his deposition shows that. If you stand by your statement, I request that you immediately move to dismiss ACORN and Project Vote, and withdraw all affidavits and testimony from or related to them, and consent to an order vacating the preliminary injunction. As you know, among other things he asserted under oath ACORN has had no election involvement in Georgia**

since 2004. But Mr. Williams also made plain that he could not answer the 30(b)(6) questions and indeed had not been prepped on them, which is a direct violation of your obligations under the law.

Finally, I note that it has long been apparent from the witness locations that you cannot and will not make the witnesses available the last few days in May and first few days in June and you should not have waited so long if those are your only available dates. For one thing there are more witnesses than the number of days you are "willing" to make available. So as I said in a previous email, I do not believe you are serious.

**STEFAN RITTER**  
Senior Assistant Attorney General  
(404) 656-7298

Office of the Attorney General  
40 Capitol Square, SE  
Atlanta, GA 300334

---

**From:** Bradley E. Heard [<mailto:bheard@heardlawoffices.com>]  
**Sent:** Wednesday, May 09, 2007 12:23 PM  
**To:** Stefan Ritter  
**Cc:** 'Brian Mellor'; 'Elizabeth Westfall'  
**Subject:** RE: Request for in camera conference with the Court

Stefan,

We are aware of your March 30 letter, and we responded to it in detail on April 4, specifically inviting you to call so that we could discuss deposition planning. You did not respond to us, as invited, until more than a month later. Once you responded, we gave you dates that counsel would be available for depositions, and invited you to propose specific dates for deposing specific witnesses. You again failed to do so and, instead, telephoned the Court and falsely suggested that we were not being cooperative in discovery. I still don't understand your behavior in this regard, but it is what it is.

In any case, to help you with your planning, and to the extent you didn't know this information already, the following witnesses are located out of town: Michael Kieschnick (San Francisco, CA); Margaret Gage (Amherst, MA); Brian Kettenring (Miami, FL); Stephanie Moore (Kalamazoo, MI); Maude Hurd (Boston, MA); Nyana Miller (Miami, FL). [Brian, please correct me if I've gotten any of those wrong.] I'm not sure who Ron Sykes is, or where he's located. Ed DuBose, as you know, lives in Columbus, GA, but we may consent to making him available in Atlanta on a convenient date, if you can articulate a basis for deposing him after he's already testified extensively in open court concerning his knowledge in this case. Helen Butler and Dana Williams live in the Atlanta metro area, but as previously stated, we would object to them being re-deposed unless you can articulate a specific reason for having to take their depositions again. We won't consent to Brian Mellor's deposition, and if you notice it, it would need to be in Boston where he lives. We will, however, designate an appropriate ACORN or Project Vote representative (probably somewhere in Miami or St.

Petersburg, FL) to discuss the training manuals.

So, again, we need to know whom you intend to depose and when you propose to do so. Then, we can start the process of clearing dates and availability.

Your fee claim for Dana Williams' deposition would be without merit. As the state chairperson for GA-ACORN, he was reasonably knowledgeable (and arguably the best person available in the district) to discuss the items listed in your 30(b)(6) notice, particularly given the short notice that we had to designate and locate available witnesses. There was no deliberate effort to prevent you from gathering relevant evidence, and indeed you gathered such evidence.

We await your response as to your proposed schedule for deposing witnesses between May 30 and June 4, 2007. Thanks.

---

**From:** Stefan Ritter [mailto:sritter@law.ga.gov]  
**Sent:** Wednesday, May 09, 2007 10:46 AM  
**To:** Bradley E. Heard  
**Cc:** Brian Mellor; Elizabeth Westfall  
**Subject:** RE: Request for in camera conference with the Court

**Well, let me quote my letter of March 30:**

**Need for Depositions**

I will also wish to take the depositions of a number of witnesses in this case. These include (at the moment) the depositions of Brian Kettenring, Stephanie Moore, Nyana Miller, Brian Mellor, Edward DuBose, Helen Butler, Dana Williams, Michael Keischnick, and Margaret E. Gage. I would like to take them in April, and I will be as flexible as I can with scheduling. I realize that Mr. Keischnick and Ms. Gage are not your clients; however, given that you have submitted affidavits from them, I thought you might prefer to contact them and arrange times rather than me simply noticing their depositions. As to Mr. Mellor I will try to be brief, but he has made himself a witness in this case by authoring Project Vote's Voter Registration and Quality Control Manual, which appears to be your primary document (as it is in fact the only specific document your responses refer to, I guess that makes it pretty important – I have some questions about it). I am currently unavailable until April 12, and then I am available every day in April except April 18.

**I know you are aware of this letter since you responded to it by refusing to provide me dates for the depositions.**

**I should add I'll also want to take Ron Sykes and Maude Hurd, and I anticipate seeking fees for the prior ACORN(30)(b)(6) deposition and perhaps also for the preliminary injunction hearing since it turns out that not only was Mr. Williams not only not prepared to answer the 30(b)(6) questions nor was any other witness provided but his testimony establishes basically no involvement (on elections) with ACORN since 2004. I suspect your providing Mr. Williams as ACORN's 30(b)(6)**

witness was deliberately calculated to prevent Defendants from gathering evidence despite the Court's order providing for it, but we will see what the evidence shows. I will let the Court address that if the evidence supports it and I file a motion; we will see.

Again, your email below tacitly acknowledges that you have not provided witness deposition dates to date. Please act accordingly.

-- Stefan

---

**From:** Bradley E. Heard [<mailto:bheard@heardlawoffices.com>]  
**Sent:** Wednesday, May 09, 2007 10:29 AM  
**To:** Stefan Ritter  
**Cc:** 'Brian Mellor'; 'Elizabeth Westfall'  
**Subject:** RE: Request for in camera conference with the Court

I'm not about to have another day-long email battle with you today, Stefan. When you get a proposal together for whom you'd like to depose and when, then please let me know, and we'll check with the relevant witnesses to determine their availability. For any 30(b)(6) testimony that you claim you need, identify the subjects, and we'll attempt to identify responsive witnesses. For witnesses that you claim to want to re-depose, identify with specificity the necessity for such depositions, including the new "evidence" that you claim justifies the need for such a re-deposition. Until you do those things, there's really nothing else for us to talk about concerning these depositions.

There is nothing false about my email to the Court. In particular, given your false representation to the Court that I had not given you any deposition dates, your blatant mischaracterizations of my communications to you as somehow offensive and unprofessional, and your repeated references to such communications, my email was entirely appropriate.

---

**From:** Stefan Ritter [<mailto:sritter@law.ga.gov>]  
**Sent:** Wednesday, May 09, 2007 8:53 AM  
**To:** Bradley E. Heard  
**Subject:** RE: Request for in camera conference with the Court

What are you talking about? I think you have represented to the Court that your witnesses will be available during those days. I've already told you the witnesses I want to depose. You have had months to check with their schedules.

As to withdrawing your emails, yes, I think you can contact the Court and tell it you withdraw your email. I request you do so immediately. In addition to being false (or presented falsely), it is also a violation of L.R. 7.4, as you are well aware.

Please act accordingly.

-- Stefan

---

**From:** Bradley E. Heard [<mailto:bheard@heardlawoffices.com>]  
**Sent:** Tuesday, May 08, 2007 6:42 PM  
**To:** Stefan Ritter  
**Subject:** RE: Request for in camera conference with the Court

You know you can't withdraw emails after they're sent. Besides, the email speaks for itself as to its veracity. Also, this whole series of emails that you began is outside the scope of the rules, so I'm not sure what you're talking about.

So again, when and if you decide to provide us with the information that's necessary to ascertain whether certain witnesses are available for their depositions between May 30-June 4, we will make an attempt to do so as expeditiously as possible. On the other hand, if you want to continue bothering the Court with your ridiculous email war, I suppose that's your choice.

BEH

---

**From:** Stefan Ritter [<mailto:sritter@law.ga.gov>]  
**Sent:** Tuesday, May 08, 2007 6:26 PM  
**To:** Bradley E. Heard  
**Subject:** RE: Request for in camera conference with the Court

**I ask that you immediately withdraw the email below. It is not only false but in violation of the rules.**

-- Stefan

---

**From:** Bradley E. Heard [<mailto:bheard@heardlawoffices.com>]  
**Sent:** Tuesday, May 08, 2007 6:20 PM  
**To:** Stefan Ritter; [debbie\\_schrepfer@gand.uscourts.gov](mailto:debbie_schrepfer@gand.uscourts.gov)  
**Cc:** 'Brian Mellor'; 'Elizabeth Westfall'  
**Subject:** RE: Request for in camera conference with the Court

Ms. Schrepfer:

In an email dated Friday, May 4, we had offered Mr. Ritter the dates of May 30-June 4 as possible dates for depositions, depending on whom he wanted to depose, where in the country they were located, and the availability of the particular witness. He has not responded with any information as to the witnesses he wishes to depose on certain dates. Thus, we have not been able to determine whether any such witnesses are available on any of those dates. The

text of my email to Mr. Ritter is below.

---

**From:** Bradley E. Heard  
[mailto:bheard@heardlawoffices.com]  
**Sent:** Friday, May 04, 2007 6:41 PM  
**To:** 'Stefan Ritter'  
**Cc:** 'Brian Mellor'; 'Elizabeth Westfall'  
**Subject:** RE: Discovery responses in ACORN?

Stefan,

Here are the PDFs of the discovery responses mailed to you on April 30. Also, I got your voicemail about depositions. We will attempt to make contact with the non-party deponents and ascertain their availability and out-of-town location for depositions, although, as I've said before, we believe that it is a complete waste of time to bother those folks. Since you've already deposed Helen Butler and Dana Miller, I'd ask that you indicate some idea as to why you contend you need to depose them again, and what subjects you would want to depose them on, so that we can determine whether to seek a protective order related to those depositions. The same holds true for Nyana Miller. (I'm not sure if Nyana still works for PV, but I'll try to determine that as well.) To the extent you need to depose someone regarding the training manuals, and assuming Nyana's not the one, we'll designate an appropriate representative of Project Vote other than Brian Mellor, after looking at your 30(b)(6) notice. We will not consent to Brian's deposition.

I can tell you that I am generally unavailable for depositions between May 18-29, due to previously planned vacations and trips. Thus, that basically leaves May 30-June 4 as realistic dates for depositions -- particularly those that are out of town. There may be a chance we could do a local deposition (to the extent you can articulate a basis for us allowing such a deposition) on May 16 or 17, but I would need to confirm with the deponents.

Give me a ring next week, and we can discuss the matter further. Take care.

--

*Bradley E. Heard, Esq.*  
*The Heard Law Offices, LLC*  
*3695-F Cascade Road, SW, Suite 1371*  
*Atlanta, GA 30331-2105*  
*Phone: 404-344-9255*  
*Fax: 404-344-7578*  
[bheard@heardlawoffices.com](mailto:bheard@heardlawoffices.com)  
[www.heardlawoffices.com](http://www.heardlawoffices.com)

Mr. Ritter's failure to respond with relevant information to emails such as this is one example of why we are shocked to have received his email requesting a status conference with the Court. It seems to us that, before he would trouble the Court with alleged "communication issues," he would have at least made a good-faith effort to cooperate in the scheduling of his own depositions.

7/18/2007

Nevertheless, we leave that to the Court to decide. Again, sorry to trouble you with these emails.

Brad Heard

---

**From:** Stefan Ritter [<mailto:sritter@law.ga.gov>]  
**Sent:** Tuesday, May 08, 2007 5:55 PM  
**To:** Bradley E. Heard; [debbie\\_schrepfer@gand.uscourts.gov](mailto:debbie_schrepfer@gand.uscourts.gov)  
**Subject:** RE: Request for in camera conference with the Court

**Ms. Schrepfer:**

I am sorry to embroil you and the Court in this dispute, but it is obvious (at least) that the parties disagree. I'll bring the correspondence and phone records showing my efforts to confer on discovery to the conference. Also, since the Plaintiffs have not provided any proposed deposition or availability dates, I am hopeful that they will at least tell them to the Court at a conference so I could know them, too. Short of that I think I will have to blindly notice depositions (which I will do with dates to be changed when if new dates are agreed upon).

Thank you and the Court for your consideration of my request for a conference.

-- Stefan

---

**From:** Bradley E. Heard [<mailto:bheard@heardlawoffices.com>]  
**Sent:** Tuesday, May 08, 2007 5:25 PM  
**To:** Stefan Ritter; [debbie\\_schrepfer@gand.uscourts.gov](mailto:debbie_schrepfer@gand.uscourts.gov)  
**Cc:** 'Elizabeth Westfall'; 'Brian Mellor'  
**Subject:** RE: Request for in camera conference with the Court

Ms. Schrepfer:

I wanted to respond briefly to Mr. Ritter's email, to advise the Court that we disagree strenuously with Mr. Ritter's presentation of the facts. Obviously, I don't know what you and he discussed yesterday, but if it was along the lines of his recitation below, then he has unfortunately presented you with a very innacurate version of the facts.

For the record, Plaintiffs do not believe an in camera conference with the Court is necessary at this stage, given that Mr. Ritter has not yet sought to work out any discovery disputes he has directly with us, as required by Fed. R. Civ. P.

37 and the local rules of this Court. However, if the Court desires an informal status conference, we are certainly more than happy to appear for one. Please be advised that I will be unavailable to appear for such a conference between March 18-29, due to previously scheduled vacation time (some of which is out of state).

To be sure, there are several discovery disputes at issue. In general, Plaintiffs believe that the bulk of Defendants' discovery and deposition requests are significantly beyond the bounds of relevance or appropriateness in this case, and that they have been made solely to harass and annoy the Plaintiffs. We have properly objected to those requests and have repeatedly, over the past month, invited Mr. Ritter to call and discuss any issues that he may have with our objections. However, he has not chosen to do so. Likewise, we have given Mr. Ritter dates within the discovery period wherein he could possibly schedule depositions, and asked him which witnesses he wishes to depose on which dates. However, he has not responded to us. So yes, while communication among counsel may have broken down, it has not been because of a lack of effort from Plaintiffs' side of the table.

We are happy to have the Court review the written communication among counsel in this case as to discovery disputes. I think that would probably clear up any misconceptions about professionalism in this case. In any event, suffice it to say that Mr. Ritter certainly cannot in good faith enter into such a discussion about professionalism with clean hands.

I will call to follow up on this communication. However, given Mr. Ritter's allegations, I thought a brief written response was also appropriate. Thanks for your assistance.

--

*Bradley E. Heard, Esq.*  
*The Heard Law Offices, LLC*  
*3695-F Cascade Road, SW, Suite 1371*  
*Atlanta, GA 30331-2105*  
*Phone: 404-344-9255*  
*Fax: 404-344-7578*  
[\*bheard@heardlawoffices.com\*](mailto:bheard@heardlawoffices.com)  
[\*www.heardlawoffices.com\*](http://www.heardlawoffices.com)

**Confidentiality Notice**

This message is being sent by or on behalf of a lawyer. It is intended exclusively for the individual or entity to whom or which it is

addressed, and no one else should rely on the contents thereof. This communication may contain information that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately by email and delete all copies of the message. The inadvertent disclosure rules under Georgia law apply to this communication. No attorney- client relationship exists by virtue of this communication without a signed engagement letter on file with The Heard Law Offices, LLC.

---

**From:** Stefan Ritter [<mailto:sritter@law.ga.gov>]  
**Sent:** Tuesday, May 08, 2007 4:50 PM  
**To:** [debbie\\_schrepfer@gand.uscourts.gov](mailto:debbie_schrepfer@gand.uscourts.gov)  
**Cc:** Bradley E. Heard; Elizabeth Westfall; Brian Mellor  
**Subject:** Request for in camera conference with the Court

**Ms. Schrepfer:**

Pursuant to our discussions yesterday and per your instructions, please consider this a request for an *in camera* conference as soon as possible with the Court. The reason for this request is that it is evident that communications between the parties' lead counsel have broken down, and it is important that we complete discovery during the next several weeks since discovery is currently scheduled to end near the beginning of June.

The specific items I request be addressed are the following:

- 1.) Duty of the parties to cooperate in discovery – specifically to cooperate on the mutual scheduling of deposition dates (which I have been seeking on behalf of the Defendants for a considerable time), and related issues regarding document production, identifying witnesses, and making witnesses available.
- 2.) The right of Defendants to take depositions of witnesses who have not been deposed or as to whom subsequent evidence (since the preliminary injunction hearing at the start of this case) has arisen. The only depositions Defendants have taken are 30(b)(6) depositions.

3.) The obligation of parties to provide all appropriate witnesses at properly noticed 30 (b)(6) depositions and not to bring one unprepared witnesses.

4.) Obligation of the parties to act professionally in their communications. I have received many communications which I find deeply offensive; we can discuss specifics (and I will bring some if we go to that), but I am happy to discuss this in general so that we all mutually understand our obligations.

5.) The discovery schedule in this action – specifically (1) the Plaintiffs have refused to dismiss their individual capacity claims; meaning that Defendants will be forced to seek dismissal of these (in Defendants' view frivolous) claims and stay discovery during this process; and (b) Defendants will likely be forced to file a motion to compel, and following what Defendants anticipate is the grant of that motion, additional deposition testimony will be necessary (based on the documents and interrogatory responses). This may make depositions at the present time fruitless, though Defendants are willing to proceed.

6.) A briefing schedule in this action. Defendants anticipate that all parties will file motions for summary judgment when discovery is completed.

I would like to move as expeditiously on this as possible in resolving these issues. I will take the formal legal steps to secure attendance and my clients' rights; however my belief is that an informal in camera conference would be very helpful to prevent unnecessary litigation and expedite this matter.

I have cc'd Plaintiffs' counsel with this email. I appreciate the Court's attention to this.

-- Stefan

