

**From:** [Frost, Claudia](#)  
**To:** [Heather Kim](#); [Jonathan K. Waldrop](#)  
**Cc:** [Jensen, Travis](#); [Apple-Fintiv\\_OHS](#); [steve.ravel@kellyhart.com](mailto:steve.ravel@kellyhart.com); [J. R. Johnson](#); [atindel@andytindel.com](mailto:atindel@andytindel.com); [Mark Mann \(mark@TheMannFirm.com\)](#); [Fintiv](#)  
**Subject:** RE: Fintiv v. Apple  
**Date:** Friday, March 20, 2020 7:49:55 AM

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Heather et al,

We are not available at that time. Would 10:30 or 11 am CT on Tuesday, March 24 work for you all?  
Claudia

-----Original Message-----

From: Heather Kim <[HKim@kasowitz.com](mailto:HKim@kasowitz.com)>  
Sent: Thursday, March 19, 2020 7:53 PM  
To: Jonathan K. Waldrop <[JWaldrop@kasowitz.com](mailto:JWaldrop@kasowitz.com)>  
Cc: Frost, Claudia <[cfrost@orrick.com](mailto:cfrost@orrick.com)>; Jensen, Travis <[tjensen@orrick.com](mailto:tjensen@orrick.com)>; Apple-Fintiv\_OHS <[Apple-Fintiv\\_OHS@orrick.com](mailto:Apple-Fintiv_OHS@orrick.com)>; [steve.ravel@kellyhart.com](mailto:steve.ravel@kellyhart.com); J. R. Johnson <[JR.Johnson@kellyhart.com](mailto:JR.Johnson@kellyhart.com)>; [atindel@andytindel.com](mailto:atindel@andytindel.com); Mark Mann (mark@TheMannFirm.com) <[mark@themannfirm.com](mailto:mark@themannfirm.com)>; Fintiv <[Fintiv@kasowitz.com](mailto:Fintiv@kasowitz.com)>  
Subject: Re: Fintiv v. Apple

How about 2pm Pacific on Monday, March 23? Thank you.

On Mar 19, 2020, at 4:09 PM, Jonathan K. Waldrop  
<[JWaldrop@kasowitz.com](mailto:JWaldrop@kasowitz.com)<<mailto:JWaldrop@kasowitz.com>>> wrote:

6 feet apart!! Be safe, Claudia and Travis!

Jonathan K. Waldrop  
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----- Original Message -----

From: "Frost, Claudia" <[cfrost@orrick.com](mailto:cfrost@orrick.com)<<mailto:cfrost@orrick.com>>>  
Date: Thu, March 19, 2020 4:08 PM -0700  
To: Heather Kim <[HKim@kasowitz.com](mailto:HKim@kasowitz.com)<<mailto:HKim@kasowitz.com>>>  
CC: "Jensen, Travis" <[tjensen@orrick.com](mailto:tjensen@orrick.com)<<mailto:tjensen@orrick.com>>>, Apple-Fintiv\_OHS <[Apple-Fintiv\\_OHS@orrick.com](mailto:Apple-Fintiv_OHS@orrick.com)>>, [steve.ravel@kellyhart.com](mailto:steve.ravel@kellyhart.com)<<mailto:steve.ravel@kellyhart.com>>, "J. R. Johnson" <[JR.Johnson@kellyhart.com](mailto:JR.Johnson@kellyhart.com)<<mailto:JR.Johnson@kellyhart.com>>>, [atindel@andytindel.com](mailto:atindel@andytindel.com)<<mailto:atindel@andytindel.com>>, "Mark Mann (mark@TheMannFirm.com)" <[mark@themannfirm.com](mailto:mark@themannfirm.com)<<mailto:mark@themannfirm.com>>>, Fintiv <[Fintiv@kasowitz.com](mailto:Fintiv@kasowitz.com)<<mailto:Fintiv@kasowitz.com>>>  
Subject: Re: Fintiv v. Apple

Heather,

Thank you for your response to my March 13 email. Unfortunately, Travis Jensen and I are in an all day mediation

tomorrow. Please suggest some dates and times for a call next week.

Best regards

Claudia

Sent from my iPhone

On Mar 19, 2020, at 11:47 AM, Heather Kim <HKim@kasowitz.com<<mailto:HKim@kasowitz.com>>> wrote:

Hi Claudia,

We are available for a call tomorrow at 11am Pacific.

Thanks,

Heather

From: Frost, Claudia [<mailto:cfrost@orrick.com>]

Sent: Friday, March 13, 2020 4:02 AM

To: Heather Kim <HKim@kasowitz.com<<mailto:HKim@kasowitz.com>>>; Jensen, Travis

<tjensen@orrick.com<<mailto:tjensen@orrick.com>>>; Apple-Fintiv\_OHS <Apple-

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Cc: atindel@andytindel.com<<mailto:atindel@andytindel.com>>; Mark Mann

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<Fintiv@kasowitz.com<<mailto:Fintiv@kasowitz.com>>>

Subject: RE: Fintiv v. Apple

\*\*EXTERNAL EMAIL\*\*

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Counsel,

For a variety of reasons, including myriad Coronavirus complications and the production by Fintiv of 50,000 pages of documents – Fintiv’s first substantial document production in the case on Tuesday, March 10 – we are not be able to accommodate the rescheduling of the deposition of Mr. Salume to March 16 in New York. We also request that Mr. Salume (Fintiv’s Chairman) sit for his deposition in Austin, which is where Fintiv has its only US facility, where all of its relevant witnesses are located or are willing to travel for trial and where all of its relevant documents are located. See, e.g., Fintiv’s Resp. to Apple’s Mtn. to Transfer Venue at 4; Fintiv’s Initial Disclosures at 13.

As set forth in my email of March 8, with respect to scheduling these depositions we need to receive: (i) the dates you propose for each of the Rule 30(b)(1) witnesses we have noticed (and their respective Rule 30(b)(6) topics, if any); (ii) dates for the additional three witnesses we identified in our March 8 email; (iii) dates for the Rule 30(b)(6) deposition(s) we noticed on January 3, 2020, with the names of the deponents and the topics each will cover; and (iv) the status of the horse trade you proposed and discussed in our emails of March 5 and 8.

In addition to the 11 Rule 30(b)(1) depositions we need to take (subject to the horse trade we emailed about), we have an as yet undetermined number of Rule 30(b)(6) depositions of Fintiv to take since we have not been told who the witnesses will be or the topics they will cover. Fintiv has noticed the depositions of 12 Apple individuals (subject to the horse trade) and has noticed the Rule 30(b)(6) deposition of Apple on 42 topics. On top of this, at last count, Fintiv has noticed 9 additional third-party depositions across the country (including California, New York, Chicago, Austin and San Antonio), which will need to be coordinated if they are to go forward.

We have presented two Apple witnesses for deposition already, offered dates in February for others which you declined (e.g., Chris Sharp), confirmed (prior to complications resulting from coronavirus) dates for seven other witnesses, at least one of which you later cancelled (e.g., Mark Rollins), and have generally been offering dates and

witnesses on a rolling basis.

We have far too many depositions to schedule between us to handle this piecemeal. I suggest we have a call next week to discuss this, to identify the Rule 30(b)(6) witnesses and topics and to work on a plan and schedule for all of the fact depositions and the other deadlines in the overall schedule for this case. All of this will be subject to Coronavirus complications, of course, which are rapidly escalating and evolving and exacerbating the challenges this scheduling situation is posing.

Please let me know if you are amenable to an omnibus scheduling call and when you would be available next week.

Best regards,

Claudia

From: Heather Kim <HKim@kasowitz.com<<mailto:HKim@kasowitz.com>>>  
Sent: Thursday, March 12, 2020 6:41 PM  
To: Jensen, Travis <tjensen@orrick.com<<mailto:tjensen@orrick.com>>>; Frost, Claudia <cfrost@orrick.com<<mailto:cfrost@orrick.com>>>; Apple-Fintiv\_OHS <Apple-Fintiv\_OHS@orrick.com<[mailto:Apple-Fintiv\\_OHS@orrick.com](mailto:Apple-Fintiv_OHS@orrick.com)>>;  
steve.ravel@kellyhart.com<<mailto:steve.ravel@kellyhart.com>>; J. R. Johnson <JR.Johnson@kellyhart.com<<mailto:JR.Johnson@kellyhart.com>>>  
Cc: atindel@andytindel.com<<mailto:atindel@andytindel.com>>; Mark Mann (mark@TheMannFirm.com<<mailto:mark@TheMannFirm.com>>)  
<mark@TheMannFirm.com<<mailto:mark@TheMannFirm.com>>>; Fintiv <Fintiv@kasowitz.com<<mailto:Fintiv@kasowitz.com>>>  
Subject: RE: Fintiv v. Apple

Counsel,

Following up on the below, please let us know whether you intend to depose Mr. Salume on March 16 so that we can make arrangements.

Thank you,

Heather

Heather Kim  
Kasowitz Benson Torres LLP  
333 Twin Dolphin Drive, Suite 200  
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From: Heather Kim  
Sent: Wednesday, March 11, 2020 1:02 PM  
To: 'Jensen, Travis' <tjensen@orrick.com<mailto:tjensen@orrick.com>>; Frost, Claudia <cfrost@orrick.com<mailto:cfrost@orrick.com>>; Apple-Fintiv\_OHS <Apple-Fintiv\_OHS@orrick.com<mailto:Apple-Fintiv\_OHS@orrick.com>>; steve.ravel@kellyhart.com<mailto:steve.ravel@kellyhart.com>; J. R. Johnson <JR.Johnson@kellyhart.com<mailto:JR.Johnson@kellyhart.com>>  
Cc: atindel@andytindel.com<mailto:atindel@andytindel.com>; 'Mark Mann (mark@TheMannFirm.com<mailto:mark@TheMannFirm.com>)' <mark@TheMannFirm.com<mailto:mark@TheMannFirm.com>>; Fintiv <Fintiv@kasowitz.com<mailto:Fintiv@kasowitz.com>>  
Subject: Fintiv v. Apple

Counsel,

Adolfo Salume is available for deposition on Monday, March 16, at our NYC office. Please advise as soon as possible whether Apple accepts this date.

Thank you,  
Heather

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