

RICHARD A. ALTMAN  
LAW OFFICES OF RICHARD A. ALTMAN  
Attorney for Defendant-Appellant  
285 West Fourth Street  
New York, New York 10014  
212.633.0123

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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LAVA RECORDS, INC. et al.

Plaintiffs-Appellees,

08-2376-cv

-against-

**DECLARATION IN OPPOSITION  
TO MOTION TO POSTPONE  
ORAL ARGUMENT**

ROLANDO AMURAO,

Defendant-Appellant.

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RICHARD A. ALTMAN declares the following as true under penalty of perjury:

1. I am a member of the bar of this Court and the counsel for defendant-appellant Rolando Amurao. I submit this declaration in opposition to appellees' motion to postpone the oral argument of this appeal, presently set for May 19, 2009.

2. Interim Local Rule 34(e) of this Court provides as follows:

**Postponement of Argument.** Except in the event of an emergency, such as unforeseen illness of counsel, an application to postpone the date for oral argument will ordinarily not be favorably entertained. Engagement of counsel in courts (other than the Supreme Court of the United States) or administrative hearings will not be considered good cause for postponement. The date for oral argument may not be postponed by stipulation.

3. Appellees' counsel's sole stated reason for the requested postponement is that he is the lead counsel in a jury trial in an unnamed case, in an unnamed district court, beginning the week of

May 18, and lasting for an unspecified amount of time. Under the rule, however, being engaged in a district court is not good cause for a postponement, and in any event, the motion “will ordinarily not be favorably entertained.” It is also curious that the declaration does not actually and unequivocally state that Mr. Reynolds will be the attorney arguing on behalf of the appellees, or, if he actually is, why no one else in his firm could do so if he is unavailable.

4. I respectfully request that the motion be denied.

Dated: New York, New York  
April 16, 2009

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RICHARD A. ALTMAN

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 16, 2009, he served a copy of the within DECLARATION IN OPPOSITION TO MOTION TO POSTPONE ORAL ARGUMENT by email and first-class mail to Timothy M. Reynolds, Esq., Holme Roberts & Owen, LLP, attorneys for appellees, 1801 13<sup>th</sup> Street, Suite 300, Boulder, Colorado 80302, timothy.reynolds@hro.com.

Dated: April 16, 2009

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RICHARD A. ALTMAN

ANTI-VIRUS CERTIFICATION FORM  
See Second Circuit Interim Local Rule 25(a)6.

CASE NAME: Lava Records v. Amurao  
DOCKET NUMBER: 08-2376-cv

I, Richard A. Altman, certify that I have scanned for viruses the PDF version of the attached document that was submitted in this case as an email attachment to

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and that no viruses were detected.

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s/Richard A. Altman

Dated: April 16, 2009