

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Civil Action No. 08-cv-00138-REB-CBS

SONY BMG MUSIC )  
ENTERTAINMENT, et. al )  
 )  
Plaintiffs )  
 )  
vs. )  
 )  
Catherine M. Fillo )  
 )  
Defendant )  
 )  
 )

**MOTION TO CHANGE VENUE**

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NOW COMES Plaintiff, Catherine Fillo, by and through counsel, and moves the Court to transfer this case to the District of New Hampshire pursuant to 28 U.S.C. §1404(a). In support of her motion, defendant states as follows:

1. Defendant recently obtained counsel, who is licensed to practice in New Hampshire and New Hampshire federal district court, after being unable to find counsel in Colorado. Counsel for defendant was admitted to the Colorado District Court on March 24, 2009.
2. Until this filing, the defendant, a 20-year-old student at the University of New Hampshire, was proceeding pro se and lacked the requisite skills to provide for her own defense including the filing of a motion to request a change of venue.

3. Pursuant to 28 U.S.C. §1404(a) either party may request a change of venue at any time; a memorandum of law is being filed concurrent to this motion.
4. The occurrence(s) that gave rise to this complaint allegedly took place in New Hampshire.
5. Many of the potential non-party witnesses lack any ties to Colorado. These witnesses, whose testimony will be essential to defendant's defense in this action, are students and/or administrators or employees at the University of New Hampshire.
6. These witnesses are beyond the reach of the process of this court and likely are unwilling to attend trial in the District of Colorado because of the distance of travel of 2,000 miles, absence from their place of study and work, the lack of the ability to bear the costs of stay for room and meals, none of which would be required if the action were to be transferred and tried in the District of New Hampshire.
7. Other than defendant's father and brother, none of the anticipated witnesses have ties to Colorado and are willing to travel to New Hampshire.
8. None of the plaintiffs' in this matter are located in the State of Colorado and so little, if any, additional cost would be accrued on their behalf.

9. Plaintiffs' expert is a professor at the University of Iowa and similarly will bear little added burden in having to travel to New Hampshire rather than Colorado.
  
10. It would be in the interest of justice for the court to apply the law of the State of New Hampshire in which the District of New Hampshire lies, rather than the law of the State of Colorado, which would be applied if the action is tried in the District of Colorado as the defendant, witnesses and University of New Hampshire have an interest best determined under New Hampshire law.
  
11. Plaintiffs' counsel was aware or should have known that New Hampshire was the proper choice of venue when they availed themselves to the judicial enforcement power of the District of New Hampshire when seeking a subpoena for the University of New Hampshire records that resulted in this suit being brought.
  
12. Plaintiffs' choice of Colorado as venue for this matter been significantly detrimental to defendant and her ability to provide a defense. Service of this suit was made to her parent's home in Colorado without her knowledge which resulted in an initial entry of a default judgment. Defendant has missed a court appointment due to the fact that she is a fulltime student at the University of New Hampshire and was unable make a court appearance in Colorado.

13. Defendant was unable to secure counsel in Colorado because of her studies in New Hampshire and her geographical distance from the forum.
14. The trial of this action will not be hindered or unnecessarily delayed if this action is transferred to the District of New Hampshire.
15. Counsel for defendant has contacted Plaintiffs' counsel and asked for their concurrence for a change of venue in accordance with DC.COLO.L.civ.R 7.1(A). Plaintiffs' counsel has stated it will oppose this motion to change venue.

WHEREFORE, the defendant respectfully requests that this court:

- A. Transfer the case to New Hampshire pursuant to 28 U.S.C. §1404(a).

MELANIE BELL, ESQ.

s/Melanie Bell  
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I hereby certify that a copy of the foregoing was mailed to Shane Cross, Esq., Holme, Roberts, & Owen LLP this 30<sup>th</sup> day of March 2009.

s/Melanie Bell  
MELANIE BELL, ESQ.