

# EXHIBIT A



**Holme Roberts & Owen LLP**  
*Attorneys at Law*

BOULDER

January 21, 2009

VIA EMAIL (nesson@gmail.com) AND FIRST CLASS MAIL

COLORADO SPRINGS

Charles Nesson, Esq.  
1575 Massachusetts Ave.  
Cambridge, MA 02138

DENVER

Re: *Sony BMG Music Entertainment, et al. v. Joel Tenenbaum,*  
(consolidated case no. 03-cv-11661NG (D. Mass.))

Dear Mr. Nesson:

LONDON

We write to request that Defendant immediately withdraw the Conditional Motion to Compel Deposition filed yesterday. The Motion lacks any legal or factual basis for multiple reasons. First, Defendant failed to confer with Plaintiffs regarding the Motion as required by Rule 37 and by the Local Rules of the District of Massachusetts. Second, Defendant has not noticed any deposition for January 22, 2009. Third, there is no valid subpoena for any deposition, on either January 20th or 22nd. Defendant's January 9 subpoena attempts to notice a non-party witness who resides in Maryland for a deposition in Massachusetts. Accordingly, it is presumptively invalid under Rule 45.

LOS ANGELES

MUNICH

Since Defendant has neither noticed a deposition for January 22 nor subpoenaed anyone for that date, there is nothing to compel. Fourth, under the Local Rules, Defendant is prohibited from taking discovery in this case until he provides his initial Rule 26 disclosures, which Defendant was ordered to produce long ago and which Plaintiffs have asked for repeatedly.

PHOENIX

SALT LAKE CITY

Finally, as you likely know, Mr. Oppenheim is an attorney who has represented Plaintiffs. Any potential deposition of him presents a myriad of privilege issues that is likely to lead to a host of subsidiary disputes. It is for that reason that we have requested that you identify the subject areas of your proposed deposition. Once you do so, we can confer in order to determine whether there are any non-privileged areas of testimony from Mr. Oppenheim that may be discoverable in this case.

SAN FRANCISCO

If we do not receive confirmation immediately that Defendant will withdraw the Motion, Plaintiffs will file their opposition and will seek sanctions under Rule 37(a)(4)(B) and/or Rule 11.

Timothy M. Reynolds 303.417.8510 timothy.reynolds@hro.com  
1801 13th Street, Suite 300 Boulder, Colorado 80302-5259 tel 303.444.5955 fax 303.866.0200

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We have repeatedly advised you that Plaintiffs are happy to work with Defendant concerning the scheduling of depositions in this matter. Defendant must, however, abide by the Court's rules. Specifically, and without limitation, Defendant must provide his initial disclosures to Plaintiffs. Defendant's repeated failure to follow basic rules of procedure is making this case far more expensive and time consuming than it should be.

I look forward to your prompt response.

Sincerely,



Timothy M. Reynolds

TMR/rb

**Timothy M Reynolds**

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**From:** Charles Nesson [nesson@gmail.com]  
**Sent:** Wednesday, January 21, 2009 12:46 PM  
**To:** Ramona Bailey  
**Cc:** Timothy M Reynolds; cyberone-riaa@eon.law.harvard.edu; evidence-2009@eon.law.harvard.edu  
**Subject:** Re: RIAA Tenenbaum

our motion stands  
we welcome your opposition

On Wed, Jan 21, 2009 at 2:05 PM, Ramona Bailey <Ramona.Bailey@hro.com> wrote:

Dear Mr. Nesson, I forward the attached on behalf of Timothy Reynolds.  
<<Ltr to Nesson 1 21 09.PDF>>

Ramona

Ramona Bailey  
Legal Secretary to  
Colin G. Harris, Managing Partner  
Timothy M. Reynolds, Partner  
**Holme Roberts & Owen LLP**  
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