

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CAPITOL RECORDS, INC., *et al.*,)
)
)
 Plaintiffs,) Civ. Act. No.
) 03-CV-11661-NG
 v.) (LEAD DOCKET NUMBER)
)
 NOOR ALAUJAN,)
)
)
 Defendant.)
)
)

SONY BMG MUSIC ENTERTAINMENT, *et al.*,)
)
)
 Plaintiffs,) Civ. Act. No.
) 07-CV-11446-NG
 v.) (ORIGINAL DOCKET NUMBER)
)
)
 JOEL TENENBAUM,)
)
)
 Defendant.)
)
)

MOTION FOR STAY TO ALLOW SUPREME COURT REVIEW

Defendant Joel Tenenbaum will, today, Monday June 1, 2009, or as soon thereafter as printing permits, file his Petition for Certiorari in the Supreme Court of the United States seeking review of the United States Court of Appeals for the First Circuit's Order of Prohibition, *In re SONY BMG Music Entertainment*, 564 F.3d 1 (April 16, 2009). A draft of the petition is attached hereto as Exhibit A. Defendant Tenenbaum is presenting four questions for Supreme Court review:

1. Are federal courts constitutionally obligated by the First and Fifth Amendments to reasonably facilitate public access to judicial proceedings by all available means, including use of the Internet and other electronic broadcasting, or is the right of public access restricted to those who can afford the travel and time costs of attending the proceedings in person or the price of copies of official transcripts and notes, while relegating everyone else to such press reports and other second-hand accounts as may be available?
2. Does the absolute prohibition of Internet and other electronic broadcasting of any open-court sessions of civil actions in federal district courts violate the First and Fifth Amendment rights of the general public and civil litigants to public access to judicial proceedings?
3. Where the court below accepted the district court judge's finding that Internet broadcasting of the oral arguments in the underlying civil action would reasonably and effectively facilitate public access to the judicial proceedings, does application of the total broadcasting prohibition in this case violate the First and Fifth Amendment public-access rights of the public and petitioner?
4. In totally prohibiting a district court judge from exercising any discretion to facilitate exercise of the constitutional rights of public access by means of Internet or other electronic broadcasting of open-court sessions in civil cases, does the ruling below impermissibly restrict the judicial power vested in federal district court judges by the Constitution and creational statutes?

Defendant Tenenbaum moves this Court for a stay of all further public proceedings in this case until the Supreme Court has opportunity to act on his petition.

This stay is necessary to avoid irreparable harm to Defendant Tenenbaum because proceeding with the hearings which

were subject the prohibition and particularly with the trial will render moot the constitutional issues he has raised and on which he seeks Supreme Court review.

JOEL TENENBAUM.

Dated: June 1, 2009

By his attorneys,

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CERTIFICATE OF SERVICE

I, the undersigned hereby certify that on June 1, 2009, I caused a copy of the foregoing **MOTION FOR STAY TO ALLOW SUPREME COURT REVIEW** to be served upon the Plaintiffs via the Electronic Case Filing (ECF) system at the following addresses:

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