

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

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

MOTION TO DIGITALLY AUDIO RECORD THE PUBLIC HEARING BEFORE THE COURT ON JUNE 5, 2009, AND ALL FURTHER PUBLIC PROCEEDINGS

Defendant Tenenbaum seeks the Court's permission and asserts as his constitutional right to digitally record the supposedly public proceedings which are to take place today, June 5, 2009, and to similarly record all further supposedly public proceedings in this case. This recording would be done by undersigned counsel using an utterly silent and unobtrusive Olympus Digital Voice Recorder.

Less preferable, but anticipating that the Court will deny this assertion and request in light of the order of prohibition issued by the First Circuit Court of Appeals on April 26, 2009, Defendant Tenenbaum asks the Court to make and keep a digital recording of the proceedings in Court custody until the United States Supreme Court has had opportunity to consider Defendant Tenenbaum's petition for certiorari to the First Circuit to review the First Circuit prohibition order.

The reason for granting this motion is to avoid making the issue of the constitutionality of the First Circuit's order of prohibition moot, thereby frustrating Supreme Court review.

Pursuant to Local Rule 7.1(a)(2), undersigned counsel has conferred with Plaintiffs, who oppose this motion.

Dated: June 5, 2009

Respectfully submitted,

/s/Charles R. Nesson
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CERTIFICATE OF SERVICE

I, the undersigned hereby certify that on June 5, 2009, I caused a copy of the foregoing MOTION TO DIGITALLY AUDIO RECORD THE PUBLIC HEARING BEFORE THE COURT ON JUNE 5, 2009, AND ALL FURTHER PUBLIC PROCEEDINGS to be served upon the Plaintiffs via the Electronic Case Filing (ECF) system.

/s/Charles R. Nesson

Charles R. Nesson

Attorney for Defendant