

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

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

**MOTION FOR LEAVE TO SERVE THE EXPERT REPORT OF DR. WAYNE
MARSHALL**

Notwithstanding the Court's deadlines for notice and discovery Defendant Tenenbaum asks leave to disclose the expert report of Dr. Wayne Marshall. The substance of Dr. Marshall's proposed expert report, and his CV, are attached hereto as Exhibits A and B respectively.

Dr. Marshall is available for deposition in Boston within the time-frame set for depositions by the court.

The reason for the lateness of the filing of this disclosure is that only recently did Dr. Marshall focus on how his expertise would be relevant to one judging the fairness of Joel's use in relation to the copyright holder.

Pursuant to the Local Rules of this Court governing discovery and motion practice, undersigned counsel certifies that he has conferred with the Plaintiffs, who oppose this motion.

Dated: June 29, 2009

Respectfully submitted,

/s/Charles R. Nesson
Charles Nesson
Counsel for Joel Tenenbaum

CERTIFICATE OF SERVICE

I, the undersigned hereby certify that on June 29, 2009, I caused a copy of the foregoing MOTION FOR LEAVE TO SERVE THE EXPERT REPORT OF DR. WAYNE MARSHALL to be served upon the Plaintiffs via the Electronic Case Filing (ECF) system.

/s/Charles R. Nesson
Charles R. Nesson
Attorney for Defendant