

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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CAPITOL RECORDS, INC. et al.,)	
Plaintiffs,)	
)	Civ. Act. No. 03-cv-11661-NG
v.)	(LEAD DOCKET NUMBER)
)	
NOOR ALAUJAN,)	
Defendant.)	
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SONY BMG MUSIC ENTERTAINMENT)	
et al.,)	
Plaintiffs,)	Civ. Act. No 07-cv-11446-NG
)	(ORIGINAL DOCKET NUMBER)
v.)	
JOEL TENENBAUM,)	
)	
Defendants.)	
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**PLAINTIFFS’ OPPOSITION TO DEFENDANT’S MOTION
TO WAIVE WITNESS FEES, OR IN THE ALTERNATIVE, FOR
THE COURT TO CALL WITNESSES PURSUANT TO FED. R. EVID. 614(a)**

Plaintiffs hereby oppose Defendant’s Motion to Waive Witness Fees, or in the Alternative, for the Court to Call Witnesses.

Plaintiffs do not intend to call Mr. Sherman or Mr. Glazer as witnesses in this matter. Furthermore, under Fed. R. Civ. P. 45(b)(2), a subpoena may be served within the district of the issuing court or outside that district but within 100 miles of the place specified for the trial. Both of the witnesses sought by Defendant reside outside of the District of Massachusetts, and cannot be reached by a subpoena under these rules. For the same reason, it would be improper for the Court to call these witnesses pursuant to Fed. R. Evid. 614(a).

Finally, even if a subpoena served on these witnesses were proper under the Rules – and it would not be – Defendant has put forward no evidence that he is indigent or otherwise cannot

afford to pay the fees associated with the issuance of a subpoena. Absent such a showing, Defendant should be required to comply with the requirements of the Federal Rules.

Respectfully submitted,

SONY BMG MUSIC ENTERTAINMENT;
WARNER BROS. RECORDS, INC.;
ATLANTIC RECORDING
CORPORATION; ARISTA RECORDS,
LLC; AND UMG RECORDINGS, INC.

By their attorneys,

/s/ Daniel J. Cloherty
Daniel J. Cloherty, Esq.
Dwyer & Collora LLP
600 Atlantic Ave., 12th Floor
Boston, MA 02210
617-371-1000

Timothy M. Reynolds (pro hac vice)
Eve G. Burton (pro hac vice)
Laurie J. Rust (pro hac vice)
Holme Roberts & Owen, LLP
1700 Lincoln, Suite 4100
Denver, CO 80203
303-861-7000

Matthew J. Oppenheim (*pro hac vice*)
Oppenheim Group
7304 River Falls Drive
Potomac, Maryland 20854
Telephone: (301) 299-4986
Facsimile: (866) 766-1678
Email: matt@oppenheimgroup.net

Attorneys for Plaintiffs

Dated: July 16, 2009

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 16, 2009.

/s/ Daniel J. Cloherty