

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

SECOND AMENDED DATE CERTAIN TRIAL NOTICE

The civil case listed below is on notice that they are scheduled for trial before Chief Judge Michael J. Davis of the United States District Court for **June 15, 2009 in Duluth, Courtroom 1.** Parties should be aware that if a criminal case requires a trial during this same time frame, the criminal matter will take precedence over this civil matter, and this matter will be continued.

Questions regarding the calendar may be directed to Kristine Wegner, Chief Judge Davis' Calendar Clerk at (612) 664-5073.

4. Capitol Records, Inc. et al v. Jammie Thomas
Civil No.06-1497 (MJD/RLE)
Attys: Andrew Mohraz Brian Toder
303-866-0254 612-336-2918

Unless otherwise ordered, counsel shall file the original on ECF; e-mail a copy to chambers e-mail box; deliver one copy of the following documents to opposing counsel and two copies¹ to chambers as indicated below:

1. Documents Required for all Trials
 - a. A statement of the case indicating the facts which the party intends to prove and indicating any unresolved substantive, evidentiary and procedural issues. The statement shall include the citation and discussion of authority upon which the party relies for its positions on the unresolved issues. A statement of the case is due on or before June 1, 2009.
 - b. Exhibit List. The exhibit list must be submitted on the Federal Exhibit/Witness list form. A copy of the form can be downloaded from the District website, www.mnd.uscourts.gov, under the subdirectory "FORMS" and then under Miscellaneous, form number "[AO187]

¹ The original is to be filed electronically with the Clerk of Court. The two courtesy **COPIES** to the Court must be 3-hole punched.

Exhibit List". If exhibits are to be offered at trial, the following procedure must be followed:²

- (i) Counsel shall, on or before June 1, 2009 mark all exhibits for identification. All exhibits shall be marked, as much as possible, in the sequence they will be offered, with Arabic numbers. Do not use sub-identifiers for any exhibit number (i.e. 1A, 1B, etc.). Each exhibit should also be marked with the case number.

Example: Pltf. or Deft. #1

Civ. 00-123

(Multiple parties list name, e.g.
Pltf. Smith #1)

- (ii) Counsel shall, on or before June 1, 2009, make available for examination and, if requested, copying by all counsel, all exhibits which will be offered into evidence at trial. Only exhibits so made available shall be offered into evidence at trial, except for good cause show.
- (iii) Counsel shall, on or before June 1, 2009, submit a list of the exhibits that will be presented at trial on behalf of their client(s). The list shall indicate the exhibits the parties agree are admissible. For the exhibits not so agreed upon, the list shall include the grounds for objection. Only exhibits so listed shall be offered into evidence at trial, except for good cause shown.

c. Witness List. The witness list must be submitted on the Federal Exhibit/Witness list form. A copy of the form can be downloaded from the District website, www.mnd.uscourts.gov, under the subdirectory "FORMS" and then under Miscellaneous, form number "[AO187] Exhibit List". The list shall include the names and addresses of the witnesses, along with a short statement of the substance of the expected testimony of each witness. Only witnesses so listed shall be permitted to testify except for good cause shown. Witness list's shall be submitted on or before June 1, 2009.

d. List of Deposition Testimony to be offered into evidence in lieu of live testimony. The list shall designate those specific parts of deposition to be offered at trial and shall be submitted on or before June 1, 2009. Only depositions so

² The exhibit and witness lists are to be two separate documents and labeled exhibit or witness list.

listed shall be offered into evidence at trial except for good cause shown. Any party who wishes to object to listed deposition testimony shall submit objections on or before June 4, 2009.

- e. Motions In Limine must be received on or before June 1, 2009. Responses to Motion In Limine must be received on or before June 4, 2009.
2. Additional Documents for Jury Trials. In all jury trials, counsel shall submit the following documents in addition to those listed above:
 - a. Proposed Voir Dire Questions shall be submitted on or before June 1, 2009.
 - b. Proposed Jury Instructions. All proposed jury instructions are required to be **JOINTLY** filed on or before June 1, 2009, except for those whose need could not be foreseen. Each proposed instruction shall be numbered and on a separate page and shall contain citation to legal authority. Jury instructions are to be submitted in the following format:
 - (i) The parties are required to jointly submit one set of agreed upon instructions. To this end, the parties are required to serve their proposed instructions upon each other at least one week prior to the filing deadline. The parties should then meet, confer, and submit one complete set of agreed upon instructions. Any jury instruction that is not agreed upon, must be submitted separately by the party wanting to use the instruction.
 - (ii) The original shall be filed electronically with the Clerk of Court and two three-hole punched copies of the instructions shall be submitted to chambers, in hard copy. All jury instructions shall also be e-mailed to chambers e-mail box.
 - c. Proposed Special Verdict Forms shall be submitted on or before June 1, 2009. The special verdict form should also be e-mailed to chambers e-mail box in Corel WordPerfect or Microsoft Word by the date and time stated above. Further, any amended versions of this form shall be filed and e-mailed to the chambers e-mail box. Two courtesy hard copies 3-hole punched, shall be hand delivered to chambers, as soon as they created by the parties.
3. Additional Documents for Non-Jury Trials. In all non-jury trials, counsel shall submit proposed findings of fact and conclusions of law in addition to the documents listed in section 1, above. Parties proposed findings of fact and conclusions of law shall be submitted on or before June 1, 2009.
 4. Counsel for all parties are strongly encouraged to meet prior to trial

to:

- A. Stipulate to all uncontested facts and matters not in controversy.
 - B. Stipulate to which exhibits may be received without objection prior to trial.
 - C. Discuss settlement.
5. All jury instructions, the special verdict form, statement of the case, exhibit list, witness list, motions In Limine, responses to motions In Limine and proposed orders to the In Limine motions must be e-mailed to the chambers e-mail box at davis_chambers@mnd.uscourts.gov.
 6. The requirement of two 3-hole punched copies to be mailed to chambers is still in effect.

The failure of any party to comply with the procedures outlined herein shall result in the imposition of an appropriate sanction.

Dated: March 31, 2009

s/Michael J. Davis
MICHAEL J. DAVIS
Chief Judge
United States District Court