

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE  
2008 JAN 22 P 12:54  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

SONY BMG MUSIC  
ENTERTAINMENT, ET AL

PLAINTIFFS

LEAD CASE NUMBER  
03CV11661NG

vs.

JOEL TENENBAUM,  
DEFENDANT

ORIGINAL CASE NUMBER  
03CV11446NG

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY  
JUDGMENT AND CROSS-MOTION FOR CONTINUANCE UNDER RULE 56(f)

I. INTRODUCTION

As demonstrated in Defendant's Motion for Summary Judgment supported by his Memorandum of Law, Defendant's Motion for Summary Judgment should be allowed. It continues to be Defendant's position that there is no genuine issue of material fact that could be provided to Plaintiffs such as to not grant summary judgment and no reason for the Court to allow the cross-motion for continuance under rule 56 (f).

It continues to be Defendant's belief that this Opposition to Defendant's Motion for Summary Judgment and the Cross-Motion for Continuance in response to Defendant's basis Motion for Summary Judgment have been filed mainly for the purpose of harassing defendant, causing unnecessary delay, and/or needlessly increasing the cost of litigation. These papers that Plaintiffs filed are beyond the scope of an appropriate response.

Further, Defendant again states his opposition to these papers based on the untimely filing of said papers nearly one month after the actual date that these replies were due. and should, therefore not be allowed be the court.

However, one statement mentioned in Plaintiffs' Opposition to Defendant's Motion for Summary Judgment and Cross-Motion for Continuance under Rule 56(f) page 4 warrants a reply

by Defendant. The statement says that Attorney Karuna Ojanen contacted Plaintiffs' representative on behalf of Mr. Tenenbaum. At no time did Karuna Ojanen represent Defendant in any capacity. Ms. Ojanen is a family friend who, as a courtesy contacted Plaintiffs representative to gain information on behalf of Mr. Tenenbaum. Ms. Ojanen in fact, never represented Defendant in any way, was never an agent of Defendant, and, in fact, was asked by Plaintiffs' representative to send a fax to her specifically stating that she was not representing Defendant in any way. Ms. Ojanen immediately sent a fax to Plaintiffs' representative stating that she never did represent Defendant in any capacity.

As mentioned on page 5 of this same document, Plaintiffs' attorney states that nowhere in his Motion nor Affidavit does Defendant deny infringing Plaintiffs' copyrighted sound recordings. This is because Defendant made such denials in his initial Answer filed in August, 2007.

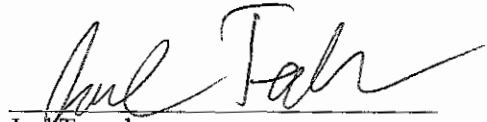
Plaintiffs' Cross-Motion for Continuance Under Rule 56(f) should be denied.

No reasonable information would be obtained by discovery under Rule 56(f) As is stated in the initial papers filed by Defendant on November 21, 2007, no further information could be obtained by discovery such as would make any difference in the outcome of either the Motion to Dismiss, or the Motion for Summary Judgment. All of the details that Plaintiffs' lawyer believes she would obtain through discovery would amount to no more than a "fishing expedition" and would serve merely to further harass defendant and his family.

#### CONCLUSION

For the reasons stated above, and the reasons stated in the Motion for Sanctions, the Plaintiffs' Opposition to Defendant's Motion to Dismiss and Plaintiffs' Opposition to Defendant's Motion for Summary Judgment and Cross-Motion for Continuance Under rule 56(f) should not be allowed, and Defendants' motions should be granted.

Respectfully submitted,



Joe Tenenbaum  
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January 18, 2008

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing instrument has been mailed to all Attorneys of record on this 19 day of January, 2008, addressed as follows:

JOHN R. BAUER  
Robinson and Cole LLP  
One Boston Place  
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JOEL TENENBAUM