



Nesson an email to confirm this fact. *See* Sept. 11, 2008 email, Exhibit A. Mr. Nesson responded and confirmed that he would be representing Defendant. *Id.*

3. On September 15, 2008, Ms. Rust asked Defendant's counsel if he intended to amend the counterclaims. *See* September 15, 2008 email, Exhibit B. Defendant's counsel did not respond.

4. At the September 23, 2008 status conference in this case, Defendant's counsel stated that he did not intend to amend the counterclaims. *See* transcript of September 23, 2008 status conference, Exhibit C.

5. During Defendant September 24, 2008 deposition, Defendant testified that his counsel had aided in the drafting of his counterclaim for abuse of process, which had been filed on August 19, 2008. *See* Tenenbaum Depo. at p. 243, line 10 – p. 245, line 13, Exhibit D.

6. On October 29, 2008, I telephoned Defendant's counsel to alert him to the deficiency in his Motion to Add the RIAA and to suggest that he withdraw the Motion, serve it on the RIAA as required, and then re-file his Motion ten days later, in accordance with Local Rule 15.1. In response, Defendant's counsel told Plaintiffs' counsel that he was not aware of the Local Rule.

7. When I informed him of the content of Local Rule 15.1, Defendant's counsel stated that he would not withdraw his deficient Motion because going through the process of a motion to strike would be an interesting lesson for his class of law students. I underscored to Defendant's counsel that he was under a duty to read and comply with the local rules, that Plaintiffs proposed a reasonable solution, and that Plaintiffs should not bear the financial burden of teaching his students the importance of reading local rules of court.

8. Nonetheless, Defendant's counsel refused to withdraw the procedurally deficient Motion.

9. On November 4, 2008, Defendant served on Plaintiffs and stated he was serving on the RIAA, a copy of his Motion to Add the RIAA. Defendant stated that he intends to file this Motion in ten days, in compliance with Local Rule 15.1.



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Eve G. Burton, Esq.

Dated: November 12, 2008