

1 **Lory R. Lybeck**
Lybeck Murphy, LLP
2 7525 SE 24th Street, Ste. 500
Mercer Island, WA 98040-2334
3 206-230-4255 /phone
206-230-7791 /fax
4 Lybeck – lrl@lybeckmurphy.com
Lybeck – OSB #83276
5 Attorney for Plaintiff

6
7
8 UNITED STATES DISTRICT COURT
DISTRICT OF OREGON AT PORTLAND

9 TANYA ANDERSEN, Individually and as)
Representative of Others Similarly Situated)

10 Plaintiff)

11 v.)

12 ATLANTIC RECORDING)
13 CORPORATION, a Delaware corporation;)
14 PRIORITY RECORDS, LLC, a California)
limited liability company; CAPITOL)
15 RECORDS, INC., a Delaware corporation;)
16 UMG RECORDINGS, INC., a Delaware)
corporation; and BMG MUSIC, a New)
York general partnership; RECORDING)
17 INDUSTRY ASSOCIATION OF)
AMERICA; SAFENET, INC., f/k/a)
18 MEDIA SENTRY, INC., a Delaware)
corporation; SETTLEMENT SUPPORT)
19 CENTER, LLC, a Washington limited)
liability company)

20 Defendants.)

No. CV 07-934 BR

PLAINTIFF’S MOTION TO
PERMIT IMMEDIATE WRITTEN
DISCOVERY PENDING JUNE 6,
2008 RULE 16 CONFERENCE

21
22 **CERTIFICATION**

23 Counsel for Plaintiff hereby certifies that they have conferred with counsel for
24 Defendants regarding the relief sought in this motion, and are informed that Defendants oppose
25 the motion.
26

1 **INTRODUCTION**

2 Pursuant to the court's directions at the April 21, 2008 Scheduling Conference, Plaintiff
3 Tanya Andersen has filed her Fourth Amended Complaint. Ms. Andersen's Fourth Amended
4 Complaint fully complies with FRCP 8, this court's Orders, and its direction to the parties
5 during prior hearings and conferences. In light of this filing, Ms. Andersen respectfully
6 requests that the Court partially lift the stay of discovery and permit the parties to immediately
7 proceed with propounding written discovery, with deposition discovery delayed pending the
8 submission of the joint case management plan and the occurrence of the Rule 16 Conference, as
9 provided by the court's recent ruling.
10

11 **BACKGROUND**

12 Ms. Andersen filed her original Complaint making claims against each of these
13 Defendants on June 22, 2007. Doc. No. 1. On the same date, this court entered a Discovery and
14 Pretrial Scheduling Order setting the deadline for completion of discovery on October 22, 2007.
15 Doc. No. 2. On January 4, 2008, following the filing of FRCP 12 (b)(6) motions by defendants,
16 the court entered an order striking the discovery deadlines, effectively staying discovery
17 pending resolution of the motions. Doc. No. 42.
18

19 During a February 13, 2008 hearing on the motions, the court directed Ms. Andersen
20 revise her complaint, and also entered a February 19, 2008 Order memorializing its ruling. Doc.
21 No. 48. Most recently, the court provided further direction regarding the pleadings during an
22 April 21, 2008 status conference and instructed Ms. Andersen to file a Fourth Amended
23 Complaint. Doc. No. 57. At the same conference, the court required Defendants to answer the
24 Complaint by May 21, 2008, and directed the parties to submit a joint proposed case
25 management plan by May 30, 2008. Id. A further Rule 16 conference was scheduled for June 6,
26

1 2008. Id.

2 **MOTION**

3 In light of the court's recent instructions, and to avoid further unnecessary delay of
4 normal litigation procedure, Ms. Andersen requests that the court enter an order partially lifting
5 the stay of discovery in this matter and permitting the parties to immediately propound written
6 discovery.
7

8 Ms. Andersen proposes that the parties can address the scheduling of depositions of fact
9 witnesses at mutually convenient times in their negotiating the proposed joint case management
10 plan as required by the recent ruling. Any outstanding disagreement of the parties regarding
11 deposition discovery can be addressed at the June 6, 2008 Rule 16 Conference scheduled by
12 this court.
13

14 Respectfully submitted this 1st day of May, 2008.

15 Lybeck Murphy, LLP

16 By: /s/ Lory R. Lybeck
17 Lory R. Lybeck (OSB #83276)
18 Attorneys for plaintiff
19
20
21
22
23
24
25
26

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE DISTRICT OF OREGON**

3 I hereby certify that on the 1st day of May, 2008, I electronically filed the foregoing
4 PLAINTIFF'S MOTION TO PERMIT IMMEDIATE WRITTEN DISCOVERY PENDING JUNE 6,
5 2008 RULE 16 CONFERENCE with the Clerk of the Court using the CM/ECF system, which will
6 send notification of such filing to the following:

7 Kenneth R. Davis, II
8 davisk@lanepowell.com
9 William T. Patton
10 pattonw@lanepowell.com
11 Lane Powell PC
12 601 SW Second Avenue, Suite 2100
13 Portland, OR 97204
14 503-778-2100/phone
15 503-778-2200/fax
16 Email:

17 Timothy Reynolds, *Admitted Pro Hac Vice*
18 timothy.reynolds@hro.com
19 Richard Gabriel, *Admitted Pro Hac Vice*
20 Richard.Gabriel@hro.com
21 Amy Bauer, *Admitted Pro Hac Vice*
22 amy.bauer@hro.com
23 HOLME, ROBERTS & OWEN LLP
24 1700 Lincoln Street, Ste. 4100
25 Denver, CO 80203
26 Telephone: (303) 861-7000
Facsimile: (303) 866-0200

All parties are registered as CM/ECF participants for electronic notification.

DATED at Mercer Island, Washington, this 1st day of May, 2008.

By: /s/ Lory R. Lybeck _____
Lory R. Lybeck (OSB #83276)
Benjamin R. Justus, admitted *pro hac vice*
Attorneys for defendant
Lybeck Murphy, LLP
7525 SE 24th Street, Ste. 500
Mercer Island, WA 98040
(206) 230-4255 /phone
(206) 230-7791 /fax
lrl@lybeckmurphy.com