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8 UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON AT PORTLAND

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

11 Plaintiff )

12 v. )

13 ATLANTIC RECORDING )  
CORPORATION, a Delaware corporation; )  
14 PRIORITY RECORDS, LLC, a California )  
limited liability company; CAPITOL )  
15 RECORDS, INC., a Delaware corporation; )  
UMG RECORDINGS, INC., a Delaware )  
16 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. )  
21 )

No. CV 07-934 BR

PLAINTIFF'S STATUS REPORT  
REGARDING FOURTH  
AMENDED COMPLAINT,  
DISCOVERY SCHEDULE AND  
CLASS ACTION CERTIFICATION

22 **FOURTH AMENDED COMPLAINT**

23 At this Court's direction, Plaintiff has filed her Fourth Amended Complaint limiting the  
24 page length, reducing the number of individual claims for relief asserted and generally  
25 simplifying the allegations supporting each separate claim for relief. The allegations directly  
26 and simply set forth the claims for relief based on Civil Conspiracy, Wrongful Initiation of

1 Civil Proceedings, Abuse of Process and Negligence/Negligence *Per Se*. The claims specify  
2 which relief is sought against which specific Defendant. The Fourth Amended Complaint  
3 alleges no claims based on federal questions. Because all claims are asserted under Oregon  
4 Common Law theories, headings describing Oregon versus federal law are unnecessary and  
5 have been deleted. Jurisdiction for all claims arises from the parties diversity of citizenship.  
6 This pleading fully complies with the requirements of FRCP Rule 8 and this Court's more  
7 specific direction and order. This "streamlined" pleading should allow discovery to  
8 immediately commence and certification as a class action to follow.  
9

10 As is apparent, all RICO based claims have been deleted from the latest form of  
11 Complaint. These claims were deleted at the Court's suggestion and especially because of the  
12 Court's concern whether the reliance element can logically be alleged by Ms. Andersen.  
13 However, given the Supreme Court's consideration of Bridge v. Phoenix Bond & Indemnity,  
14 477 F3d 928, argued to the U.S. Supreme Court on April 14, 2008, where the question whether  
15 a RICO claim requires reliance is directly before the Court, Plaintiff anticipates the possibility  
16 of seeking this Court's leave to reassert these claims. See Exhibit A.  
17

### 18 DISCOVERY

19 As the Court directed, Plaintiff's counsel will again confer with defense counsel and  
20 attempt to agree on a fair, effective and efficient plan to complete discovery necessary to this  
21 case. During this Court's consideration of pleading issues it appropriately stayed discovery.  
22 Defendants' Answer to the Fourth Amended Complaint is due within twenty (20) days. In  
23 order to allow discovery to efficiently commence, plaintiff has filed a motion seeking limited  
24 relief from the stay of discovery to allow written discovery to be propounded to Defendants in  
25 the form of requests for production, interrogatories and requests for admission.  
26

1 Deposition scheduling can follow after submission of a plan after consultation of  
2 counsel. As response to written discovery would not be required until after Defendants'  
3 Answer is filed there seems no logical reason to delay delivering these written requests for  
4 Defendants' immediate consideration.  
5

6 **CLASS ACTION ISSUES**

7 Consistent with this Court's instruction during the last status conference, Plaintiff  
8 awaits the opportunity to address class certification sometime as early as possible after  
9 Defendants answer is filed and a discovery scheduling order is entered.

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

11 LYBECK MURPHY, LLP

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13 By:  /s/ Lory R. Lybeck   
14 Lory R. Lybeck (OSB #83276)  
15 Attorneys for plaintiff  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

I hereby certify that on the 1<sup>st</sup> day of May, 2008, I electronically filed the foregoing PLAINTIFF'S STATUS REPORT REGARDING FOURTH AMENDED COMPLAINT, DISCOVERY SCHEDULE AND CLASS ACTION CERTIFICATION with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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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      
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Exhibit A

**07-210 BRIDGE V. PHOENIX BOND & INDEMNITY**

DECISION BELOW: 477 F.3d 928

LOWER COURT CASE NUMBER: 06-1160

**QUESTIONS PRESENTED:**

Whether a plaintiff asserting a civil RICO claim predicated on acts of mail fraud must plead and prove reliance on alleged misrepresentations by the defendant?

CERT. GRANTED 1/4/2008

LIMITED TO THE FOLLOWING QUESTION: **"WHETHER RELIANCE IS A REQUIRED ELEMENT OF A RICO CLAIM PREDICATED ON MAIL FRAUD AND, IF IT IS, WHETHER THAT RELIANCE MUST BE BY THE PLAINTIFF."**

EXPEDITED BRIEFING SCHEDULE