

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
Civil Action No. 1:08-CV-00109-H

SONY BMG MUSIC)	
ENTERTAINMENT, <i>et al</i> ,)	
)	
Plaintiffs,)	<u>MOTION OF DEFENDANT TO DISMISS</u>
)	<u>THE COMPLAINT, STRIKE THE</u>
vs.)	<u>PLAINTIFFS' AFFIDAVIT, AND</u>
)	<u>QUASH THE SUBPOENA</u>
JOHN DOE,)	
)	
Defendant.)	

NOW COMES Defendant and moves the Court to dismiss the Complaint for failure to state a claim upon which relief can be granted pursuant to F.R.Civ.P., Rule 12(b)(6), to strike the Plaintiffs' Affidavit pursuant to F.R.Civ.P., Rule 12(f), and to quash the subpoena pursuant to F.R.Civ.P., Rule 45(c)(3)(A)(iii). Further, the moving Doe Defendant respectfully requests that the Court stay enforcement of the subpoena addressed to North Carolina State University ("NCSU") and served upon NCSU. A draft order to stay enforcement is attached.

Respectfully submitted, this 10th day of June, 2008.

By: /s/ Stephen E. Robertson
Stephen E. Robertson
ROBERTSON, MEDLIN & BLOCKER, PLLC
Attorney for DefendantN.C. State Bar No. 27608
125 South Elm Street, Suite 100
Greensboro, NC 27401
Telephone: (336) 378-9881
Facsimile: (336) 378-9886
srobertson@robertsonmedlin.com

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of June, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Lacey M. Moore
Nexsen Pruet Adams Kleemeier, PLLC
210 South Tryon St.
Suite 1200
Charlotte, NC 28202
lmoore@nexsenpruet.com

And I hereby certify that I will serve the document by e-mail to the following non-party:

David T. Drooz
Senior Associate General Counsel
North Carolina State University
Box 7008
Raleigh, NC 27695-7008
dtdrooz@gw.fis.ncsu.edu

By: /s/ Stephen E. Robertson
Stephen E. Robertson
ROBERTSON, MEDLIN & BLOCKER, PLLC
Attorney for Defendant
N.C. State Bar No. 27608
125 South Elm Street, Suite 100
Greensboro, NC 27401
Telephone: (336) 378-9881
Facsimile: (336) 378-9886
srobertson@robertsonmedlin.com