

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

No. \_\_\_\_\_

IN RE: SONY BMG MUSIC ENTERTAINMENT; WARNER BROS.  
RECORDS, INC.; ATLANTIC RECORDING CORPORATION;  
ARISTA RECORDS, LLC; AND UMG RECORDINGS, INC.  
Petitioners.

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ON PETITION FOR EXTRAORDINARY WRIT TO THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS  
District Court Case No. 07-11446-NG (D. Mass.)  
(Consolidated with District Court Case No. 03-11661-NG (D. Mass.))  
Hon. Nancy Gertner, United States District Judge, presiding

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**EMERGENCY MOTION FOR EXPEDITED CONSIDERATION  
OF PLAINTIFFS' PETITION FOR WRIT OF MANDAMUS OR  
PROHIBITION, OR IN THE ALTERNATIVE, FOR A STAY OF THE  
DISTRICT COURT'S ORDER PENDING RESOLUTION OF  
PLAINTIFF'S PETITION**

Pursuant to Rule 27 of the Federal Rules of Appellate Procedure and Rule 27.0(b) of the Local Rules of this Court, Petitioners hereby move for expedited consideration of their Petition for a Writ of Mandamus, filed simultaneously with this Motion, as well as expedited consideration of this Motion. In the alternative, Plaintiffs move this Court, pursuant to Federal Rule of Appellate Procedure 8(a),

for an order staying the District Court's January 14, 2009 Order in the underlying case.

In support of this Motion, Petitioners state as follows:

1. This petition arises from a January 14, 2009 Order by the district court in the underlying case, which authorized the recording and broadcasting of proceedings in this case that are currently scheduled for January 22, 2009.  
See Petition at Add. 1 (Order of January 14, 2009)
2. The Petitioners have filed a Petition for a Writ of Mandamus simultaneously with this Motion, requesting that the Court of Appeals issue a writ of mandamus directing the District Court to vacate that Order and to instead issue an order barring the recording and broadcasting of the district court proceedings in the underlying case.
3. In the alternative, the Petition requests that the Court of Appeals issue a writ of mandamus directing the District Court to vacate the Order of January 14, 2009 and refer the Defendant's Motion seeking to record and broadcast the proceedings in the underlying case to a full panel of judges of the United States District Court for the District of Massachusetts.
4. The resolution of the Petition will necessarily impact directly question of whether the hearing scheduled for January 22, 2009 is recorded and broadcast.

5. In accordance with Rule 8 of the Federal Rules of Appellate Procedure, Petitioners have filed in district court a Motion to Stay the January 14, 2009, Order pending resolution of their Petition. However, given the impending hearing affected by that Order, the Plaintiffs hereby move this Court to expedite its consideration of their Petition or, in the alternative, to stay the District Court's Order until the Court of Appeals for the First Circuit resolves their Petition.

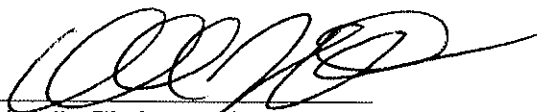
### **CONCLUSION**

Wherefore, Petitioners respectfully request expedited consideration of their Petition for a Writ of Mandamus, filed simultaneously with this Motion, as well as expedited consideration of this Motion. In the alternative, Plaintiffs request that this Court issue an order staying the District Court's January 14, 2009 Order in the underlying case.

Respectfully submitted,

SONY BMG MUSIC  
ENTERTAINMENT; WARNER BROS.  
RECORDS INC.; ATLANTIC  
RECORDING CORPORATION; ARISTA  
RECORDS LLC; and UMG  
RECORDINGS, INC.

By Their Attorneys,



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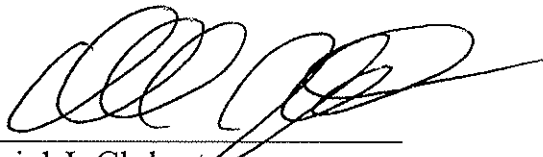
**CERTIFICATE OF SERVICE**

I, Daniel J. Cloherty, attorney of record for Petitioners hereby certify that on Friday, January 16, 2009, I filed with the Clerk of the United States Court of Appeals for the First Circuit, via hand delivery, the requisite number of copies of the Petitioners' Emergency Motion for Expedited consideration of Plaintiffs' Petition for Writ of Mandamus of Prohibition, or in the Alternative, for a Stay of the District Court's Order Pending Resolution of Plaintiffs' Petition per Federal Rule of Appellate Procedure 31, as modified by Local Rule 31. The requisite numbers of copies of Petitioners' Petition were served, via hand delivery, upon the following persons on Friday, January 16, 2009:

Charles R. Nesson  
1525 Massachusetts Avenue  
Cambridge, MA 02138  
*Attorney for the Defendant*

The Honorable Nancy Gertner  
U.S. District Court  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way, Suite 2300  
Boston, MA 02210

Dated: January 16, 2009

  
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Daniel J. Cloherty  
*Counsel for Petitioners*