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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOINT MOTION FOR ADMINISTRATIVE RELIEF

1 STEPHAN JENKINS, an individual; THIRD
2 EYE BLIND, INC., a California corporation;
3 3EB TOURING, INC., a California
4 corporation; and STEPHAN JENKINS
5 PRODUCTIONS, INC., a California
6 corporation,

7 Plaintiffs,

8 vs.

9 THOMAS IRVING MANDELBAUM, an
10 individual; SELVERNE, MANDELBAUM &
11 MINTZ, LLP, a New York limited liability
12 partnership; HISCOCK & BARCLAY, LLP, a
13 New York limited liability partnership; and
14 DOES 1 through 500, inclusive,

15 Defendants.

16 HISCOCK & BARCLAY, LLP, a New York
17 limited liability partnership,

18 Counter-Claimant,

19 vs.

20 STEPHAN JENKINS, an individual; THIRD
21 EYE BLIND, INC., a California corporation;
22 3EB TOURING, INC., a California
23 corporation; and STEPHAN JENKINS
24 PRODUCTIONS, INC., a California
25 corporation,

26 Counter-Defendants.

27 COME NOW, the following Parties in United States District Court, Northern District of
28 California, Case No. CV-11-0211 EMC, styled as *Jenkins v. Mandelbaum* case (hereinafter the
29 “Jenkins Action”):

- 30 1. Plaintiffs and Cross-defendants Stephan Jenkins, Third Eye Blind, Inc., 3EB
31 Touring, Inc., and Stephan Jenkins Productions, Inc. (collectively, “Plaintiffs”);
- 32 2. Defendants Thomas I. Mandelbaum and Selverne, Mandelbaum & Mintz, LLP
33 (collectively, the “Mandelbaum Defendants”); and
- 34 3. Defendant and Counter-Claimant Hiscock & Barclay, LLP (the “Hiscock Firm”);

Case No.: CV-11-0211 EMC

**JOINT MOTION FOR
ADMINISTRATIVE RELIEF TO
ADVANCE STATUS CONFERENCES IN
*JENKINS v. MANDELBAUM AND
FREDIANELLI v. JENKINS*;**

[PROPOSED] ORDER

Date: February 7, 2012

Hon. Edward M. Chen, Presiding

(E-filing)

****and for Related Case C11-3232
EMC
Fredianelli v. Jenkins**

1 and the following parties in United States District Court, Northern District of California, Case
2 No. 3:11-CV-3232-EMC, styled as *Fredianelli v. Jenkins* (hereinafter the “Fredianelli Action”):

- 3 1. Defendants Stephan Jenkins, Third Eye Blind, Inc., 3EB Touring, Inc., Stephan
4 Jenkins Productions, Inc. and 3EB Publishing (collectively, the “Jenkins
5 Defendants”);
- 6 2. Defendant Thomas I. Mandelbaum (“Mandelbaum”);
- 7 3. Defendant the Hiscock Firm;
- 8 4. Defendant David Rawson (“Rawson”);
- 9 5. Defendant Zeisler, Zeisler, Rawson & Johnson, LLP (the “Rawson Firm”); and
- 10 6. Defendant EMI Blackwood Music, Inc.

11 and hereby jointly file this motion for administrative relief to advance the Status Conferences in
12 the Jenkins Action and the Fredianelli Action **from March 9, 2012 to February 17, 2012**. The
13 plaintiff in the Fredianelli Action, Anthony Fredianelli (“Fredianelli”), is not a party to this joint
14 motion. Although attempts were made to obtain his stipulation to the relief requested, he has
15 not been responsive to those requests; for that reason, a global stipulation is not possible.

16 **A. BACKGROUND.**

17 The Jenkins Action was filed on December 2, 2010 in California state court and removed
18 to this Court on January 13, 2011. The first Case Management Conference in the Jenkins Action
19 was held on April 20, 2011. At that time, the Court set a trial date of August 13, 2012 and issued
20 a Case Management and Pre-trial Order on April 22, 2011. A Status Conference was scheduled
21 for August 10, 2011. In its scheduling order, the Court limited discovery and motion practice, as
22 quoted below.

23 Subsequently, the Fredianelli Action, which was originally filed on February 22, 2011 in
24 the Central District of California, was transferred to this Court and assigned to the Honorable
25 Edward M. Chen.

26 The parties to both actions attended a two-day mediation with Hon. Scott Snowden (Ret.)
27 in July of 2011.

1 On August 3, 2011, the Court ordered a Status Conference in both actions set for
2 November 7, 2011. On the request of all the parties, because of a pending additional mediation
3 session, that Status Conference was continued to March 9, 2012.

4 In the meantime, efforts continued to try to mediate the case and settle it. As noted
5 above, mediation sessions were held on July 12 and 13, 2011. In August 2011, Fredianelli
6 discharged the attorneys who had represented him during the July mediation sessions, and
7 retained new counsel. Following that mediation, attempts were made to have a follow-up
8 mediation in the Fredianelli Action, and the parties all reserved November 16, 2011 for an all
9 day mediation session with retired Judge Snowden. Several days prior to the mediation,
10 Fredianelli's counsel advised that neither he, nor his client, would be appearing at the mediation,
11 and that he would be filing a motion to withdraw shortly thereafter. The mediation was therefore
12 cancelled. Subsequently, by motion filed on December 22, 2011, the attorneys whom Fredianelli
13 retained in August 2011 sought to withdraw; the Court granted that motion on January 23, 2012
14 (*see* Docket Nos. 107-109, 115).

15 On January 24, 2012, the Court issued Orders in the Jenkins Action that set the trial date
16 for September 4, 2012, leaving the non-expert discovery cut-off date for March 26, 2012, as
17 originally ordered by the Court in its April 22, 2011 Order.

18 **B. RELIEF REQUESTED.**

19 The Court's April 22, 2011 Case Management and Pre-trial Order in the Jenkins Action
20 states, in pertinent part:

21 "The parties shall complete early disclosures and exchange documents informally.
22 Parties may propound narrowly tailored written discovery necessary to prepare for
23 mediation. All other discovery (including depositions) shall be stayed pending
24 completion of mediation. Parties shall not file any motion(s) for summary judgment
before mediation is completed. Should mediation fail, any further discovery shall be
taken pursuant to further order of the Court."

25 As a consequence of ongoing mediation and settlement discussions, the parties have not
26 conducted discovery and have not engaged in any motion practice. Given that situation, the
27 parties cannot reasonably comply with the existing March 26, 2012 non-expert discovery cut-off
28 date and other deadlines imposed by the Court's January 24, 2012 Order in the Jenkins Action.

MURPHY, PEARSON, BRADLEY & FEENEY

Dated: February 1, 2012

By: /s/_____

James A. Murphy
Harlan B. Watkins
*Attorneys for Defendant and Cross-Claimant
Hiscock & Barclay, LLC*

ATTESTATION OF CONCURRENCE

I, Richard J. Idell, as the ECF user and filer of this document, attest that, pursuant to General Order No. 45(X)(B), concurrence in the filing of this document has been obtained from Sanjit Shah and James A. Murphy, the above signatories.

IDELL & SEITEL LLP

Dated: February 1, 2012

By: /s/_____

Richard Idell
Ory Sandel
*Attorneys for Plaintiffs and Counter-Defendants
Stephan Jenkins, Third Eye Blind, Inc., 3EB
Touring, Inc. and Stephan Jenkins Productions, Inc.*

1 **[PROPOSED] ORDER**

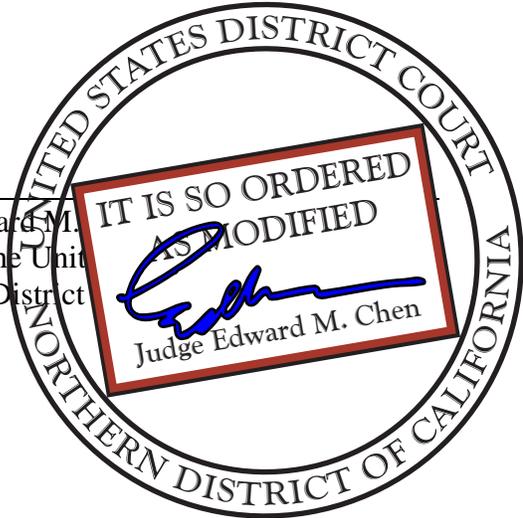
2 The Court, having reviewed the above joint motion, and having considered all of the
3 papers filed thereon, and good cause appearing therefor,

4 IT IS HEREBY ORDERED that the Status Conferences in the Jenkins Action and the
5 Fredianelli Action now scheduled for March 9, 2012 at 10:30 a.m. is hereby advanced to February 17
6 _____, 2012 at 10:30 a.m.

7 SO ORDERED.

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9 Dated: 2/2/12

10 Hon. Edward M.
11 Judge of the Unit
12 Northern District



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PROOF OF SERVICE

I am employed in the City and County of San Francisco, State of California in the office of a member of the bar of this court at whose direction the following service was made. I am over the age of eighteen years and not a party to the within action. My business address is Idell & Seitel LLP, 465 California Street, Suite 300, San Francisco, California 94104.

On February 1, 2012, I served the following document(s):

JOINT MOTION FOR ADMINISTRATIVE RELIEF TO ADVANCE STATUS CONFERENCES IN JENKINS v. MANDELBAUM AND FREDIANELLI v. JENKINS;

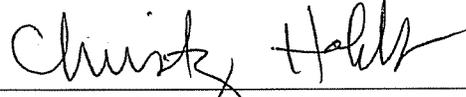
[PROPOSED] ORDER

by **ELECTRONIC MAIL**. As this case is subject to the United States District Court for the Northern District of California ECF program, pursuant to General Rule 45, upon the filing of the above-entitled document(s) an automatically generated e-mail message was generated by the Court's electronic filing system and sent to the address(es) shown below and constitutes service on the receiving party.

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*Attorneys for Defendants Thomas I. Mandelbaum;
and Selverne, Mandelbaum & Mintz, LLP*

1 I certify and declare under penalty of perjury that the foregoing is true and correct, that I
2 am employed in the office of an attorney qualified to practice in this court, and that I executed
3 this declaration at San Francisco, California.

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5 _____
6 Christy Holdt
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