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15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA

17 ROB ZOMBIE, a/k/a Robert Wolfgang  
 18 Zombie, f/k/a Robert Cummings; WHITE  
 19 ZOMBIE, a general partnership;  
 20 WHITESNAKE, a doing business as  
 21 designation of David Coverdale, by and for  
 22 WHITESNAKE PRODUCTIONS  
 23 (OVERSEAS) LIMITED; and DAVE  
 24 MASON, individually and on behalf of all  
 25 others similarly situated,

26 Plaintiffs,

27 vs.

28 UMG RECORDINGS, INC., a Delaware  
 corporation,

Defendant.

Case No. CV 11-02431 SI

**STIPULATION AND ~~PROPOSED~~  
 ORDER CONTINUING HEARING  
 DATE**

The Honorable Susan Illston

1 Plaintiffs in the above-captioned action, Defendant UMG Recordings, Inc. (“UMGR”),  
2 and proposed intervener, The Tubes, by and through their counsel, hereby stipulate as follows:

3 WHEREAS, Plaintiffs in this case filed their complaint on May 18, 2011;

4 WHEREAS, on June 1, 2011, the Court issued an Order relating this case to the case  
5 entitled *Rick James et. al. v. UMG Recordings, Inc.*, Case No. CV 11-01613 SI (the “James  
6 Action”);

7 WHEREAS, on July 8, 2011, UMGR filed in this case: (a) a Motion to Dismiss Action for  
8 Improper Venue or Transfer Action to Central District of California (“Zombie Venue Motion”);  
9 and (b) a Motion to Dismiss Fourth Cause of Action for Violation of California Business &  
10 Professions Code § 17200 (“Zombie Motion to Dismiss”);

11 WHEREAS, on June 10, 2011, UMGR filed in the James Action: (a) a Motion to Dismiss  
12 Action for Improper Venue or Transfer Action to Central District of California (“James Venue  
13 Motion”); and (b) a Motion to Dismiss Fourth Cause of Action for Violation of California  
14 Business & Professions Code § 17200 (“James Motion to Dismiss”);

15 WHEREAS, on July 27, 2011, The Tubes filed in this case a Motion to Intervene as  
16 Plaintiff and Additional Class Representative (“Motion to Intervene”);

17 WHEREAS, the Zombie Venue Motion, Zombie Motion to Dismiss, Motion to Intervene,  
18 James Venue Motion, and James Motion to Dismiss have all been fully briefed;

19 WHEREAS, by notice dated August 18, 2011, the hearing on the Zombie Venue Motion,  
20 Zombie Motion to Dismiss, and Motion to Intervene was continued until September 2, 2011 at  
21 9:00 a.m. (Docket No. 25);

22 WHEREAS, on August 19, 2011, the Court’s law clerk confirmed by email that the  
23 hearing on the James Venue Motion and James Motion to Dismiss was also continued until  
24 September 2, 2011 at 9:00 a.m., such that all pending motions in both actions are currently  
25 scheduled to be heard at that time;

26 WHEREAS, due to prior-scheduled commitments, counsel are unavailable for a hearing  
27 on September 2, 2011 at 9:00 a.m., and the parties therefore wish to continue the hearing on all  
28 pending motions to the next hearing date that is available for the Court and the parties;





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**[PROPOSED] ORDER**

IT IS HEREBY ORDERED, pursuant to the Stipulation between the parties, that:

1. The hearing on the pending Zombie Venue Motion, Zombie Motion to Dismiss, and Motion to Intervene is continued until September 22, 2011 at 9:00 a.m.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: 8/25/11

934727.1



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The Honorable Susan Illston  
United States District Judge

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8 *Attorneys for Plaintiffs and The Tubes*

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROB ZOMBIE, a/k/a Robert Wolfgang  
Zombie, f/k/a Robert Cummings; WHITE  
ZOMBIE, a general partnership;  
WHITESNAKE, a doing business as  
designation of David Coverdale, by and for  
WHITESNAKE PRODUCTIONS  
(OVERSEAS) LIMITED; and DAVE  
MASON, individually and on behalf of all  
others similarly situated,

Plaintiffs,

vs.

UMG RECORDINGS, INC., a Delaware  
corporation,

Defendant.

Case No. CV 11-02431 SI

**DECLARATION OF DAVID M. GIVEN  
IN SUPPORT OF STIPULATION AND  
[PROPOSED] ORDER CONTINUING  
HEARING DATE**

The Honorable Susan Illston

1 I, David M. Given, declare as follows:

2 1. I am admitted to practice before this Court and am an attorney at Phillips, Erlewine  
3 & Given LLP, counsel for Plaintiffs and proposed intervener The Tubes in the above-captioned  
4 action. I submit this declaration in support of the parties' Stipulation and [Proposed] Order  
5 Continuing Hearing Date. The facts set forth herein are based upon personal knowledge.

6 2. By notice dated August 18, 2011, the hearing on the pending Zombie Venue  
7 Motion, Zombie Motion to Dismiss, and Motion to Intervene was continued until September 2,  
8 2011 at 9:00 a.m. (Zombie Docket No. 25).

9 3. On August 19, 2011, the Court's law clerk confirmed by email that the hearing on  
10 the pending James Venue Motion and James Motion to Dismiss was also continued until  
11 September 2, 2011 at 9:00 a.m., such that all pending motions in both actions are currently  
12 scheduled to be heard at that time.

13 4. Due to prior-scheduled commitments, counsel are unavailable for a hearing on  
14 September 2, 2011 at 9:00 a.m., and the parties therefore wish to continue the hearing on all  
15 pending motions to the next hearing date that is available for the Court and the parties. Due to  
16 prior-schedule commitments, counsel for the parties are unavailable for a hearing on September 9,  
17 2011 or September 16, 2011. The parties therefore jointly and respectfully request that the Court  
18 continue the hearing on all pending motions until September 22, 2011 at 9:00 a.m.

19 5. The parties previously requested the following time modifications in this case: (a)  
20 Stipulation To Extend Time To File Answer Or Other Response To Plaintiffs' Complaint, filed  
21 June 1, 2011 (Zombie Docket No. 4); and (b) Stipulation To Continue Hearing Date And Amend  
22 Briefing Schedule On Defendant UMG Recordings, Inc.'s Pending Motions To Dismiss And  
23 Transfer, filed June 28, 2011 (Zombie Docket No. 7), which the Court granted by Order dated  
24 June 29, 2011 (Zombie Docket No. 8).

25 6. The purpose of the requested continuance is not delay. The requested continuance  
26 will not alter any other deadlines set by the Court.

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28 I declare under penalty of perjury under the laws of the United States of America that the

