

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM V. AGUIAR III,

Plaintiff,

v.

FLOYD WEBB, BARRON SHEPHERD,
WENDY SHEPHERD, AND ASHIDA
KIM a/k/a CHRISTOPHER HUNTER a/k/a
BRADFORD DAVIS,

Defendants.

CIVIL ACTION NO.
07-11673-MLW**DECLARATION OF ANTHONY T. FALZONE IN SUPPORT OF JOINT
STIPULATION TO CONTINUE JANUARY 11, 2008 HEARING AND
SCHEDULING CONFERENCE**

I, Anthony T. Falzone, declare the following:

1. I am licensed to practice law in the State of California, and admitted *pro hac vice* to practice before the Court in this matter. I am the Executive Director of the Fair Use Project, and a Lecturer in Law, at Stanford Law School. I have personal knowledge of the following facts, and if called upon as a witness, I could and would testify competently to the truth of the matters asserted herein.

2. I am senior counsel for defendant Floyd Webb in this matter.

3. On December 17, 2007, the Court set the initial scheduling conference in this matter for January 11, 2008. The Court also scheduled argument on all pending motions, including Plaintiff William Aguiar's motion for preliminary injunction against Mr. Webb, for hearing on that date.

4. My wife is pregnant and due to deliver our second child on January 5, 2008. While January 5 represents an estimate of the birth date, the actual birth date could be as much as 10-14 days later. My first child was born 10 days after her due date, and my wife's obstetrician advised her that our second child is likely to arrive on or after the January 5 due date.

5. I expect to play an active and substantial role in the birth process, as I did with my first child, and I am needed to provide physical care and other support for my wife, daughter and new baby boy in the days immediately following his birth. Accordingly, I am unable to travel to Boston to appear on January 11, 2008, and it is unlikely that my family responsibilities would permit me to do so any time soon after that date.

6. While Mr. Webb is fortunate to have a team of talented lawyers representing him in this matter, I have advised Mr. Webb on this matter from the very beginning. I practice law full-time, and nearly all of my practice involves advising and representing authors, publishers, filmmakers, musicians and other content creators in regard to copyright and fair use issues. In addition, I teach a course at Stanford Law School with Professor Lawrence Lessig entitled *Fair Use in Film*. Accordingly, I believe I have special expertise on the copyright and fair use issues that are central to this case, and that my personal participation in the preliminary injunction hearing is important. I likewise recognize that it is of the utmost important to have each party's senior lawyers present at the initial scheduling conference, as noted in the Court's December 17 scheduling order.

7. I am mindful of the Court's difficult and demanding schedule, and the need for counsel to appear at hearing and conference as scheduled by the Court. Based on the circumstances stated above, however, I have no choice but to respectfully request a brief postponement of the initial scheduling conference and hearing on pending motions until February 1, 2008 so that I may participate personally in them.

/s/ Anthony T. Falzone
Anthony T. Falzone