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April 12, 2019

VIA HAND DELIVERY AND EMAIL

Hon. Richard J. Sullivan, U.S.D.J.
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2104
New York, NY 10007

Re: Capital Records, LLC v. ReDigi Inc., et al., 12 cv. 0095 (RJS); Re: Plaintiffs' Motion for Attorneys' Fees

Dear Judge Sullivan:

I am writing to you on my own behalf, as an individual defendant in this case and one of the targets of the motion that has been filed by Plaintiffs for an award of attorneys' fees against me and my co-defendants ReDigi Inc. and Larry Rudolph. I am presenting this on my own account, without benefit of legal counsel. The law firm engagement pursuant to which Baker & Hostetler, LLP, represented ReDigi and the other defendants on the appeal of this Court's summary judgment ruling in favor of Plaintiffs ended, by its terms, upon the conclusion of proceedings in the Second Circuit. Therefore, at this time I am representing myself in regard to the Motion for Fees. Defendant ReDigi Inc. at this time does not have legal counsel representing it in this matter.

I respectfully request that the Court stay any further proceedings concerning, or rulings upon, Plaintiffs' Motion for Fees until such time as the ruling of the Second Circuit is final and beyond any further appeal. As this letter is being written, my efforts are actively under way to confirm a new engagement with legal counsel to prepare and file a petition for U.S. Supreme Court review of the Second Circuit's ruling in this case. ReDigi has secured an extension of time

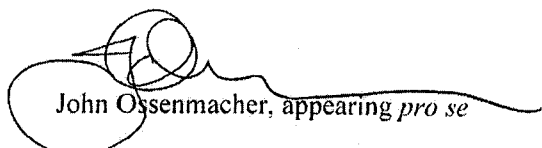
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from the Supreme Court to file this petition, which I am confident we will be able to timely file. I know that one of the Second Circuit judges who heard oral arguments on the ReDigi appeal, Judge Laval, said from the bench during oral argument that "this case is headed for the Supreme Court." While we recognize that Supreme Court review is not automatic, we firmly believe that the nature of the issues of first impression involved in this lawsuit are of such far-reaching legal and commercial importance that there is a reasonable prospect that review will be granted.

Plaintiff's motion for fees is based on the proposition that they are the prevailing parties in this litigation. That status is subject to change if further review is granted and if the Supreme Court reaches a different ruling. While we do not presume upon that ultimate outcome, it is neither far-fetched nor frivolous to believe that such a reversal could happen.

Therefore, I respectfully ask that this Court stay any further proceedings on the fee motion until there is a final judgment beyond any further appellate review, establishing without any possible change who is indeed the prevailing party. I submit that this course makes the most sense for the Court, avoiding additional work that could become moot depending on future developments. Further, I believe that there are significant shortcomings and infirmities in the arguments and evidence that Plaintiffs have submitted with their motion for fees, which I and the other defendants would intend to challenge even if Plaintiffs do ultimately prevail in the case. However, it is beyond my ability as a non-lawyer to competently or clearly present these objections to the Court at this time. In the interests of justice, I therefore urge the Court to stay further proceedings, and if the judgment in Plaintiffs' favor does become final, to then set a schedule for the defendants to present their substantive opposition.

Respectfully submitted,



John Ossenmacher, appearing *pro se*

cc: Richard S. Mandel, Esq., Cowan, Liebowitz & Latman, P.C.; email RSM@cjl.com

60-1574

United States District Court
of the Southern District of New York
Pro Se Intake Unit
Thurgood Marshall U.S. Courthouse
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New York, New York 10007