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BY FEDERAL EXPRESS

The Honorable Robert M. Levy
United States Magistrate Judge
United States District Court for
the Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: UMG Recordings, Inc. et al. v. Lindor
EDNY No. 05 Civ. 1095 (DGT) (RML)

Dear Magistrate Judge Levy:

In an attempt to appear reasonable, plaintiffs have proposed a protective order that turns the law on its head. Plaintiffs claim that their proposal places burdens on each side. The "burden" that plaintiffs bear under their proposal is illusory; plaintiffs merely have to read the transcripts and indicate the passages that they want to keep concealed. The real burden -- the burden that *plaintiffs* have under the law, *i.e.*, of showing good cause for concealing information from public scrutiny -- is shifted to defendant without any basis in the law for doing so. See In re "Agent Orange" Product Liability Litigation, 821 F.2d 139 (2d Cir. 1987) ("if good cause is not shown, the discovery materials in question should not receive judicial protection and therefore would be open to the public for inspection").

This baseless ploy should be rejected.

Plaintiffs' counsel essentially concedes that their real reason for seeking to conceal information is to preserve their strategic advantage as a *unified* consortium of record companies suing thousands of individual defendants in *separate* lawsuits around the country. What happens in each of these actions is relevant to them all; plaintiffs conduct an identical "investigation" and file an identical complaint in each of them. The interrelatedness of these cases, and the compelling public interest in what happens in each

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of those handful of cases which are actually contested, is well described in the amicus brief filed last week by the Electronic Frontier Foundation, the American Civil Liberties Union, Public Citizen, the ACLU of Oklahoma Foundation, and the American Association of Law Libraries in Capitol Records, Inc. v. Foster, CIV-04-1569-W (W.D. Okla.), a copy of which is attached as Exhibit A.

Respectfully submitted,

s/ Morlan Ty Rogers

Morlan Ty Rogers (MR 3818)

cc: J. Christopher Jensen, Esq. (By FedEx)
Richard Gabriel, Esq. (By FedEx)