

**Ray Beckerman**

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**Sent:** Monday, November 26, 2007 12:17 AM  
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**Subject:** Activity in Case 1:05-cv-01095-DGT-RML UMG Recordings, Inc. et al v. Lindor Order

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**U.S. District Court**

**Eastern District of New York**

### **Notice of Electronic Filing**

The following transaction was entered on 11/26/2007 at 0:16 AM EST and filed on 11/25/2007

**Case Name:** UMG Recordings, Inc. et al v. Lindor

**Case Number:** [1:05-cv-1095](#)

**Filer:**

**Document Number:** No document attached

### **Docket Text:**

**ORDER re [194] Letter MOTION to Compel *Plaintiffs to Answer Defendant's Interrogatory Dated July 11, 2007, relating to expenses for authorized downloads*, filed by Marie C. Lindor. Defendant Marie Lindor moves to compel plaintiffs to respond to Interrogatory 1 of her Third Interrogatories, seeking a listing of "all expenses" plaintiffs incurred in connection with the thirty-eight song recordings at issue in this litigation. She seeks this information in support of her Ninth Affirmative Defense, which contends that the statutory damages plaintiffs seek are unconstitutionally excessive in violation of due process. Plaintiffs oppose, arguing, inter alia, that the interrogatory is vague, burdensome, costly and irrelevant and asserting that, in any event, they are currently unable to determine the expenses they incurred per song file downloaded. First, I find the interrogatory relevant under Rule 26, FRCP, as it is reasonably calculated to lead to the discovery of admissible evidence as to a claim or a defense of a party. In this instance, Judge Trager has ruled that the Ninth Affirmative Defense is not frivolous, and has allowed defendant to amend her answer to add this defense. See Memorandum and Order, dated November 9, 2006 at p.3. Second, plaintiffs shall supplement their answer within two weeks of the date of this Order and shall set forth with more specificity the categories of expenses they incurred in making the song recordings, such as, for example, royalties. Plaintiffs shall also state with specificity which categories of expenses, if any, (a) they are unable to quantify or (b) they cannot quantify without unreasonable burden or expense--and in the latter event, they shall explain why. If the explanation requires an in camera submission, a copy of plaintiffs' in camera submission shall also be sent to defendant. After the steps listed above have been taken, defendant may, if she chooses, notice a**

**telephone deposition of a person with personal knowledge. Ordered by Judge Robert M. Levy on 11/25/07. (Levy, Robert)**

**1:05-cv-1095 Notice has been electronically mailed to:**

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**1:05-cv-1095 Notice will not be electronically mailed to:**

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