

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BRIDGEPORT MUSIC, INC., et al.,)
)
Plaintiffs,)
)
v.) NO. 3:01-0412
) Jury Demand
11C MUSIC, et al.,) Judge Campbell/Brown
)
Defendants.)

O R D E R

The plaintiffs have filed a pleading entitled "Notice of Anticipated Filings or Alternative Motion for Extension of Time in which to Respond to Moving Defendants' Motions to Dismiss for Lack of Personal Jurisdiction and Improper Venue" (Docket Entry No. 313). This motion is **GRANTED** in part and **DENIED** in part. Although the motion is not accompanied by a separate memorandum of law in support thereof as required by Local Rule 8(b)(2), the motion itself, nevertheless, cites applicable law and the Magistrate Judge will rule on the motion as presented. The various motions to dismiss for lack of personal jurisdiction and improper venue are before the District Judge for decision. The plaintiffs are correct that the motions to dismiss filed under Local Rule 12(b)(2) and (3), entitle them to limited discovery to the extent necessary to respond.

This document was entered on
the docket in compliance with
Rule 58 and/or Rule 79(a),
FRCP, on 7/19/01 By: *af*

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The plaintiffs proposed two alternatives in their motion to allow them a period of discovery. The first proposal is that after having the opportunity to conduct necessary discovery, the plaintiffs will file their response within the twenty (20) days provided by Local Rule 8(b)(3). They do not propose any time limit to this discovery.

The Magistrate Judge will not grant open-ended extensions. The second part of their motion seems to be somewhat inconsistent. They ". . . request an extension of time in which to respond to said motions in order to conduct discovery to a date 20 days after service of all subject and all forthcoming motions". This request seems to state that they should have twenty (20) days after all of the defendants have filed motions to dismiss for lack of personal jurisdiction or improper venue. The Court would, of course, have no idea when this would be accomplished, and such request, if that is what the plaintiffs are requesting, is clearly unreasonable and impractical.

The plaintiffs then go on to state that they

. . . request that the Court grant them an additional ten days in which to respond to motions for lack of personal jurisdiction and the improper venue. Thus, plaintiffs would have twenty-three (23) days (twenty plus three days for mailing) from the respective service date of each motion for lack of personal jurisdiction and improper venue in which to conduct discovery and appropriately respond to such motions.

This paragraph is somewhat confusing at best. It appears that the plaintiffs may simply be seeking twenty-three (23) days in which to conduct their discovery and respond. If so, they are setting a Herculean task for themselves, but it is their choice.

It is important to remember that these motions are not true summary judgment motions filed under Rule 56. They are filed under Rule 12 and by analogy the plaintiffs are allowed additional time to conduct necessary discovery before responding to the motion.

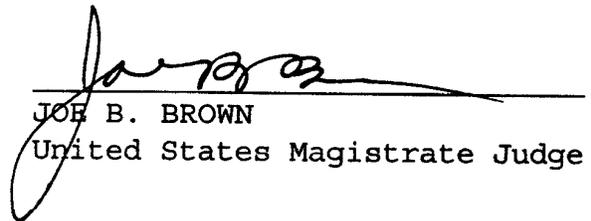
Accordingly, the plaintiffs shall have **fourteen (14) days** in which to conduct appropriate discovery following service of the Rule 12(b)(2) or (3) motion or the date of this Order, whichever is later. Their responses shall be due **fourteen (14) days** thereafter. Thus, the plaintiffs' responses shall be due **twenty-eight (28) days** after service of the motion on them. The Magistrate Judge has set the periods of time at fourteen (14) days so that it should be easy for the parties to calculate the new dates without having to worry about weekends, holidays, or the three (3) days for mailing. It appears that the plaintiffs have requested twenty-three (23) days and the Magistrate Judge has **granted** twenty-eight (28) days. No replies will be filed absent permission of the Court. This extension shall apply to pending motions and subsequently filed

motions to dismiss for lack of personal jurisdiction and improper venue.

The plaintiffs are warned that failure to respond within the time provided by this extension may result in the District Judge granting the defendants' requested relief.¹

The Clerk is directed to serve this Order on (1) the parties that are bringing or opposing the subject motion ruled upon; and (2) as provided in the Order (Docket Entry No. 2) entered May 8, 2001.

It is so ORDERED.



JOE B. BROWN
United States Magistrate Judge

¹The Magistrate Judge would hope that when the parties' request extensions of time they would request extensions to a date certain or a request which can be readily calculated by opposing parties and the court. The present motion is difficult to comprehend.