

FILED

12 JUL 13 AM 9:00

THE HONORABLE CAROL A. SCHAPIRA  
KING COUNTY

HEARING DATE: July 13, 2012 at 11:00 a.m.  
SUPERIOR COURT CLERK  
E-FILED

CASE NUMBER: 12-2-21829-3 SEA

**SUPERIOR COURT OF WASHINGTON FOR KING COUNTY**

**GEOFF TATE** and **SUSAN TATE**, a married couple

No: 12-2-21829-3 SEA

Plaintiffs,

**DEFENDANTS' RESPONSE TO  
PLAINTIFF'S MOTION TO STRIKE**

v.

**EDDIE JACKSON** and **TERESA GOLDEN-JACKSON**, a married couple; **SCOTT ROCKENFIELD** and **MISTY ROCKENFIELD**, a married couple; **MICHAEL WILTON** and **KERRIE LYNN WILTON**, a married couple; **TRI-RYCHE, CORPORATION**, a Washington corporation; **QUEENSRYCHE MERCHANDISING, INC.**, a Washington corporation; and **MELODISC LTD.**, a Washington corporation.

Defendants.

TO: CLERK OF THE ABOVE COURT

AND TO: PLAINTIFFS AND THEIR COUNSEL OF RECORD

COMES NOW Defendants **EDDIE JACKSON** and **TERESA GOLDEN-JACKSON**, **SCOTT ROCKENFIELD** and **MISTY ROCKENFIELD**, **MICHAEL WILTON** and **KERRIE LYNN WILTON**, **TRI-RYCHE, CORPORATION**, **QUEENSRYCHE MERCHANDISING, INC.**, and **MELODISC LTD.**, by and through their attorney of record, Thomas T. Osinski Jr. of

1 Osinski Law Offices P.L.L.C., and submit the following response and objection to the issuance  
2 of a preliminary injunction.

3 **I. RELIEF REQUESTED**

4 Defendants request that Plaintiff's motion for preliminary injunction be denied.

5 **II. STATEMENT OF FACTS**

6 **III. ISSUES PRESENTED**

7 A. Should the Declaration of Lars Sorenson be Struck? No

8 1. Was it Timely? Yes.

9 2. Was there an agreement to not submit further probative evidence to the  
10 court if it was timely? No.

11  
12 B. Should the last 7 pages of Defendant's reply be struck? No

13 1. Is this a complex matter which cannot be properly addressed within a 12  
14 page limit? Yes

15 2. Have Plaintiffs waived any right to challenge the over-length nature of the  
16 Response by not raising the issue until noon before the hearing day and submitting an answer  
17 anyways.? Yes

18 **IV. EVIDENCE RELIED UPON**

19 This response relies on the sworn declaration of Counsel Thomas T. Osinski Jr.

20 **V. LEGAL AUTHORITIES**

21 **SORENSEN DECLARATION SHOULD NOT BE STRUCK**

22 KCLR 4(d) requires opposing documents to be submitted no later than noon, two court  
23 days before the hearing. The Sorenson declaration was submitted well before that deadline  
24 for the July 13, 2012 hearing. Moreover, the Sorenson Declaration is only 3 pages and is of  
25 immense probative value as Lars Sorenson was Queensryche's manager from 2001-2005.

1 Defendants had been working diligently to procure Lars Sorenson's declaration, along  
2 with others, given the immense importance of this preliminary injunction motion and the  
3 shortened time frame. See Declaration of Counsel. The Sorenson declaration was obtained in  
4 the early evening of July 7, 2012. See id. It was filed and served through the county's e-  
5 service as soon as possible. See id. This gave Plaintiffs' more than the required 24 hours  
6 time before reply to review the Declaration and respond. Thus, there could be no prejudice.  
7 Additionally, the parties had already agreed to a continuance, and the issue of further  
8 submissions from Defendants was not discussed as part of that agreement. See id.

9 Thus due to its great probative value, and its timeliness, the Lars Sorenson  
10 Declaration should be admitted. And, even if it is struck, no claim for attorney's fees should be  
11 imposed as it was technically timely and no agreement was made otherwise.

12 **The Last 7 Pages of Defendants' Response Should not be struck.**

13 Plaintiffs' Motion for Preliminary Injunction was roughly 75 pages with declarations,  
14 and required an analysis of several legal standards, as well as copious facts due to the 30  
15 year history of Queensryche. As such it could not be adequately addressed with 12 pages  
16 alone.

17 Counsel readily admits that it was not aware of the 12 page limit in the local rules and  
18 meant no disrespect to the court. See Declaration of Counsel. The granting of this injunction  
19 would be very detrimental to Defendants, and the likelihood of success on the merits standard  
20 is higher than summary judgment here, given the shortened timeframe and limited discovery.  
21 Therefore, it was impossible to adequately address the merits of Plaintiffs' motion in less  
22 pages than were submitted. See id.

23 Moreover, Plaintiffs have not articulated any prejudice, and have in fact already  
24 responded with a Reply in excess of five pages of their own, accompanied by 10 declarations  
25 totaling over 40 pages. See Plaintiffs' Memorandum of Reply in Support of Motion for

1 Preliminary injunction. This belies any claim of prejudice. Additionally, Plaintiffs have had  
2 Defendants' response since Sunday, yet only raised this concern now, effectively waving any  
3 objection to the excess length. See Declaration of Counsel. And any prejudice should have  
4 been resolved by the continuance, which Counsel understood to resolve all issues. See id.

5 Defendants simply wish to have as much probative and relevant information before the  
6 court as possible before making a decision of such importance to the future of the  
7 Queensryche Entities.

8 **CONCLUSION**

9 Be it the Declaration of former manager Lars Sorenson, or the over length of the  
10 Response, Defendants are only trying to offer as much probative and relevant evidence and  
11 analysis to the court as it can. Although the Preliminary Injunction Motion is brought  
12 according to standard motion timelines, and at the outset of this litigation, granting of this  
13 motion will have massive impact on the Queensryche Entities, stopping them dead in their  
14 tracks. Therefore, all relevant and probative information should be considered, and Plaintiffs'  
15 motion to strike should be DENIED.

16  
17 SIGNED this 12<sup>th</sup> day of July, 2012.

18  
19 OSINSKI LAW OFFICES P.L.L.C.

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21  
22 Thomas T. Osinski, Jr., Esq.  
23 Attorney for Defendants  
24 WSBA #34154  
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