

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**Civil Action No. 1:12-CV-00835-REB/MEH**

**MALIBU MEDIA, LLC,**

**Plaintiff,**

**v.**

**JOHN DOES 1 THROUGH 21,**

**Defendants.**

**DEFENDANT MALA ALVEY'S FIRST AMENDED MOTION TO QUASH SUBPOENA  
TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

COMES NOW, DEFENDANT MALA ALVEY, a/k/a DEFENDANT JOHN DOE # 15, by and through her undersigned attorneys, THE WAGGONER LEGAL GROUP, Robert M. Strumor, Santa Fe, New Mexico, who appears specifically for the sole purpose of this Motion to Quash Subpoena to Produce Documents, Information, or Objects, to Permit Inspection of Premises in a Civil Action (the "Motion to Quash") pursuant to Rule 45 (c) of the Federal Rules of Civil Procedure and as reasons therefore, states the following:

1. Mala Alvey, upon information and/or belief, has been designated Defendant John Doe # 15 by the Plaintiff. Mala Alvey is not yet a named Party to this action. However, Mala Alvey's internet provider, CenturyLink, was served with the Subpoena to Produce Documents, Information, or Objects, to Permit Inspection of Premises in a Civil Action (the "Subpoena"), which was issued by this Court on May 7,

2012. The Subpoena requests that CenturyLink disclose Defendant's name, address, and telephone number;

2. Mala Alvey, a/k/a Defendant John Doe #15, received a letter dated May 14, 2012 from CenturyLink, informing Defendant John Doe #15, that CenturyLink was served with a Subpoena to Produce Documents, Information, or Objects to Permit Inspection of Premises in a Civil Action (the "Subpoena") in this case, returnable on June 23, 2012, requesting the disclosure by CenturyLink of Defendant John Doe #15's name, address, and telephone number, for IP Address 63.228.82.166 (*May 14, 2012 Letter attached hereto and incorporated fully herein by reference as Exhibit "A"*) (*address redacted*);

3. Mala Alvey, a/k/a Defendant John Doe #15's, counsel informed CenturyLink by a letter dated June 12, 2012, mailed via U.S. Mail, Return Receipt Requested, that Mala Alvey, a/k/a Defendant John Doe #15, objected to the Subpoena and would be filing a formal motion with this Court to quash the subpoena;

4. After discussions with counsel for the Plaintiff in this matter, held pursuant to D.C.COLO. LCivR 7.1, it is the belief of undersigned counsel that the Plaintiff's counsel has every intention of serving Defendant Mala Alvey, a/k/a John Doe # 15, with process and making her a Party Defendant;

5. Defendant's counsel did communicate with Plaintiff's counsel as required by Rule D.C. COLO. LCivR 7.1 and requested that the Plaintiff voluntarily withdraw the Subpoena directed at Mala Alvey, a/k/a Defendant John Doe #15. Plaintiff's counsel declined to withdraw the Subpoena. At that point, Mala Alvey, a/k/a Defendant John

Doe #15, through her counsel, made a financial offer of settlement to the Plaintiff, which was also declined by Plaintiff's counsel;

6. On June 21, 2012, Mala Alvey, a/k/a Defendant John Doe #15, filed an Entry of Appearance, an anonymous Motion to Quash the Subpoena, Memorandum in Support of the Motion to Quash, and a Declaration in Support of the Motion to Quash;

7. On June 26, 2012, the Court denied the anonymous Motion to Quash, Without Prejudice;

8. Defendant Mala Alvey, a/k/a Defendant John Doe #15, has elected to proceed in her own name and has re-filed the Motion to Quash the Subpoena and accompanying pleadings publically and openly;

9. Mala Alvey, a/k/a Defendant John Doe #15, urges the Court to quash the Subpoena on several grounds, including the improper joinder of all the Defendants in one action, and the inability of the Plaintiff to establish a claim against Mala Alvey, a/k/a Defendant John Doe #15, that would satisfy the requirements of Rule 8, Rule 11 and Rule 12 (b) (6), FRCP and the potential harassment and ridicule that Defendant may suffer personal and economic harm should all of the information requested by the Subpoena be turned over to the Plaintiff; and

10. Mala Alvey, a/k/a Defendant John Doe #15, has submitted her Memorandum of Points and Authorities in Support of her First Amended Motion to Quash the Subpoena and her Affidavit in support of the Motion to Quash.

**Certificate of Compliance with D.C. Colo. L.Civ. R. 7.1**

Pursuant to D.C. Colo. L. Civ. R. 7.1(A), Mala Alvey's, a/k/a Defendant John Doe #15, counsel has conferred with Plaintiff's counsel concerning the relief Mala Alvey, a/k/a Defendant John Doe #15, seeks herein. Plaintiff's counsel indicated that it would not withdraw the Subpoena or otherwise stipulate to the relief, and it opposes Mala Alvey's, a/k/a Defendant John Doe #15, Motion to Quash.

**Related Cases**

Defendant Mala Alvey, a/k/a John Doe #15, believes that the following related cases are pending in this District: 1) 12-cv-00409-REB-MEH (Docket #7); 2) 12-cv-00397-WJM-MEN (District #6); and 3) *Malibu Media v. John Does 1-2*, 1:12-cv-0045-MSK-KMT.

**CONCLUSION**

WHEREFORE, Defendant Mala Alvey, a/k/a Defendant John Doe #15, requests that this Court Quash the Subpoena; sever Mala Alvey, a/k/a Defendant John Doe #15, from the other John Doe Defendants; Dismiss the Plaintiff's Complaint as to Defendant Mala Alvey, a/k/a Defendant John Doe #15; and grant an award of reasonable attorney's and costs to Defendant Mala Alvey, a/k/a Defendant John Doe #15, for the defense of this action, and grant to Defendant Alvey such other and further relief as the Court may deem just and proper.

**DATED:** June 29, 2012

Respectfully submitted,

THE WAGGONER LEGAL GROUP

By: /s/ Robert M. Strumor

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 29<sup>th</sup> day of June, 2012, a true and correct copy of the foregoing was electronically filed through the CM/ECF filing system, which caused counsel to be electronically served, as is more fully reflected in the Notice of Electronic Filing in this matter.

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/s/ Robert M. Strumor (CO Bar #19201)