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

Civil Action No. 1:12-cv-00886-MEH

MALIBU MEDIA, LLC,

Plaintiff,

v.

JEFF FANTALIS and BRUCE DUNN,

Defendants.

**PLAINTIFF’S MOTION TO CONTINUE
HEARING ON DEFENDANT’S MOTION TO COMPEL**

Plaintiff, Malibu Media, LLC (“Plaintiff”), moves for the entry of an order continuing the hearing on Defendant’s Motion to Compel (“Motion”), and states:

1. Plaintiff filed its Motion to Dismiss Defendant’s Second Amended Counterclaim (“Motion to Dismiss”) today, November 2, 2012 [Dkt. 86].

2. On August 3, 2012, Defendant propounded its First Requests for Production, Admissions, and First Interrogatories on Plaintiff.

3. On October 11, 2012, Defendant Fantalis filed his Motion to Compel Plaintiff to Produce Answers to Discovery Requests and Request for Sanctions [Dkt. 86] (“Motion to Compel”). Plaintiff’s response is due today, November 2, 2012.

4. A hearing on Defendant’s Motion to Compel has been scheduled for Monday, November 5, 2012 at 2:00 PM. Plaintiff believes this hearing is premature because until its Motion to Dismiss Second Amended Counterclaim is adjudicated and its Response to Defendant’s Motion to Compel is filed, the claims in Defendant’s Second Counterclaim are not set and the Court has not been fully briefed by the parties. Plaintiff notes that it also filed a

motion seeking a brief one (1) day extension of time in which to file its response to Defendant's Motion to Compel.

5. Plaintiff has timely responded to Defendant's discovery, but Defendant has objected to certain portions of the discovery requests, because Defendant asks for documents and other information relevant to claims that Plaintiff believes will be dismissed upon adjudication of its pending Motion to Dismiss.

6. Good cause exists to grant this motion because continuing the hearing until after the Court has been fully briefed on the Motion to Compel will allow the Court time to more comprehensively evaluate the issues and will allow the parties additional time to ascertain the true scope of the claims in this case.

7. Accordingly, Plaintiff respectfully requests that this Court grant Plaintiff's motion to continue the hearing on the Defendant's Motion to Compel.

8. Undersigned has conferred with Defendant Fantalis who does not agree to the relief requested herein.

9. This request is made in good faith and not made for the purpose of undue delay.

WHEREFORE, Plaintiff, respectfully requests that this Court grant this Motion and enter an order continuing the hearing set for November 5, 2012 at 2:00 pm. A proposed order is attached for the Court's convenience.

Dated: November 2, 2012

Respectfully submitted,

By: /s/ Jason Kotzker

Jason Kotzker

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CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2012 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system. A copy of the foregoing document was also sent via email to Mr. Fantalis.

By: /s/ Jason Kotzker
Jason Kotzker