

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.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

NOV 5 2012

JEFFREY P. COLWELL
CLERK

DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO CONTINUE
NOVEMBER 5, 2012, HEARING ON DEFENDANT'S MOTION TO COMPEL

Defendant, Jeff Fantalis, in response to Plaintiff's motion to continue the hearing scheduled for November 5, 2012, on Defendant's Motion to Compel says:

1. Defendant's Motion to Compel was filed on Thursday, October 11, 2012.
2. Pursuant to Court Rules, Plaintiff had twenty-one days from that day to respond Defendant's Motion to Compel. D.C.COLO.LCivR 7.1(c). Twenty-one days from October 11, 2012, was November 1, 2012. Fed.R.Civ.P. 6(a)(1). Thus, Plaintiff's motion to continue is filed one day late and is not made in a timely manner.
3. Plaintiff seeks to postpone the Court-ordered hearing on Defendant's Motion to Compel based upon its erroneous assumption that Plaintiff's Motion to

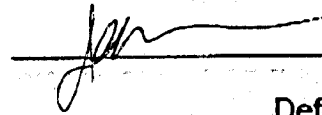
Dismiss will be granted and that, therefore, there will be nothing left to try but the question of whether or not Defendant infringed Plaintiff's copyrights. Respectfully, this position is without foundation in law and has already been refuted at length in Defendant's Motion to Compel.

4. Without reiterating those arguments at length herein, it should be sufficient to state that the scope of discovery under the Federal Rules is quite broad and is not determined by the whims of a party. Fed.R.Civ.P. 26(b)(1) states in relevant part: "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense.... Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." Discovery is not limited only to one or two of the claims raised by the pleadings, but any information "if it might reasonably assist a party in evaluating a case, preparing for trial, or facilitating settlement." See generally *Hickman v. Taylor*, 329 U.S. 495 (1947). This includes computation of damages, credibility of witnesses, the accuracy of the technology used for gathering evidence, and the financial solvency of the uninsured corporate entity which is bringing the lawsuit.
5. Plaintiff had the full twenty-one days provided by the Court Rules in which to assure that "the Court has been fully briefed on the Motion to Compel" (Plaintiff's Motion to Continue, ¶16). Instead of preparing that response, Plaintiff chose to wait until the last minute – in fact, to delay past the last

minute – and then file multiple motions to further delay and frustrate the proper forward movement of this lawsuit.

6. The court hearing on November 5th was not made contingent upon Plaintiff's having filed its responding papers.
7. As a *pro se* party, Defendant has had to rearrange his work schedule in order to make time for this court appearance. Accordingly, it would be prejudicial to Defendant to reschedule this matter at the last minute based on Plaintiff's lack of time management.
8. It has been Defendant's position since the very beginning that Plaintiff has neither the desire nor the capability to litigate the case against this Defendant or any of the thousands of other defendants Plaintiff has sued around the country. Plaintiff's conduct in this case continues to provide evidence of that.
9. For all of the foregoing reasons, it is respectfully requested that the Plaintiff's motion to continue be denied.

Respectfully submitted,



Jeff Fantalis
Defendant *pro se*
818 Trail Ridge Drive
Louisville CO 80027
(303) 482-1211

Dated: November 3, 2012

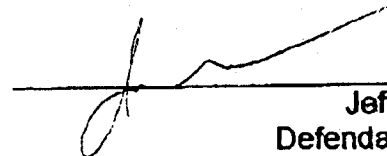
CERTIFICATION OF SERVICE

I, Jeff Fantalis, hereby certify that on November 3, 2012, I caused this Defendant's Opposition To Plaintiff's Motion to Delay Hearing to be filed with the Clerk of the Court by fax, at the following address:

Clerk's Office
Alfred A. Arraj United States Courthouse
Room A-105
901 19th Street
Denver, Colorado 80294-3589
Fax No.: 303-335-2714

On the same date, I served a copy of this Defendant's Opposition To Plaintiff's Motion to Delay Hearing upon Plaintiff by U.S. Mail and courtesy e-mail to Plaintiff's attorney of record, pursuant to agreement with counsel:

Jason A. Kotzker
Kotzker Law Group
9609 S. University Blvd. #632134
Highlands Ranch CO 80163
Email: jason@klgip.com



Jeff Fantalis
Defendant *pro se*

Dated: November 3, 2012