

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

MALIBU MEDIA, LLC, )  
 )  
 Plaintiff, )  
 ) 1:12-cv-00845-TWP-MJD  
 v. )  
 )  
 ANDREW LEIGHTNER, et al., )  
 )  
 Defendants. )

**RESPONSE IN OPPOSITION TO MOTION FOR ENTRY OF DEFAULT  
AGAINST DEFENDANT LUCIAN SAVULESCU**

**EXHIBIT A**

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 Plaintiff, )  
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 ANDREW LEIGHTNER, et al., )  
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 Defendants. )

**DECLARATION OF LUCIAN SAVULESCU**

The undersigned, Lucian Savulescu, hereby declares as follows:

1. I am of the age of majority, of sound mind, and am competent to make this declaration.
2. I have personal knowledge of the matters stated herein and make this declaration based upon the same.
3. My home residence address is 4591 Matthew Street, West Lafayette, Indiana. My wife and son live with me at that address. No one else resides in our home.
4. In July, 2012, I received correspondence from Comcast informing me that Malibu Media, LLC had filed this lawsuit in which my assigned Internet Protocol ("IP") address was associated with an alleged infringement of a copyrighted video, and that Comcast had been ordered to provide Malibu Media with my name, address and other information unless I filed something with the Court to prevent it no later than August 24, 2012.
5. Upon receipt of the Comcast correspondence, I asked our Allstate insurance agent, Genie LaLonde, for advice as how I should respond, if at all.

6. On August 8, 2012, I received an email from our Allstate agent, a true and correct copy of which is attached hereto as Exhibit A, in which she provided links to several Internet websites with information about Malibu Media and its numerous lawsuits against unnamed “John Does,” including a case filed in federal court in the Southern District of Indiana, Case No. 1:12-cv-0841, that the agent suggested (incorrectly, I later learned) was the case supposedly implicating my IP address.

7. In her email, our Allstate agent informed me that Malibu Media had “lost their suits or the cases have been dismissed in several states and locations.” She also referred to a blog by an attorney that supposedly stated that “often an attorney will not take your case until you are actually named in the case.”

8. Our Allstate agent also told me that “[w] need to watch and see if it gets dismissed on any of the points mentioned by the attorney....” She also noted that the suit “may be dismissed before it ever gets to naming the individuals.”

9. I also consulted an attorney in West Lafayette in regard to the letter from Comcast.

10. Based on the advice of my Allstate agent, my consultation with the attorney in West Lafayette and information I found on the Internet, I understood that, unless and until I was identified in a lawsuit by name, there was nothing I needed to do or should do in regard to the suit.

11. Throughout the autumn of 2012, I continued monitoring the websites to which I had been directed by my Allstate agent, including the docket of the case pending in the Southern District of Indiana, Case No. 1:12-cv-0841, that she and I continued to believe (incorrectly) involved my IP address, but in which I had not been named as a

defendant.

12. Only later did I learn that I had been named as a defendant in an Amended Complaint that had been filed by Malibu Media in a different case also pending in the Southern District, namely this action, Case No. 1:12-cv-0845.

13. Seeing that I was now named as a defendant in this lawsuit, I spoke with several attorneys in Indianapolis in an effort to find someone familiar with copyright infringement and who was willing to represent me in this case.

14. On January 9, 2013, I first contacted Mr. Klinestiver by telephone and met with him the following evening to discuss my case.

15. At that time, I learned that Malibu Media's attorney had the day before filed a motion for entry of a default against me in this action "for failing to plead or otherwise defend this action as required by law."

16. Until my receipt by mail of a copy of the motion for entry of default on January 12, 2013, I have received no notice or other document from the Court or any party in this case indicating that I needed to respond to the Amended Complaint or take any other action by a specified date.

17. Specifically, I did not receive either the Summons or the Amended Complaint referred to in the Affidavit of Service attached hereto as Exhibit B at the time and place stated therein, nor have I received any such documents at any other time or place prior to consulting with my attorney.

18. I am a 46 year-old Caucasian male, five foot, eight inches in height and weighing approximately 185 pounds.

19. My hair is naturally brown in color and is neither colorized nor dyed in

any way. I do not have any discernible gray hair and I would not reasonably or accurately be described as having "gray" hair.

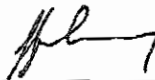
20. I use magnifying (reading) glasses occasionally when I read, but I never wear those glasses or any other eyewear to aid my general vision or for any other purpose. I never answer the door at my home wearing glasses of any kind.

21. No one fitting the "Description of Person Served" in the attached Affidavit of Service either resided in or, to my knowledge, visited my home during the month of November 2012.

22. I am not aware of any attempt by anyone to serve or deliver to me a summons, complaint or other document relating to this or any other court action, either at my home address or at any other place.

23. Further Declarant sayeth naught.

I HEARBY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT ALL OF THE FORGOING REPRESENTATIONS ARE TRUE.



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Lucian Savulescu

Dated: January 15, 2013

Declaration of Lucian Savulescu, Exhibit A

--- On Wed, 8/8/12, LALONDE, FERN <[GenieLaLonde@allstate.com](mailto:GenieLaLonde@allstate.com)> wrote:

From: LALONDE, FERN <[GenieLaLonde@allstate.com](mailto:GenieLaLonde@allstate.com)>  
Subject: FW: lawsuit  
To: "[lsavul@yahoo.com](mailto:lsavul@yahoo.com)" <[lsavul@yahoo.com](mailto:lsavul@yahoo.com)>  
Date: Wednesday, August 8, 2012, 4:17 PM

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Lucian,

I would check with someone knowledgeable about computers and see if that is your IP address. That is the first thing. If not your IP address - forget it.

If it is your address check out the things I have researched.

It is interesting all the way around. This particular firm Malibu Media LLC is a provider of pornographic movies. If the highlighted address on the JOHN DOE notice is yours - they are saying someone had 59 minutes of a flick downloaded on May 3,2012.

If you read the information I have given you on these websites you will find this company is very bad. They have lost their suits or the cases have been dismissed in several states and locations, this is good.

There is a ton of stuff out there on the company and none of it is good. They are greedy and not at all professional.

#1 website is long but the attorney writing it is very good and gives some good information. Especially DO NOT answer any questions from anybody and DO NOT be intimidated if and when Malibu attorneys try to "settle" with you. They are just after money and usually do not want to go to court. He is out of Texas , but might be a good place to start????

This attorney near the end of his blog says that often an attorney will not take your case until you are actually named in the case. At this point you are a John Doe #1 and not specifically named.

#2 &3 are specific to the IN suit. # 3 is the actual suit filed in the courts.

We need to watch and see if it gets dismissed on any of the points mentioned by the attorney in Texas. It may be dismissed before it ever gets to naming the individuals.

Keep in touch.

<http://cyberlawv3r.wordpress.com/tag/comcast-wins-lawsuit-over-malibu-media/>

<http://www.rfcexpress.com/lawsuits/copyright-lawsuits/indiana-southern-district-court/98274/malibu-media-llc-v-john-does-1-23/summary/>

<http://indianaintellectualproperty.com/2012/06/20/indiana-copyright-litigation-update-malibu-media-v-john-does-1-23-16-movies/>

Genie LaLonde