

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

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MALIBU MEDIA, LLC,	:	
	:	
Plaintiff,	:	Civil Case No. <u>2:12-cv-02090-BMS</u>
	:	
vs.	:	
	:	
BEN ARNOLD,	:	
	:	
Defendant.	:	
	:	
-----X		

**PLAINTIFF’S MOTION FOR SERVICE BY PUBLICATION AND FOR
EXTENSION OF TIME TO EFFECTUATE SERVICE**

Pursuant to Pa. R. Civ. P. 430, and Fed. R. Civ. P. 4(e) and 4(m), Plaintiff, Malibu Media, LLC, moves for entry of an order allowing Plaintiff to serve by publication and extending the time within Plaintiff has to serve Defendant with a Summons and Amended Complaint, and states:

1. On August 13, 2012, Plaintiff filed its Amended Complaint and proposed summons, listing the address which Comcast provided to Plaintiff in response to its subpoena and has commenced the process of serving the Defendant. Upon receipt of the issued summons, Plaintiff immediately forwarded the documents to a process server for service on Defendant.
2. Plaintiff’s process server attempted to serve Defendant at his home address on four (4) separate occasions, at separate times, with no success.
3. On August 21, 2012, Plaintiff was granted leave to serve Defendant by mail. On or about August 24, 2012, Plaintiff mailed copies of the summons and Amended Complaint to Defendant via Certified Mail, return receipt requested. Defendant refused to sign for the envelope on two occasions and the envelope was returned to Plaintiff.

4. Pursuant to this Court's order dated September 5, 2012, Plaintiff is required to serve Defendant with a summons and Complaint by no later than today, September 14, 2012.

5. Pursuant to Fed.R.Civ.P. 4(e), service may be effected pursuant to the law of the state in which the district court is located. Pennsylvania Rules of Civil Procedure permit service by publication "if service cannot be made under the applicable rule" as provided in Rule 430.

WHEREFORE, Plaintiff respectfully requests that the Court allow Plaintiff to serve Defendant by publication, and allowing Plaintiff three (3) additional weeks within which to complete service on the Defendant.

Dated: September 14, 2012

Respectfully submitted,

FIORE & BARBER, LLC

By: /s/ Christopher P. Fiore
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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 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.

By: /s/ Christopher P. Fiore
Christopher P. Fiore, Esquire