

1 **DAVID S. KAHN** (Nevada Bar No. 7038) [david.kahn@wilsonelser.com](mailto:david.kahn@wilsonelser.com)  
2 **SHERI M. THOME** (Nevada Bar No. 8627) [sheri.thome@wilsonelser.com](mailto:sheri.thome@wilsonelser.com)  
3 **J. SCOTT BURRIS** (Nevada Bar No. 010529) [j.scott.burris@wilsonelser.com](mailto:j.scott.burris@wilsonelser.com)  
4 **WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP**  
5 300 South Fourth Street, 11<sup>th</sup> Floor  
6 Las Vegas, NV 89101  
7 T: (702) 727.1400; Fax: (702) 727-1401

8 **KENNETH E. KELLER** (CA Bar No. 71450) (*pro hac vice*) [kkeller@kksrr.com](mailto:kkeller@kksrr.com)  
9 **STAN G. ROMAN** (CA BAR. NO. 87652) (*pro hac vice*) [sroman@kksrr.com](mailto:sroman@kksrr.com)  
10 **MICHAEL D. LISI** (CA Bar No. 196974) (*pro hac vice*) [mlisi@kksrr.com](mailto:mlisi@kksrr.com)  
11 **KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP**  
12 555 Montgomery Street, 17<sup>th</sup> Floor  
13 San Francisco, CA 94111  
14 T: (415) 249-8330; Fax: (415) 249-8333

15 **STEVAN LIEBERMAN** (Wash, DC Bar No. 448218) (*pro hac vice*) [stevan@APLegal.com](mailto:stevan@APLegal.com)  
16 **GREENBERG & LIEBERMAN, LLC**  
17 2141 Wisconsin Ave., NW Suite C2  
18 Washington, DC 20007  
19 T: (202) 625-7000; Fax: (202) 625-7001

20 Attorneys for Defendant FF MAGNAT LIMITED

21  
22 **UNITED STATES DISTRICT COURT**  
23 **DISTRICT OF NEVADA**

24 LIBERTY MEDIA HOLDINGS, LLC, a  
25 California Corporation,

26 Plaintiff

27 vs.

28 FF MAGNAT LIMITED d/b/a/ ORON.COM;  
MAXIM BOCHENKO a/k/a/ ROMAN  
ROMANOV; and JOHN DOES 1 - 500.

Defendants.

Case No. 2:12-cv-01057 GMN-RJJ

**OPPOSITION TO PLAINTIFF'S  
EMERGENCY MOTION TO EXTEND  
HEARING SCHEDULE, OR IN THE  
ALTERNATIVE, FOR AN EXPEDITED  
HEARING ON THE PENDING  
MOTION TO ENFORCE  
SETTLEMENT**

**I. INTRODUCTION**

1  
2 Plaintiff asks to expedite the hearing of its motion to enforce an alleged settlement and/or  
3 to delay the hearing of its motion for preliminary injunction until twenty days after its settlement  
4 motion is decided. Defendant FF Magnat Limited (“Oron”) opposes any delay in deciding the  
5 preliminary injunction motion, because the temporary restraining order already in place has  
6 required Oron to entirely shut down its business, and allowing that order to remain in place any  
7 longer than necessary only increases the likelihood that Oron will be unable to salvage and restore  
8 at least some part of its business. Oron expects that when it is heard on the facts and law at the  
9 preliminary injunction hearing, an injunction will be denied and the TRO vacated.

10 Accordingly, Oron requests that the current schedule be maintained. In the alternative, if  
11 the Court is inclined to expedite the hearing on the settlement motion, Oron requests that it also  
12 expedite the hearing on the preliminary injunction motion to be heard at the same time.

**II. ARGUMENT**

13  
14 Plaintiff’s ex parte filing – the June 29, 2012 Emergency Motion for Ex Parte Temporary  
15 Restraining Order, Order for Seizure, and Appointment of Receiver – although unsupported by  
16 admissible evidence, threatens to destroy Oron . Its website is now down due to its inability to pay  
17 its vendors, and the longer the site is inoperable, the greater the chances are that Oron may never  
18 recover. Time is of the essence for Oron, yet Plaintiff seeks to keep Oron from having its day in  
19 court. While it claims to seek judicial economy and save the parties legal fees, Plaintiff has  
20 relentlessly filed motion after motion (many ex parte) in order to force Oron to spend as much as  
21 possible on attorneys’ fees, at a time when this Court’s TRO leaves Oron without sufficient funds  
22 to pay those fees. It has long been Oron’s belief that Plaintiff’s true purpose in filing its complaint,  
23 its ex parte documents, and its subsequent motions was solely to destroy Oron. Indeed, Plaintiff’s  
24 counsel stated in a July 4, 2012 email to Oron’s attorney: “I prefer to kill Oron altogether and  
25 keep all \$3 million.” *See* Declaration of Stevan Lieberman in Opposition to Plaintiff’s Motion to  
26 Enforce Settlement Agreement (Dkt No. 44-1, ¶ 9 and 44-8.)

1           Upon learning of this Court’s Order freezing its assets based on an ex parte filing, Oron  
2 immediately filed multiple motions to modify the Order, requesting that this Court allow access to  
3 sufficient funds in order to pay for legal fees and necessary business expenses. The Court  
4 provided limited funds - US \$100,000 for legal fees - an amount that has not been sufficient  
5 because of the numerous filings by Plaintiff. In addition, the Court refused to provide any money  
6 for regular business expenses. This combination created extraordinary financial stress and  
7 achieved the inevitable – Oron’s website has been shut down and, most likely, Oron will lose a  
8 majority of its customers.

9           Rule 65(b)3 of the Federal Rules of Civil Procedure (FRCP) states in relevant part:

10                   (3) Expediting the Preliminary-Injunction Hearing. If the order is  
11                   issued without notice, the motion for a preliminary injunction must  
12                   be set for hearing at the earliest possible time, taking precedence  
13                   over all other matters except hearings on older matters of the same  
14                   character. At the hearing, the party who obtained the order must  
15                   proceed with the motion; if the party does not, the court must  
16                   dissolve the order.

17           The durational limitations imposed on ex parte restraining orders had their origin in § 17 of the  
18 Clayton Act of 1914, 38 Stat. 737. When enacted, the House emphasized that the durational and  
19 other limitations imposed on temporary restraining orders were thought necessary to cure a serious  
20 problem of ill-considered injunctions without notice. *See* H.R.Rep. No. 627, 63d Cong., 2d Sess.,  
21 25 (1914).

22                   The stringent restrictions imposed by § 17, and now by Rule 65, on  
23                   the availability of ex parte temporary restraining orders reflect the  
24                   fact that our entire jurisprudence runs counter to the notion of court  
25                   action taken before reasonable notice and an opportunity to be heard  
26                   has been granted both sides of a dispute. Ex parte temporary  
27                   restraining orders are no doubt necessary in certain circumstances,  
28                   *cf. Carroll v. President and Commissioners of Princess Anne*, 393  
                    U.S. 175, 180, 89 S. Ct. 347, 351, 21 L.Ed.2d 325 (1968), but under  
                    federal law they should be restricted to serving their underlying  
                    purpose of preserving the status quo and preventing irreparable harm  
                    just so long as is necessary to hold a hearing, and no longer. *Granny  
                    Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck  
                    Drivers Local No. 70 of Alameda County, Etc.*, 415 U.S. 423, 425,  
                    94 S.Ct 1113, 39 L.Ed.2d 435 (1974).

1 *Id.*

2 Plaintiff proposes expediting a hearing on its motion to enforce settlement as an alternative  
3 to delaying the preliminary injunction hearing. Oron supports an expedited hearing of the  
4 settlement motion *only* if the hearing on the preliminary injunction is advanced to the same hearing  
5 time. Each hearing costs money and it will be impossible for Oron to continue to defend itself  
6 without further funds. Forcing Oron to do multiple hearings while not allowing sufficient funds to  
7 pay counsel would be unjust.

8 **III. CONCLUSION**

9 For the foregoing reasons, it is respectfully requested that Plaintiff's emergency motion be  
10 denied.

11 Dated: August 2, 2012

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

12  
13  
14 By: \_\_\_\_\_/s/\_\_\_\_\_  
15 KENNETH E. KELLER  
16 Attorneys for Defendant FF MAGNAT LIMITED  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27