

In support of same, Plaintiff's counsel recently filed an after hours online Motion for Summary Judgment well after counsel had left his office. See **Exhibit "B"**, Notice of filing from the Court.

Plaintiff's counsel as indicated on late Friday afternoon, May 17, 2013, did contact Defendant's counsel through a subordinate, but was advised to contact him an hour later since I was busy on the phone and conducting other activities at that time. Defense counsel never received any follow-up telephone call.

Plaintiff's counsel recently did have the time to ask for another in a long list of Enlargements of Time in order to file Jury Instructions, of which the Court immediately granted.

Putting aside Plaintiff's counsel's tactics, the Defendant's counsel followed through on a timely basis and shipped the first copy of the hard drive to Plaintiff's counsel on December 27, 2012, with an scheduled delivery date of December 28, 2013, which Plaintiff's counsel indicated he received during the early part of January 2013. See **Exhibit "C"**, FedEx Express Receipt. No complaint was made about the readability until after the date within which Plaintiff's Expert Report was initially due .

After this Honorable Court entered Sanctions against Plaintiff's Counsel, the Court allowed an extension until May 17, 2013, to file any additional report of the examination of the hard drives, if applicable. Defendant, John Doe has no expert nor has he retained an expert and continues to sincerely express his lack of culpability, therefore, there is no applicable report to be submitted. On the other hand, Defendant, John Doe 16 on his laptop computer in my office, on Friday, May 17, 2013, demonstrated to me that not only was he able to open it, but was able to read the hard drive to the extent that his limited knowledge allows.

Since Plaintiff's counsel sent mixed messages on page 1 of this Notice, regarding the readability of the hard drive on their Notice of Compliance, it is unequivocally obvious that there is an issue regarding same and in accordance with the previously indicated Court Order dated May 8, 2013, Page 5 ¶4, an evidentiary hearing is not only needed and required, but urgently necessary in order to address all matters regarding same, in light of Plaintiff counsel's blustery, threatening and chilling Motion for Sanctions against Defendant, John Doe 16 for alleged fraud, which he has indicated will be filed immediately.

Respectfully submitted,

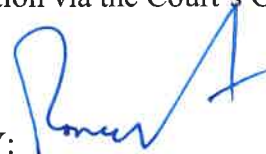


RONALD A. SMITH, ESQUIRE
RonaldASmithEsq@aol.com
1617 John F. Kennedy Boulevard
Suite 355
Philadelphia, PA 19103
(215) 567-1200
Facsimile: (215) 557-2439

CERTIFICATE OF SERVICE

I, RONALD A. SMITH, ESQUIRE, hereby certify that on this 20th day of May, 2013, a true and correct copy of the foregoing was filed with the Clerk of Court using the CM/ECF and all parties have received or will receive notification via the Court's CM/ECF electronic filing.

BY:



RONALD A. SMITH, ESQUIRE

Ronald A Smith Esquire

From: "Keith Lipscomb" <KLipscomb@LEBFIRM.COM>
To: "Crystal Sebastian" <CSebastian@LEBFIRM.COM>; <RonaldASmithEsq@aol.com>
Cc: "copyright" <copyright@LEBFIRM.COM>; <cfiore@fiorebarber.com>
Sent: Friday, May 17, 2013 4:12 PM
Subject: Re: Bellwether - Malibu Media, LLC v. Does 1, 6, 13, 14, 16
Ronald,

Following up on the message which my assistant just left, please call me to discuss the hearing which is tentatively scheduled for May 22, 2013. As you may be aware from the declaration filed today, your client fabricated evidence in pursuit of a fraud and in violation of a court order to provide discovery. This is a demonstrable fact.

Respectfully, it is time for Mr. White to come clean. Further efforts at perpetuating this fraud, and further perjured testimony will likely be met with severe sanctions by the judge. As a criminal defense lawyer, you probably know much better than me the penalties for perjury and fraud upon the court.

My number is 305.298.1750. I look forward to your call.

Best regards,
Keith

From: Crystal Sebastian
Sent: Thursday, May 16, 2013 10:11 AM
To: Ronald A Smith Esquire <RonaldASmithEsq@aol.com>
Cc: copyright; Chris Fiore <cfiore@fiorebarber.com>
Subject: Bellwether - Malibu Media, LLC v. Does 1, 6, 13, 14, 16

Mr. Smith,

I hope all is well.

We will be moving for an enlargement of time, up to and including Monday, May 20, 2013, to submit Plaintiff's proposed jury instructions. Kindly advise by 3:00 PM today if you oppose same.

Thank you,

LIPSCOMB,
EISENBERG &
BAKER, PL


Crystal Sebastian
Paralegal
Lipscomb, Eisenberg & Baker, PL
One Biscayne Tower
2 South Biscayne Boulevard
Suite 3800
Miami, FL 33131
Telephone: (786) 431-2228
Facsimile: (786) 431-2229



Email: CSebastian@LEBFIRM.com

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Ronald A Smith Esquire

From: <ecf_paed@paed.uscourts.gov>
To: <paedmail@paed.uscourts.gov>
Sent: Wednesday, May 15, 2013 6:41 PM
Subject: Activity in Case 2:12-cv-02078-MMB MALIBU MEDIA, LLC v. JOHN DOES 1,6,13,14 AND 16 Motion for Summary Judgment

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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United States District Court

Eastern District of Pennsylvania

Notice of Electronic Filing

The following transaction was entered by LIPSCOMB, MICHAEL on 5/15/2013 at 6:41 PM EDT and filed on 5/15/2013

Case Name: MALIBU MEDIA, LLC v. JOHN DOES 1,6,13,14 AND 16
Case Number: 2:12-cv-02078-MMB
Filer: MALIBU MEDIA, LLC
Document Number: 136

Docket Text:

MOTION for Summary Judgment as to John Doe 16's Counterclaim and Affirmative Defenses filed by MALIBU MEDIA, LLC.. (Attachments: # (1) Exhibit A, # (2) Exhibit B, # (3) Exhibit C, # (4) Exhibit D)(LIPSCOMB, MICHAEL)

2:12-cv-02078-MMB Notice has been electronically mailed to:

A. JORDAN RUSHIE jordan@fishtownlaw.com, lawyers@fishtownlaw.com, leo@fishtownlaw.com

CHRISTOPHER P. FIORE cfiore@fiorebarber.com

COREY M. OSBORN cosborn@tlgattorneys.com, dcrane@tlgattorneys.com, lmakasi@tlgattorneys.com

JOHN D. SEIVER johnseiver@dwt.com

LEONARD J. FRENCH ljfrench@leonardjfrench.com

MICHAEL KEITH LIPSCOMB klipscomb@lebfirm.com



RONALD A. SMITH ronaldasmithesq@aol.com

2:12-cv-02078-MMB Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-0] [a5c5e5d3411db39b090320a3c4c016c3c907f77b8370bcb28c8645c83ff67d0665b6e63140d96f9508ddca2b46d26dd6fdefe30bd433562ad4351df59d17e3b8]]

Document description:Exhibit A

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-1] [944b2b2302c8c450e3871ec27db91717f38b81948bfc421d94ad885c8516749114735d75d786eb1275e19c3379613e776781d34269235636ef41751dc5604fcc]]

Document description:Exhibit B

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-2] [95ab3f1494535436182f51299197ef13bb3068adc915ca2c9e892d48b9cb603137f65f0c794135c3aeb0b3f33e046f838512890f462b382e6f23541b6a23ec96]]

Document description:Exhibit C

Original filename:n/a

Electronic document Stamp:

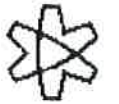
[STAMP dcecfStamp_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-3] [76fb110e894e8206b79936a172e624c264a9fca26e5b9dac04bf7e61fd77369e70609215028c159213e3712038e1bc8514c7b22f4da8acd904efd0520a489200]]

Document description:Exhibit D

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-4] [4b94ed9043e6a9aba0ce7be97a17b34f9084e848f6dcc8ade4e2c73d42bad40438de1b21991721093028ce2d485c5041761924c7b675daa60f9fa91cc82ad8b9]]



FedEx OfficeSM

1500 MARKET ST
PHILADELPHIA, PA 19102

Location: PSQKK
Device ID: PSQKK-POS2
Employee: 2025985
Transaction: 78071947513

STANDARD OVERNIGHT
800712686316 4.50 lb (S) 34.80
Total Declared Value 200

Sched. Delivery Date 12/28/2012
STANDARD NIGHT
800712686316 1.15 lb (S) 48.63

Scheduled Delivery Date 12/28/2012
Standard- Small, 11x11x11
790363010609 1 (T) 6.99

Shipment subtotal: 83.43
Merchandise taxable subtotal: 6.99
Tax(PA) 6.00% 0.42
Tax(City) 2.00% 0.14

Total Due: 90.98

FedEx Account: 90.98
*****2208

M = Weight entered manually
S = Weight read from scale
T = Taxable item

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FedEx NEW Package
Express US Airbill

FedEx Tracking Number 8007 1268 6316

1 From Please print and press hard.

Date 12/27/12 Sender's FedEx Account Number 202598-722608

Sender's Name Donald A. Smith, Esq. Phone 215-567-1200

Company

Address 1617 JFK Blvd SE #355

City Phila. State Pa ZIP 19103

2 Your Internal Billing Reference

First 24 characters will appear on invoice.

3 To Recipient's Name CHRISTOPHER P. FIONE Esq. Phone

Company

Address 425 Main St SE 200

City Hartselle

State AL ZIP 35898

Address Use this line for the HQID (physical address or the continuation of your shipping address.

HOLD Weekday
 HOLD Saturday
 HOLD Priority Overnight
 HOLD 2Day to select locations

Form ID No. 0200
Express Package Service
NOTE: Service order has changed. Please select carefully.
Next Business Day
FedEx First Overnight
FedEx Priority Overnight
FedEx Standard Overnight
Packaging
Special Handling and Delivery Signature Options
SATURDAY Delivery
No Signature Required
Does this shipment contain dangerous goods?
Payment Bill to:
Sender's Question
Total Packages
Total Weight
Total Declared Value
644

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