

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT MICHIGAN**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Action Case No. 1:13-CV-360-RJJ
)	
v.)	
)	
JESSE RALEIGH,)	
)	
Defendant.)	
)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S
MOTION TO APPEAR TELEPHONICALLY**

On April 27, 2016, Plaintiff’s counsel filed a Motion to Appear telephonically at the hearing on his own Motion to Withdraw as Counsel (Doc. No. 144), scheduled for April 29, 2016 at 1:30 p.m., arguing, among other things, that it would not be economically reasonable for him to attend the hearing.

However, there are a number of problems with Plaintiff’s counsel’s Motion which mandate his, and his co-counsel Jessica Fernandez’, attendance. First, any issue related to cost or inconvenience is caused solely by Plaintiff and its current counsel, Keith Lipscomb and Jessica Fernandez. Malibu Media is a California company which has hired Florida counsel to litigate a case in Michigan. If there is any economic hardship, it is willfully caused by Plaintiff’s own litigation model.

Second, in his Motion to Withdraw, Plaintiff’s counsel has indicated to the Court that an *in camera* hearing may be required to determine why he should be allowed to withdraw as counsel. This simply cannot be done if Plaintiff’s counsel is in Florida and other counsel on the case, and the Court, are in Grand Rapids. Defendant will be, in part, opposing Plaintiff’s counsel’s Motion to Withdraw (at least the extension of time requested) and will be present at the

hearing. Defendant's counsel will have to drive a minimum of three hours to attend the hearing. Plaintiff's counsel should be expected to do the same.

Third, because he is seeking to withdraw from this case, due to "the client [failing] to substantially fulfill an obligation to the lawyer regarding the lawyer's services," Plaintiff's counsel is really representing his own interest, and not Malibu Media's interest. In addition, not only has Mr. Lipscomb moved to withdraw as counsel, but so has his co-counsel from Florida, Jessica Fernandez. (Doc. No. 143). Malibu Media has a third attorney representing it, Paul Nicoletti, who is based in Michigan. Due to the allegations set forth in the Motions to Withdraw, *all of Malibu's attorneys should be present*, particularly in light Mr. Lipscomb and Ms. Fernandez' request for an extension of time on behalf of Malibu *literally on the eve of the hearing of Defendant's Motion for Summary Judgment and for Attorney's Fees*.

Nonetheless, if the Court is inclined to allow Plaintiff to appear at the conference telephonically, then Defendant requests the same.

Dated: April 26, 2016

Respectfully Submitted,

By: /s/ Derek Steven Wilczynski

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 26, 2016, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Derek S. Wilczynski