

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MALIBU MEDIA, LLC,

Plaintiff,

v.

JESSE RALEIGH,

Defendant.

CASE NO. 1:13-CV-360

HON. ROBERT J. JONKER

ORDER OF DISMISSAL

By order dated April 29, 2016, Magistrate Judge Kent granted the motions of Attorneys Ferndandez, Lipsomb, and Nicoletti to withdraw as counsel for Plaintiff Malibu Media, LLC (docket # 153). Magistrate Judge Kent's order provided explicitly that Plaintiff "shall have twenty-one (21) days from the date of this Order to obtain new counsel or show cause why the case should not be dismissed for want of prosecution." The deadline has passed without any new counsel for Plaintiff entering an appearance in the case, or otherwise attempting to make a record showing of why the case should not be dismissed.

The Magistrate Judge explicitly recited in his Order that "Plaintiff is admonished that future requests to change counsel and future requests for adjournments or extensions of time will be denied." (docket # 153, PageID.1878). This was not idle boilerplate. Rather, it was clear and direct warning in light of the pathway of the case to date. The case has been plagued with extensions to address discovery problems and Plaintiff's change of counsel. This most recent change of Plaintiff's counsel occurred reluctantly, and only after the Magistrate Judge concluded that unique

circumstances required giving Plaintiff one more chance. But that chance came with an explicit time fuse. And the fuse has burned.

The Court notes that a new attorney from California made some efforts to contact Chambers on the last business day for compliance. There was no effort to file anything on the record of the case. There was no effort to retain local counsel to intervene and stabilize the case. Rather, there was an e-mail to the Court Reporter for this Chambers, which she kindly forwarded to the Court's Judicial Assistant. The communication suggested that new counsel from California was considering an eleventh hour appearance, but the submission included no signed documents; only unsigned and incomplete application materials for admission to the bar of this Court. That is woefully inadequate in light of the history of this case the Magistrate Judge's clear warning and time limit.

The record demonstrates that Plaintiff has failed to comply with the Magistrate Judge's order despite clear warning and ample opportunity. Plaintiff could have retained local counsel quickly to help, or could have mailed in a formal appearance and noted the intent to seek admission. Indeed, were the case to proceed, the Court would certainly require that Plaintiff retain local counsel given the history of this case. LCivR 83.1(f). No matter how serious Plaintiff may once have been about this case, Plaintiff has demonstrated it is no longer interested in pursuing the case consistent with the rules and orders of the Court.

Accordingly, this matter is **DISMISSED** for Plaintiff's lack of progress and failure to prosecute the case as directed by the Court. **IT IS SO ORDERED.**

Dated: May 24, 2016

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE