

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT INDIANA**

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	Civil Case No. <u>1:12-cv-01117-WTL-MJD</u>
)	
v.)	
)	
MICHAEL HARRISON,)	
)	
Defendants.)	
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VOIR DIRE QUESTIONS AND VOIR DIRE TOPICS

I. Juror Abilities/ Comprehension

Specific Questions:

1. A typical court day will begin at 9:00 a.m. and end at 4:30 p.m. with two breaks. This way you will have the afternoon free to carry on with your lives. This trial is expected to take approximately 5 days to complete. Please raise your hand if you would not be able to participate for this period of time.
2. Many people have hearing and vision problems. Would all of you please raise your hand if you have a hearing or vision problem, or any other physical impediment or disability that would impede your ability to see, hear, or understand the evidence?
3. This trial will be conducted in English. Would all of you who have difficulty understanding the English language please raise your hand?

II. Juror Knowledge of Parties and Witnesses

4. Next I would like to provide you with the names of the parties and witnesses in this case. Please pay careful attention because in a few minutes I will ask whether

any of you have met any of these people before, or have had any dealings or other connections with any of them. [Read list of parties and witnesses:]

5. Would all of you please raise your hand if you heard of, or been acquainted with, any of these parties or their attorneys, or any persons employed in the same offices as the attorneys?
6. Would all of you please raise your hand if you either know the Judge or anyone on the court's staff?
7. Would all of you please raise your hand if you have heard about this lawsuit?
8. Would all of you please raise your hand if you have a personal interest in the outcome of this case, meaning that right now you are aware that you have something to gain or lose in this case?
9. Would all of you please raise your hand if you or a family member has worked for Caterpillar?
10. Would all of you please raise your hand if you or a family member has worked for GGI Recycling?

III. Juror Prior Involvement in Lawsuits

11. Would all of you who have served on a jury before please raise your hand?
12. Would all of you who have been sued before please raise your hand?
 - o Follow up by asking what the lawsuit was for.
13. Would all of you who have had a friend or family member that was sued before please raise your hand?
 - o Follow up by asking what the lawsuit was for.
14. Would all of you who have sued another person please raise your hand?

- Follow up by asking what the lawsuit was for.

15. Would all of you who have been in a divorce please raise your hand?
16. Would all of you who have been involved in a foreclosure please raise your hand?
17. Would all of you who have been the victim of theft please raise your hand?

IV. Family

18. Would all of you who have children please raise your hand?
19. Would all of you who have had teenage boys please raise your hand?

V. Juror Occupation/ Leadership Qualities

20. I'm going to go down the row, and I would like for everyone to state their occupation.
21. Would all of you please raise your hand if you are (or have a close friend or relative) that is a small business owner?
 - What about in the past? Please raise your hand if you have ever owned a small business?
22. Would all of you please raise your hand if you have ever been an executive for a large business? Any CEOs, CFOs, COOs, etc?
23. Would all of you who have been in a union please raise your hand?
24. Would all of you who have ever been in the military please raise your hand?
25. Would all of you who have ever been in law enforcement please raise your hand?
26. Would all of you please raise your hand if you have ever been a lawyer (or have a close friend or relative) who is a lawyer?
27. Would all of you who have a strong opinion about lawyers please raise your hand?

28. Would all of you who have worked for an Internet Service Provider please raise your hand?
29. Would all of you who have ever been a teacher please raise your hand?
30. Would all of you who have ever been a librarian please raise your hand?

VI. Burden of Proof

31. In a civil case, the party bringing the case must prove their case by a preponderance of the evidence. Here is what that means: [Pick up a ream of paper] As you can see, I have a ream of paper in my right hand. Let's say I present this amount of evidence, and let's say the defense presents [pick up another ream of paper] this amount of evidence. If the amount of evidence is equal, we have not proven our case by a preponderance and we lose. However [pick up a single sheet of blue paper], if we present even a single sheet more of evidence [place the blue sheet on the right ream], then by law, we have proved our case by a preponderance of the evidence and the jury must find in our favor. Now let me ask you a few questions. [Pick a juror] [Juror's name], there are some people who feel that a person coming to court in a civil case should have to prove their case by more than a preponderance. How do you feel about this?
32. Would all of you please raise your hand if you feel that we should have to prove our case by more than a preponderance of the evidence? It's OK if you feel this way.

I'm going to ask you some questions about your view points and beliefs on some different topics.

Remember there is no right or wrong answer; we simply want you to be honest.

VII. Political Leanings/ Ideas on Feminism

33. Would all of you please raise your hand if you do not believe that marijuana should be legal?
34. Would all of you please raise your hand if you do favor the legalization of marijuana?
35. Would all of you please raise your hand if you believe that the use of birth control is ok?
36. Would all of you please raise your hand if you do not think that the use of birth control is ok?
37. Would all of you please raise your hand if you think gambling should be legal in Indiana?
38. Would all of you please raise your hand if you think gambling should be illegal in Indiana?
39. Would all of you please raise your hand if you have strong opinions about women being in the military?
 - o What are they?
40. Would all of you please raise your hand if you view Edward Snowden as a hero?
41. Would all of you please raise your hand if you view him as a traitor?
42. Would all of you please raise your hand if you have heard of the SOPA blackout protest?
43. Would all of you please raise your hand if you participated in the SOPA blackout protest?

VIII. Computer Literacy

44. Would all of you please raise your hand if you use a computer on a regular basis?
45. Would all of you please raise your hand if you *do not* use a computer on a regular basis?
46. Would all of you please raise your hand if you work in a computer-related field?
47. Would all of you please raise your hand if you have any formal training which would give you an above average computer skill set?
48. Would all of you please raise your hand if you use the Internet on a regular basis.
49. Would all of you please raise your hand if you *do not* use the Internet on a regular basis.
50. Would all of you please raise your hand if you have a Facebook Account? Twitter? Instagram?

IX. Gaming Use/ Hobbies

51. Would all of you please raise your hand if you use video games?
 - About how often?
52. Would all of you please raise your hand if you consider yourself a “gamer” or prolific video game user?

X. Downloading Content From the Internet Generally

53. Would all of you please raise your hand if you have used the Internet to view or listen to music, books, or movies or something of that nature?
54. Let’s go down the row, would you mind telling us how you viewed or listened to these music, books, or movies?
 - What programs do you use? iTunes/ Pandora/ uTube/ BitTorrent, etc.

XI. Streaming/ Download Distinction

55. Would all of you please raise your hand if you have ever downloaded anything on the Internet?
56. Would all of you please raise your hand if you have ever streamed anything on the Internet?
57. Would all of you please raise your hand if you understand the difference between streaming something on the Internet and downloading something from the Internet?
58. Would all of you please raise your hand if you do not understand the difference between streaming something on the Internet and downloading something from the Internet?

XII. Peer-to-Peer Use

59. Would all of you please raise your hand if you know what a peer-to-peer file sharing program is?
60. Would all of you please raise your hand if you do not know what a peer-to-peer file sharing program is?
61. Would all of you please raise your hand if you (or know a close friend or family member who has) used a peer-to-peer filing sharing program, like Napster, Limewire, BitTorrent, Grokster, or any other similar program to download music, books or movies over the Internet?
 - o Which ones have you used?
62. Would all of you please raise your hand if you have used these programs in the past?

- Why did you stop?

63. Would all of you please raise your hand if you still use these or similar programs?

XIII. BitTorrent Use

64. Would all of you please raise your hand if you have heard of BitTorrent?

65. Would all of you please raise your hand if you know what BitTorrent is?

66. Would all of you please raise your hand if you are familiar with how BitTorrent works?

67. Would all of you please raise your hand if you have used BitTorrent before?

XIV. Streaming Content

68. Would all of you please raise your hand if you know what a streaming site is?

For those who don't know, streaming sites are site like Netflix, YouTube, YouPorn, Spotify, etc. They allow you to view or listen to content without downloading or uploading the content. (i.e., the content is not permanently on your computer.) By way of analogy, streaming is like watching a movie broadcast over network television; whereas downloading content is like owning the DVD.

69. Would all of you please raise your hand if you do not understand that distinction?

In very basic terms, in peer-to-peer file sharing, such as BitTorrent, when someone downloads content, such as a movie, the movie is also simultaneously distributed or uploaded to other people. This is not what happens in streaming sites.

70. Would all of you please raise your hand if you do not understand that distinction?

71. Would all of you please raise your hand if you use or pay for a streaming site or service?

- Which ones?

XV. Computer Forensics Literacy

- 72. Would all of you please raise your hand if you have any experience or familiarity with computer forensics?
- 73. Would all of you please raise your hand if you have any experience or familiarity with hard drive recovery?
- 74. Would all of you please raise your hand if you are familiar with PCAPs?

XVI. WiFi Experience/ Knowledge

- 75. Would all of you please raise your hand if you use a wireless router?
- 76. Would all of you please raise your hand if you have a password on your router?
 - o Why do you have a password?
- 77. Would all of you please raise your hand if you know what an IP Address is?
- 78. Would all of you please raise your hand if you have Comcast as an Internet Service Provider?
- 79. Would all of you please raise your hand if you have any opinions about Comcast?
 - o Please share them.

XVII. Juror Opinions on Content Producers

- 80. Would all of you please raise your hand if you consider yourself an author, musician, photographer, artist or filmmaker (or have a close friend or relative) who is an author, musician, photographer, artist or a filmmaker?
- 81. Would all of you please raise your hand if you earn a living as an author, musician, photographer, artist or filmmaker, or have a family member or close friend who does?

82. Would all of you please raise your hand if you believe that authors, musicians, artists, photographers or filmmakers should be compensated for their creative work?
83. Would all of you please raise your hand if you believe that authors, musicians, artists photographers or filmmakers should not be compensated for their creative work?
84. Would all of you please raise your hand if you have a strong opinion about authors, musicians, photographers, artists or filmmakers?

XVIII. Free Internet Philosophy

85. Would all of you please raise your hand if you believe that all of the music, books, or movies that you can download on the Internet should be free?
86. Would all of you please raise your hand if you believe that all of the music, books, or movies that you can download on the Internet should not be free?
87. Would all of you please raise your hand if you believe that authors of music, books or movies that you can download on the Internet have a right to charge money for those works?
88. Would all of you please raise your hand if you believe that authors of music, books or movies that you can download on the Internet do not have a right to charge money for the works?

XIX. Experience with Copyrights/ Right to Enforce Copyrights on the Internet

89. Would all of you who know what a copyright is, please raise your hand?
90. Would all of you please raise your hand if you own a copyright?

91. Would all of you please raise your hand if you have received Copyright Alert Notices?
92. Would all of you please raise your hand if you you have (or know someone who has) been sued by the Recording Industry Association of America (RIAA) or a record company for downloading or sharing music files over the Internet?
 - o What did you think about that?
93. Would all of you please raise your hand if you have (or know someone who has) been sued by a company for downloading or sharing movie files over the Internet?
94. Would all of you please raise your hand if you have read any press reports, websites or blogs about people being sued for downloading or sharing movie files over the Internet?
 - o What did you think about that?
95. Would all of you please raise your hand if you have ever read a blog about peer-to-peer copyright infringement?
96. Would all of you please raise your hand if you believe that a copyright owner has the right to enforce his or her copyright?
97. Would all of you please raise your hand if you believe that a copyright owner has the right to enforce his or her copyright *on the Internet*?

I'm going to discuss with you now some sensitive topics. Remember, there is no right or wrong answer; we are simply looking for honesty. If anyone feels too uncomfortable discussing a particular topic, please let us know, and we can discuss with the Court in private.

XX. Bias Against Law Enforcement

98. Would all of you please raise your hand if you have had a bad experience with a police officer?
99. Would all of you please raise your hand if you have strong opinions about police officers?
100. One of the witnesses in this case is a former police officer, Would all of you please raise your hand if you have had a personal experience or belief that may prevent you from objectively weighing the testimony of a former police officer?

XXI. Juror Biases Against Foreigners

101. Would all of you please raise your hand if you have traveled abroad?
102. Would all of you please raise your hand if you have ever had a bad experience with someone from another country?
 - o I'm sorry to hear that, would you mind sharing that experience with us.
103. In this case, you will hear testimony from some witnesses from Germany. Would all of you please raise your hand if you have a personal experience or a belief that may prevent them from objectively listening to the testimony of a witness from Germany?

XXII. Juror Pornography Opinions

104. Would all of you please raise your hand if you have a strong opinion about pornography?
 - o Would you please elaborate?
105. I'm going to go down the row, what do you think about someone who creates pornography?

106. Would all of you please raise your hand if you find pornography offensive?
- Thank you for sharing, would you mind elaborating on that?
107. Would all of you please raise your hand if you *do not* think that pornography is offensive?
- Thank you for sharing, would you mind elaborating on that?
108. Would all of you please raise your hand if you believe that pornography is offensive to women?
- Thank you for sharing, could you explain why you believe that?
109. Pornography is protected by copyright laws. Would all of you please raise your hand if you would be unable to find for Plaintiff because the content covered by the copyright is pornographic?
110. Would all of you please raise your hand if you think that pornography *should* be protected by copyright laws?
- Why or why not?

Certain of the evidence in this trial concerns movies that contain pornographic, erotic, or adult material, and you may be called upon to view this material if necessary during the course of the trial.

XXIII. Juror Ability to View Pornography As Evidence

111. Would all of you please raise your hand if you have any personal, moral, religious, or any other reason which would prevent you from viewing pornographic, adult or erotic material?
112. Would all of you please raise your hand if you would have no problem viewing pornographic, adult or erotic material?

113. Would all of you please raise your hand if you think you would be uncomfortable viewing pornography, adult or erotic material?
114. Would all of you please raise your hand if you have any personal, moral, religious or any other beliefs which would make you unable to render a verdict against a person who infringed a copyright which covers a pornographic, erotic or adult movie?
115. Would all of you please raise your hand if you would evaluate the evidence which proves or disproves that an infringement occurred without any bias or prejudice to the Plaintiff because it makes adult movies?
116. Would all of you please raise your hand if you would be biased or prejudiced against Plaintiff because it makes adult movies?

XXIV. Final Probing Questions

117. If you were my client, would you be completely comfortable having you as a juror on this case?
118. Can you think of anything in your own life that reminds you of this case?
119. Is there anything you would prefer to discuss in private?
120. Is there anything we haven't asked you that you think we should know?