

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MALIBU MEDIA, LLC	:	Case No.: 1:12-cv-01117-WTL-MJD
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
MICHAEL HARRISON,	:	
	:	
Defendant.	:	

**DEFENDANT’S SECOND MOTION FOR EXTENSION OF TIME TO FILE PRETRIAL
OBJECTIONS AND NOTICE OF REQUESTS FOR SEPARATION OF WITNESSES**

Michael Harrison (“Defendant”) respectfully moves this Court for the entry of an order extending Defendant’s time to file pretrial objections and notice of requests for separation of witnesses at trial, and in support of his instant motion states and alleges as follows:

1. Defendant’s deadline to respond to all of Plaintiff’s pretrial filings, except for Plaintiff’s motion for sanctions, was previously extended by this Court to August 2, 2015. [*See* Dkt. 356.].

2. Defendant’s counsel acknowledges that Defendant’s pretrial objections to Plaintiff’s motions *in limine* were filed past the deadline of **5:00 p.m. on August 2, 2015** set by the Court in its Entry On Defendant’s Motion for Extension of Time. [Dkt. 356.] Undersigned counsel mistakenly calendared Defendant’s deadline for 11:59 p.m. on August 2, 2015.

3. Defendant’s counsel apologizes to the Court and to opposing counsel for his mistake. Defendant’s counsel further takes full responsibility for the mistake, assures the Court that it will not happen again, and asks that the Court not penalize Defendant for his counsel’s mistake.

4. Undersigned began preparing this motion while working to file Defendant's other pretrial documents so as to file this motion before what was wrongly believed to be the extended deadline.

5. Defense counsel was alerted by the person he has just secured to assist him with pretrial activities and at trial, that the deadline was 5:00 p.m., not 11:59 p.m. on August 2, 2015.

6. Defendant's counsel began immediately revising the instant motion for filing with the Court.

7. Defendant respectfully moves the Court for a brief extension of time to **Tuesday, August 4, 2015 at 11:59 p.m.** to file Defendant's objections to Plaintiff's Motion *in Limine* to Preclude Evidence of Third Party Lawsuits, [Dkt. 342], Proposed Jury Instructions, [Dkt. 343], List of Depositions Intended To Be Offered Into Evidence During Its Case In Chief, [Dkt. 346], Exhibit List, [Dkt. 348], Proposed Voir Dire [Dkt. 349], and Request for Separation of Witnesses.

8. Defendant's counsel will file the above documents as soon as they are completed from now until the requested deadline in order to minimize the impact on the Court's and the parties' ability to sufficiently prepare for the final pretrial conference scheduled for **9:00 a.m. on Thursday, August 6, 2015**. Defendant informs the Court that two of the above documents are nearly ready for filing.

9. Defendant further informs the Court that under the present circumstances, and considering the length of Plaintiff's Motion for Sanctions and the critical importance of Defendant's response to the motion for sanctions, it appears unlikely that Defendant will be able to file his response to the motion for sanctions by August 6, 2015. [*See* Dkt. 356.]

10. Due to the large volume of work and the late hour at which undersigned was alerted to his mistake, counsel for Defendant did not contact Plaintiff's counsel prior to filing this motion.

11. The instant motion is not being filed to cause delay or to prejudice any party. Defendant's motion only seeks to avoid the prejudice to Defendant that would result if his counsel is not afforded reasonable time to adequately research and draft the remaining objections to Plaintiff's Motion *In Limine*, Proposed Jury Instructions, Exhibit List, Proposed Voir Dire, and Defendant's request for separation of witnesses.

12. Defendant's counsel does not believe that he has missed a deadline or previously made such a mistake in this case, and, once again, apologizes to the Court and to opposing counsel. Defendant's counsel respectfully asks that if the Court is to impose any penalty in connection with the missed deadline, that the penalty be imposed against and to the detriment of undersigned counsel, and not against or to the detriment of Defendant. At the same time Defendant's counsel respectfully requests that the Court show him mercy considering Defendant's counsel was able to file seven (7) responses to Plaintiff's motions *in limine* on August 2, 2015, and that the process of successfully securing assistance in this matter took a fair amount of time.

13. A proposed order is attached to Defendant's instant motion pursuant to local rule. However, Defendant understands that since this motion is being filed after the deadline has passed for filing a motion for extension of time and for additional reasons, the Court may likely draft and enter the Court's own order.

WHEREFORE, Defendant respectfully moves this Court for the entry of an order extending Defendant's time to file pretrial objections and notify the Court and opposing counsel

of requests for separation of witnesses at trial up to and including **Tuesday, August 4, 2015 at 11:59 p.m.**; and for all other relief this Court deems just and proper.

Respectfully Submitted,

/s/ Gabriel J. Quearry
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Michael Harrison

CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties by operation of the Court's electronic filing system.

/s/ Gabriel J. Quearry
Gabriel J. Quearry