

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

MALIBU MEDIA, LLC,

Plaintiff,

v.

ROBERT DARE,

Defendant.

CASE NO. 0:14-cv-61957

PLAINTIFF'S NOTICE OF FILING REGARDING CM/ECF 51 & 52

To clear the record and avoid any confusion caused by Defendant Robert Dare's ("Defendant") Notice [CM/ECF 52], Plaintiff, Malibu Media, LLC ("Plaintiff"), provides proof of the conferral that occurred yesterday concerning Plaintiff's Motion to Exclude Defendant's Expert [CM/ECF 51], and states as follows:

1. The expert discovery period closes on September 18, 2015. *See* CM/ECF 25.
2. Defendant disclosed his expert on September 11, 2015.
3. On September 16, 2015, after an initial review of Defendant's expert report and realizing that Plaintiff would be unable to depose Defendant's expert within two days by the expert discovery cutoff, undersigned emailed Defendant's attorney to obtain her consent on either (a) excluding Defendant's expert or otherwise (b) extending the expert discovery period by 90 days. *See* Attached Email Exhibit.
4. Defendant's attorney responded, opposing the exclusion of Defendant's expert but agreeing to allow his deposition. *See id.* Defendant's attorney intimated that a 90 day extension of the expert discovery period would be "too long," and she advised undersigned to "propose some dates [for a deposition]." *Id.*

5. Undersigned does not know how else to interpret Defendant's attorney's response, other than as reflected in the certificate of conferral included in Plaintiff's Motion to Exclude [CM/ECF 51]. To the extent undersigned has misrepresented anything, same was not his intent.

Respectfully submitted,
LIPSCOMB EISENBERG & BAKER, PL

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 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 through this system.

By: /s/ Daniel C. Shatz