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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA

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10 AF Holdings, LLC, a St. Kitts and Nevis
limited liability company,

11 Plaintiff,

12 v.

13 David Harris,

14 Defendant.

No. CV-12-02144-PHX-GMS

ORDER

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16 Pending before the Court are Defendant's Motion for Security (Doc. 23),
17 Defendant's Motion to Strike (Doc. 26), Plaintiff's Motion for Sanctions (Doc. 29); and
18 Defendant's Motion to Stay Discovery (Doc. 30). The Court rules on the motions as
19 follows.

20 Defendant's Motion for Security of Non-Resident Plaintiff (Doc. 23) is denied.
21 While the Local Rules of Civil Procedure do provide in appropriate cases for a non-
22 resident of the district to post a security bond to cover costs, the bond does not cover
23 security for attorney's fees. *See Smith v. Barrow Neurological Institute of St. Joseph's*
24 *Hospital and Medical Center*, No. CV-10-01632-PHX-FJM (D. Ariz. March 21, 2012).
25 What the Defendant is requesting is actually a bond against a potential an award of
26 attorney's fees and as Defendant acknowledges he is not an attorney. He is therefore not
27 entitled to security for attorney's fees which he will not incur. The motion is therefore
28 denied.

1 Defendant's Motion to Strike in Reply to Plaintiff's Response (Doc. 26) is also
2 denied. In the motion, Defendant attempts to have this Court make rulings on the truth of
3 Plaintiff's allegations at the pleadings stage. Then assuming the truth of Defendant's
4 responses as opposed to Plaintiff's allegations, Defendant asks this Court to find that it
5 has no subject matter jurisdiction. The fact that Plaintiff obtained an assignment of its
6 predecessors' right as it pertains to Defendant does not mean that Plaintiff cannot bring
7 an action for copyright infringement. Therefore, there is no allegation on which, at the
8 pleadings stage, this Court can determine that it lacks subject matter jurisdiction. The
9 argument can be renewed after appropriate discovery, if in fact there is a basis for such a
10 motion. The Motion to Strike (Doc. 26) is denied.

11 Defendant's Motion to Stay Discovery and to Strike Plaintiff's Case Management
12 Report Document 27 (Doc. 30) is also denied. The Court has reviewed all of the
13 pleadings and arguments with respect to the reasons why staying and striking the Case
14 Management Order should be awarded and finds in Plaintiff's favor. Despite his
15 insistence to the contrary, Defendant has no right to compel the attendance of Mr. Duffy
16 at the pretrial scheduling conference and a plain reading of the rule so indicates. Further,
17 Defendant's position that Mr. Hansmeier cannot provide evidence is incorrect as a matter
18 of law. His assertion that either of these positions justified his ignoring the Court's Order
19 and not conferring with Plaintiff's counsel about the preparation of the Case Management
20 Order after Defendant had previously violated an Order of the Court compelling him to
21 do so, justifies neither a stay nor a striking of Plaintiff's Case Management Report. That
22 is why the Court accepted Plaintiff's Case Management Report and especially in light of
23 Defendant's failure to comply with two previous Orders of the Court, entered the
24 schedule requested by Plaintiff in that report. The Court declines now to vary that
25 schedule.

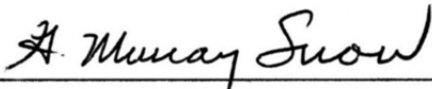
26 For this reason, however, the Court also denies Plaintiff's Forthwith Motion for
27 Sanctions Against Defendant (Doc. 29). Defendant's decision that he would defy the
28 Court's Orders has incurred its own sanction. His failure to confer with Plaintiff's

1 counsel regarding the preparation of a Case Management Report as directed by the Court,
2 has resulted in the Court entering Plaintiff's proposed Case Management Order and as
3 previously indicated, the Court declines to change that Order. Thus, Defendant's failure
4 to comply with the Court's Order has created its own sanction. It may be true as Plaintiff
5 suggests that the Court has given some leeway to Defendant because he is a pro se
6 defendant. Nevertheless, Defendant will be strictly held to the schedule and rules as they
7 govern discovery set forth in this action for any claims and counterclaims. All parties
8 will be required to comply with both legal rules and civility in achieving those deadlines.
9 With the parties being forewarned, this Court declines to further impair Defendant's
10 ability to defend himself by imposing economic sanctions at this point. The Motion is
11 therefore denied.

12 **IT IS THEREFORE ORDERED THAT:**

- 13 1. Defendant's Motion for Security (Doc. 23) is denied.
- 14 2. Defendant's Motion to Strike (Doc. 26) is denied.
- 15 3. Plaintiff's Motion for Sanctions Against Defendant (doc. 29) is denied.
- 16 4. Defendant's Motion to Stay Discovery (Doc. 30) is denied.

17 Dated this 1st day of February, 2013.

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20 G. Murray Snow
21 United States District Judge
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