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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ENTREPRENEUR MEDIA, INC.,

Plaintiff,

No. 2:10-mc-55-JAM-EFB

vs.

SCOTT SMITH dba
ENTREPRENEURPR,

ORDER

Defendant.

_____/

This miscellaneous action, in which defendant is *pro se*, was referred to the undersigned under Eastern District of California Local Rule 302(a). Presently noticed for hearing on January 16, 2013 is judgment creditor and plaintiff Entrepreneur Media, Inc.’s (“EMI”) motion for appointment of receiver of domain names and registered trademark. Dckt. Nos. 115, 124. A judgment debtor examination of defendant and judgment debtor Smith is also scheduled for January 16, 2013. Dckt. Nos. 121, 124. Both matters were continued from their originally noticed date of October 17, 2012 after Smith requested a ninety day extension. Dckt. Nos. 122, 124.

On January 2, 2013, Smith filed another motion for a ninety day extension of time to oppose the motion for appointment of a receiver. Dckt. No. 125. Smith also requests a ninety day continuance of the January 16, 2013 judgment debtor examination. *Id.* at 9. Smith contends

1 that attorney Eric Mewes, who has agreed to represent Smith in this matter and who has begun
2 working on the opposition, was physically prevented from timely filing the opposition because
3 Mewes is still recovering from a recent major surgery and Mewes' father recently underwent
4 major surgery and Mewes has had to devote significant time to assist with his father's medical
5 care.¹ Dckt. No. 125 at 2-3. Smith's affidavit is also supported by a declaration from Mewes, in
6 which Mewes corroborates Smith's contentions. Dckt. No. 125-1. Smith states under penalty of
7 perjury that he reasonably believed that Mewes could and would file a timely opposition to the
8 motion, that Smith is acting in good faith, that this request for a further extension is necessitated
9 by factors outside of Smith's control, and the request is not sought for the purpose of delay.
10 Dckt. No. 125 at 2, 9. Smith also states that he believes Mewes will ultimately be able to
11 provide him with competent and effective representation in this matter. *Id.* at 3. Smith also
12 states that he sent an email to EMI's counsel requesting that he stipulate to a continuance but
13 EMI's counsel declined to so stipulate. *Id.*

14 Although this court is cognizant of the numerous continuances in this case, in light of
15 both Smith and Mewes' representations regarding why a further extension of time is necessary,
16 Smith's request for a continuance will be granted.

17 Accordingly, IT IS HEREBY ORDERED that:

18 1. Smith's motion to continue the hearing on EMI's motion for appointment of a
19 receiver, Dckt. No. 125, is granted.

20 2. The hearing on EMI's motion for appointment of a receiver, Dckt. No. 115, is
21 continued to April 17, 2013 at 10:00 a.m. in Courtroom No. 8.

22 3. The January 16, 2013 judgment debtor examination of Smith, Dckt. No. 121, is
23 continued to April 17, 2013 at 9:30 a.m. in Courtroom No. 8.

24 ¹ Although Mr. Mewes indicates that he has "agreed to represent" Smith in this matter,
25 Dckt. No. 125-1 ¶ 5, he has not formally appeared on behalf of Smith, as required by Eastern
26 District of California Local Rule 182(a). If Mr. Mewes intends to represent Smith, he shall file a
notice of appearance as soon as possible.

1 4. As soon as Smith's counsel is able to do so, he shall file a notice of appearance in this
2 action pursuant to Eastern District of California Local Rule 182(a).

3 Dated: January 7, 2013.

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5 EDMUND F. BRENNAN
6 UNITED STATES MAGISTRATE JUDGE
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