

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MALIBU MEDIA, LLC,

Plaintiff,

v.

Case No: 2:13-cv-836-FtM-29CM

JOHN DOE,

Defendant.

ORDER

Before the Court is Plaintiff's Third Motion for Extension of Time within Which It Has to Serve Defendant with a Summons and Complaint ("Motion") (Doc. 20), filed on April 29, 2014. Plaintiff requests that the Court extend the time for service until thirty (30) days after it receives Defendant's identifying information from Comcast, Defendant's Internet Service Provider ("ISP"). Plaintiff states that it cannot serve Defendant until Defendant's true identity is known. For the reasons stated herein, the Motion is due to be granted in part.

The Court granted leave to serve a third party subpoena on the ISP to obtain Defendant's identity and the subpoena was issued on January 10, 2014. Doc. 20 at 1; *see* Doc. 7. Defendant, through counsel, appeared in this case for the limited purposes of seeking a protective order and filing a motion to quash the subpoena, which the Court denied on March 31, 2014. *See* Doc. 15. The ISP would not furnish Defendant's identifying information while the motion to quash remained pending. In support of the Motion, Plaintiff states that it has contacted the ISP to follow up

regarding the overdue responses to the subpoena on various occasions, but has not heard back from the ISP. Doc. 20 at 1.

Plaintiff's First Motion for Extension of Time within Which It Has to Serve Defendant with a Summons and Complaint (Doc. 14) was denied without prejudice for failure to comply with the Local Rules. *See* Doc. 17. After conferring with opposing counsel, Plaintiff refiled the motion, entitled Plaintiff's Second Motion for Extension of Time within Which It Has to Serve Defendant with a Summons and Complaint (Doc. 18). The Court granted the motion by endorsed order and permitted Plaintiff up to and including April 30, 2014 during which to serve Defendant with the summons and complaint. *See* Doc. 19. Thus, although the instant Motion is styled as Plaintiff's third motion for extension, it is only the second period of extension requested by Plaintiff. Counsel for Plaintiff represents that he has conferred with counsel for Defendant, who does not oppose the Motion. Doc. 20 at 2.

Since obtaining Defendant's identity is necessary in order to effectuate service, and because the Motion is unopposed, the Court finds good cause to grant an extension of the time during which Plaintiff has to serve a summons and complaint. The Court is not inclined, however, to grant Plaintiff's request which seeks an extension for an unspecified length of time to effectuate service rather than an extension for a specific duration. Plaintiff's Motion will therefore be granted in part, and Plaintiff shall have an additional thirty (30) days, up to and including May 30, 2014, during which to serve Defendant with a summons and complaint. Plaintiff

may seek additional relief from the Court prior to the expiration of the thirty day extension period if necessary.

ACCORDINGLY, it is hereby

ORDERED:

Plaintiff's Third Motion for Extension of Time within Which It Has to Serve Defendant with a Summons and Complaint (Doc. 20) is **GRANTED IN PART**. Plaintiff shall have an additional thirty (30) days, up to and including May 30, 2014, during which to serve Defendant with a summons and complaint.

DONE and **ORDERED** in Fort Myers, Florida on this 30th day of April, 2014.


CAROL MIRANDO
United States Magistrate Judge

Copies:

Counsel of record