

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DANIEL R. CASTRO, Plaintiff,)	
)	Cause No. 1-10-CV-000695-LY-AWA
)	Hon. Lee Yeakel
v.)	
)	
ENTREPRENEUR MEDIA, INC., Defendant.)	
-----)	
)	
ENTREPRENEUR MEDIA, INC., Counterclaimant,)	
)	
v.)	
)	
DANIEL R. CASTRO, Counterdefendant.)	

DECLARATION OF JENNIFER L. BARRY IN SUPPORT OF
EMERGENCY MOTION FOR SHORT EXTENSION OF DEADLINE TO FILE
AND SERVE REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS

I, Jennifer L. Barry, declare as follows:

1. I am an attorney at the law firm of Latham & Watkins LLP, counsel for Defendant and Counterclaimant Entrepreneur Media, Inc. (“EMI”) in the above-entitled case. As such, I have personal knowledge of the matters set forth below, and if called upon to do so, could and would testify as follows.

2. EMI filed a Motion to Dismiss Second Amended Complaint on July 19, 2011 (Docket #62).

3. Plaintiff filed five separate opposition briefs to the Motion to Dismiss on August 1, 2011. These briefs totaled over 60 pages, with multiple exhibits.

4. On August 8, 2011, at 12:04 p.m., I sent an email to Castro requesting a short extension of five days to the deadline (to August 17th) for EMI to file its reply brief in support of

Exhibit A

From: Barry, Jennifer (SD)
Sent: Monday, August 08, 2011 12:04 PM
To: 'Dan Castro'
Subject: Deadline extension for reply brief

Hi Dan,

Our reply brief is currently due this Friday. Would you please agree to give us an additional five days to file this brief, so that our deadline is now Wednesday, 8/17? I will prepare the stip for your signature if that is OK. Thanks!

Jennifer L. Barry | **LATHAM & WATKINS LLP** | 600 West Broadway, Suite 1800
San Diego, CA 92101 | DD: 619-238-3024 | F: 619-696-7419 | jennifer.barry@lw.com

Exhibit B

From: Dan Castro [mailto:danmancastro@gmail.com]
Sent: Monday, August 08, 2011 1:37 PM
To: Barry, Jennifer (SD)
Cc: Viscounty, Perry (OC); Dan Castro
Subject: Re: Deadline extension for reply brief

Jennifer,
Under normal circumstances, I would of course be willing to grant you an extension.
You are a hard worker and you deserve it.

But unfortunately, your client has been operating in bad faith.
Your client flew all the way to Austin and agreed to something in writing and then "changed his mind" about it when he got home.

You and Perry have yet to explain to me why he suddenly is unwilling to stand by his original agreement. Why fly all the way to Austin and pay a high priced mediator to hammer out a perfectly good agreement if you were never going to sign the agreement anyway?

Perry is the only person Mr. Shea listens to. That much is clear. So, I have to blame Perry for allowing Mr. Shea to "change his mind" about the domain name issue without providing me with any legal reasons for doing so.

Perry is a smart attorney. He should know by now that you can't offer somebody something (and actually agree to it) and then take it back without offering something in its place. That's called Negotiation 101.

I wish I could give you your extension, but for the above reasons, I must decline.

If there were a family emergency, or a medical emergency, I would of course agree.

Hope you understand.

Dan

On Mon, Aug 8, 2011 at 2:03 PM, <Jennifer.Barry@lw.com> wrote:

Hi Dan,

Our reply brief is currently due this Friday. Would you please agree to give us an additional five days to file this brief, so that our deadline is now Wednesday, 8/17? I will prepare the stip for your signature if that is OK. Thanks!

Jennifer L. Barry | LATHAM & WATKINS LLP | 600 West Broadway, Suite 1800

San Diego, CA 92101 | DD: [619-238-3024](tel:619-238-3024) | F: [619-696-7419](tel:619-696-7419) | jennifer.barry@lw.com

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Latham & Watkins LLP

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