

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

Marcus Bagwell and Scott Levy,	:	
individually and on behalf of all others:	:	
similarly situated;	:	Civil Action No.
	:	3:16-cv-01350-JCH
Plaintiffs,	:	
	:	
v.	:	November 9, 2017
	:	
World Wrestling Entertainment, Inc.,	:	
	:	
Defendant.	:	

**PLAINTIFFS’ MEMORANDUM IN SUPPORT OF MOTION FOR
RECONSIDERATION OF ORDER GRANTING MOTION TO COMPEL**

Pursuant to Local Rule 7(c)(1), the undersigned counsel, as a member of the Bar of this Court, respectfully submits this memorandum in support of the motion for reconsideration of the Court’s November 9, 2017 Order granting Defendant World Wrestling Entertainment, Inc.’s Motion to Compel Redacted Information From Phone Records for Plaintiffs’ failure to file by the 12:00 P.M. deadline (Dkt. No. 147). As set forth below, Plaintiffs’ lead counsel did not receive the Court’s November 3, 2017 Order because of electronic mail technical issues and were unaware of the 12:00 P.M. deadline.

1. On November 3, 2017, the Court held a telephonic status conference with the parties to discuss Defendant’s motion to seal Exhibit F to Defendant’s memorandum of law in support of its motion to compel (Dkt. No. 141). During the conference, Defendant informed the Court that it intended to file a motion to compel

regarding the redactions Plaintiffs made to the version of Exhibit F they produced to Defendant.

2. According to Plaintiffs' counsel's notes, during the telephonic status conference the Court advised the parties that the deadline for Defendant to file its motion to compel was Monday, November 6 and the deadline for Plaintiffs' to file their response was Thursday, November 9. Plaintiffs' counsel's notes do not reflect any time limitation set by the Court for those filings.

3. On the evening of November 3, 2017, the Court entered an Order setting the briefing schedule on Defendant's motion to compel redacted information from Plaintiffs' phone records. (Dkt. No. 142.) Pursuant to the Court's November 3, 2017 Order, Defendant was to file its motion to compel on November 6, 2017 by 12:00 P.M and Plaintiffs were to file their response on November 9, 2017 by 12:00 P.M.

4. From Friday, November 3 to Monday, November 6, Plaintiffs' lead counsel experienced technical issues with their email server. As a result of these technical issues, lead counsel did not receive electronic notification of the Court's November 3, 2017 Order.

5. As the accompanying declaration of Michael Silverman demonstrates, Plaintiffs' lead counsel were unaware of the 12:00 P.M. deadline set forth by the Court in its November 3, 2017 Order. Plaintiffs' lead counsel believed that they had until the end of the day on November 9, 2017 to file their response.

6. Plaintiffs' lead counsel did not receive any emails from the afternoon of Friday, November 3 to the morning of Monday, November 6.

7. Although the technical issues with the email server were ultimately resolved, the email server did not re-send emails that were undelivered while the server was malfunctioning.

8. Accordingly, Plaintiffs' lead counsel were unaware of the Court's November, 3, 2017 Order until the Court entered its November 9, 2017 Order granting Defendant's motion to compel for Plaintiffs' failure to file a response by the 12:00 P.M. deadline.

9. In order to comply with the Court's Orders, Plaintiffs have already filed their response in opposition to Defendant's motion to compel. (See Dkt. No. 148.)

10. The granting of this motion will not require modification of a scheduling order pursuant to Fed. R. Civ. P. 16(b) or the deadlines established by the standing order on scheduling in civil cases.

11. This motion is accompanied by a declaration executed by Michael Silverman, one of Plaintiffs' lead counsel.

WHEREFORE, undersigned counsel moves that the Court grant the motion for reconsideration and to accept the filing of Plaintiffs' Response in Opposition to Defendant World Wrestling Entertainment, Inc.'s Motion to Compel Redacted Information From Phone Records (Dkt. No. 148).

Dated: November 9, 2017

Respectfully submitted,

/s/ Maura A. Mastrony

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CERTIFICATE OF SERVICE

This is to certify that on this 9th day of November, 2017, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.



CLENDENEN & SHEA, LLC