

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

MALIBU MEDIA, LLC

Plaintiff,

v.

STEPHEN MCSWEENEY, CHARLIE TOLLEY,  
JEREMIAH MCKINNEY, JAMES HELFERICH, ERNEST  
NURULLAEVA, an JOHN DOE 1 and 7,

Defendants.

Civil Action No. 1:12-cv-00842-TWP-MJD

**MOTION TO STRIKE**

NOW COMES, a Defendant, JAMES HELFERICH, (“Helferich”) by and through his attorneys, SHAY KEPPLER PHILLIPS, LTD., who moves this Honorable Court to Strike Plaintiff’s Notice of Plaintiff’s Election of Statutory Damages (the “Notice”). In support thereof, Helferich provides the contemporaneously filed memorandum and states as follows:

1. On August 2, 2013, Plaintiff, Malibu Media, LLC filed its Notice. (ECF Doc. 79).
2. The election to statutory damages, in part, is unlawful as the alleged infringement occurred prior to the registration of the copyrighted works. *See*, 17 U.S.C. § 412.

WHEREFORE, the Defendant, JAMES HELFERICH, respectfully requests that this Court enter an Order striking the Notice.

Dated: August 12, 2013

Respectfully submitted,

/s/ Jonathan LA Phillips

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**CERTIFICATE OF SERVICE**

I certify that on August 12, 2013 a copy of the foregoing Memorandum in Support of Motion to Strike was served to all relevant parties by:

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