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

MALIBU MEDIA, LLC,	
Plaintiff,	
v.	Civil Action No. 2:13-cv-11436-DML-MJH
KURT SCHELLING,	
Defendant.	
	<u> </u>

MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST DEFENDANT KURT SCHELLING

Plaintiff, Malibu Media, LLC ("Plaintiff"), by and through undersigned counsel, and pursuant to Fed.R. Civ.P. 55, hereby files its Motion for Entry of Default Judgment ("Motion") against Defendant, Kurt Schelling ("Defendant"), and in support thereof, states:

- 1. On March 29, 2013, Plaintiff filed its Complaint in this action.
- 2. On June 4, 2013, Plaintiff filed its Amended Complaint.
- 3. Service of summons and Amended Complaint was obtained as follows:

Defendant Date of Service, Type of Service Kurt Schelling June 13, 2013, Personal

- 4. Defendant has failed to plead or otherwise defend himself against Plaintiff's Amended Complaint.
- 5. On July 11, 2013, Plaintiff filed and served a request that the Clerk of the Court enter Defendant default pursuant to Fed.R.Civ.P. 55(a).
 - 6. Default was entered as to Defendant Kurt Schelling on July 11, 2013.

2:13-cv-11436-DML-MJH Doc # 11 Filed 09/12/13 Pg 2 of 3 Pg ID 74

7. Defendant is not a minor or an otherwise incompetent person. See Decl. of Paul

J. Nicoletti, Esq.

8. This Motion is based on the allegations in Plaintiff's Amended Complaint.

Defendant has admitted all of the facts alleged therein by failing to plead or otherwise respond to

the Amended Complaint. See Ortiz-Gonzalez v. Fonovisa, 277 F3rd 59, 62-63 (1st Cir. 2002)

("A defaulting party is taken to have conceded the truth of the factual allegations in the

complaint as establishing the grounds for liability as to which damages will calculated.")

(internal quotation marks and citation omitted).

9. This Motion is further based on the facts attested to in the Declaration of Paul J.

Nicoletti, Esq. and the Memorandum of Points and Authorities in Support of Motion for Entry of

Default Judgment filed contemporaneously herewith, and the record of the proceedings and

papers on file herein. These materials are sufficient to justify the requested relief.

WHEREFORE, Plaintiff, Malibu Media, LLC, respectfully requests entry of a default

judgment in favor of Plaintiff and against Defendant, Kurt Schelling, in the form of the Proposed

Default Judgment and Permanent Injunction attached hereto, and for such other and further relief

this Court deems just and proper.

Dated: September 12, 2013

Respectfully submitted,

By: /s/ Paul J. Nicoletti

Paul J. Nicoletti

paul@nicoletti-associates.com

Law Office of Nicoletti & Associates, PLLC

36880 Woodward Avenue, Suite 100

Bloomfield Hills, MI 48304

Phone: 248-203-7800

Attorney for Plaintiff

2

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2013, I electronically filed the foregoing document with the Clerk of the Court and all parties using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document via U.S. Mail to the persons set forth in the Service List below.

By: /s/ Paul J. Nicoletti
Paul J. Nicoletti

Service List

Kurt Schelling 38 Meadowview Drive Howell, MI 48843

CERTIFICATE OF COMPLIANCE

Pursuant to MI R USDCTED LR 5.1(a), I hereby certify that the MOTION FOR ENTRY OF DEFAULT JUDGMENT AGAINST DEFENDANT KURT SCHELLING has been prepared using one of the font and point selections approved by the Court in MI R USDCTED LR 5.1(a)(3). This document was prepared using Times New Roman (12 pt.).

This 12th day of September 2013.

/s/ *Paul J. Nicoletti*Paul J. Nicoletti