

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

	X	
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MALIBU MEDIA, LLC,	:	
	:	
Plaintiff,	:	Civil Action No. <u>1:14-cv-493-TSB</u>
	:	
vs.	:	
	:	
JOHN DOE subscriber assigned IP address	:	
65.189.10.120,	:	
	:	
Defendant.	:	
	:	
	X	

**PLAINTIFF'S REPLY TO PLAINTIFF'S MOTION FOR EXTENSION OF TIME
WITHIN WHICH IT HAS TO EFFECTUATE SERVICE ON DEFEDANT**

Plaintiff respectfully requests the Court grant its Motion for Extension of Time to Serve Defendant. Fed. R. Civ. P. 4(m) states that “if the plaintiff shows good cause for the failure [to serve], the court must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m). Courts have traditionally found good cause to extend the service deadline when the defendant is unknown and further discovery will reveal his identity. *See e.g. Cuebas v. Davila*, 618 F. Supp. 2d 124, 132 (D.P.R. 2009) (“This Court considers that Plaintiffs have shown good cause for their failure to identify the unknown defendants. They are correct in pointing out that in this case only discovery proceedings will provide them with the means to obtain the names of the remaining unknown defendants.”)

In this case, the delay in receiving Defendant’s identity and proceeding with the case is because Defendant filed a Motion to Quash Subpoena [CM/ECF 8] and therefore Time Warner has not provided Defendant’s identity. Plaintiff has not contributed to this delay in anyway. Defense counsel claims it will accept service, but has not provided any proof or evidence that it

even represents the proper defendant in this case. As set forth in Plaintiff's opposition [CM/ECF 9] and sur-reply [CM/ECF 14], Plaintiff should not be required to proceed and litigate against an unknown party.

If the Court were to dismiss the case now for failure to serve process, Plaintiff would have to re-file its case, request a new motion for leave to take early discovery, and likely the same process would repeat itself. It is not in the interests of justice, nor judicially efficient to dismiss Plaintiff's Complaint, when Plaintiff has not caused any delay.

For the foregoing reasons Plaintiff respectfully requests the Court grant its Motion for Extension of Time [CM/ECF 15].

DATED: October 28, 2014.

Respectfully submitted,

YMF, INC.: The Law Office of Yousef M. Faroniya

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2014, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ Yousef M. Faroniya
Yousef M Faroniya

