

No. 16-3628

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

MALIBU MEDIA LLC,
Plaintiff-Appellee,
v.
DAVID RICUPERO,
Defendant-Appellant.

On Appeal from the United State District Court
for the Southern District of Ohio
No. 2:14-cv-00821

**MOTION TO FILE PLAINTIFF-APPELLEE'S RESPONSE BRIEF
UNDER SEAL**

Plaintiff-Appellee, Malibu Media, LLC ("Plaintiff"), moves for entry of an order to file its Response Brief under seal pursuant to 6th Cir. R. 25(h)(2) and states:

1. Plaintiff has prepared its Response Brief in the above captioned action.
2. In the District Court, Judge Kemp ordered several documents in the underlying litigation sealed. Order on Motion to Dismiss, R. 91, Page Id # 1234. Specifically, Judge Kemp ordered that Plaintiff's Motion to Dismiss

(R. 76 and corresponding Exhibits) be temporarily sealed until further order of the court.

3. The district court noted, “[b]ased on the parties’ briefing, it appears that the only information to be considered for filing under seal is Malibu Media’s expert report and any citations to that report in its motion to dismiss.”

R. 91. Page ID #1234.

3. The district court then set a procedure to determine whether the documents should remain under seal. “The Court will grant the parties fourteen days to file affidavits identifying any information they seek to have remain sealed and explaining why this treatment is necessary. Based upon any affidavits, the Court will determine whether to leave any documents sealed and order redacted versions to be filed. If no affidavits are filed, the Court will unseal the motion to dismiss with attached exhibits on the fifteenth day.” *Id.*

4. To date, the district court has not issued an order on whether to unseal or alternatively to file redacted versions of the documents. The district court has not unsealed any of the documents filed under R. 76.

5. Because Plaintiff-Appellee’s Response Brief relies in-part on information in the sealed documents, and pursuant to Judge Kemp’s order to temporarily seal, *id.*, and pursuant to 6th Cir. R. 25(h)(5), Plaintiff-Appellee files this Motion.

5. Good cause exists to grant this Motion.

WHEREFORE, Plaintiff, Malibu Media, LLC respectfully requests that the Court permit Plaintiff to file its Response Brief under seal. A redacted version will also be filed publicly.

Dated: January 13, 2017

Respectfully submitted,

By: /s/ Emilie Kennedy
Emilie Kennedy, Esq. (92808)
Pillar Law Group APLC
150 South Rodeo Drive
Suite 260
Beverly Hills, CA 90212
Tel: 310-999-0000
E-mail: emilie@pillar.law
Attorneys for Plaintiff

CERTIFICATION OF SERVICE

I hereby certify that on January 13, 2017, 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/ Emilie Kennedy