

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

| | | |
|--------------------|---|---|
| MALIBU MEDIA, LLC, |) | |
| |) | |
| Plaintiff, |) | Civil Action Case No.: <u>1:12-cv-22768-PAS</u> |
| |) | |
| v. |) | |
| |) | |
| LEO PELIZZO, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

**MOTION TO WITHDRAW AND STRIKE PLAINTIFF’S MEMORANDUM
IN OPPOSITION TO MOTION TO DISMISS [DKT. #8]**

Pursuant to Rule FL ST BAR Rule 4-4.4(b), Plaintiff, Malibu Media, LLC, hereby moves this Court for an order striking the memorandum containing Plaintiff’s attorney notes CM/ECF 8, and requiring adverse counsel to destroy any copy of the memorandum, and states:

1. On October 9, 2012, Plaintiff’s filed its Memorandum in Opposition to Defendant’s Motion to Dismiss.
2. The paralegal who uploaded that memo attached the wrong document.
3. The document that was filed contained confidential proprietary attorney notes.
4. Attached hereto as Exhibit A is the Memorandum in Opposition which should have been attached to Plaintiff’s original filing.
5. Florida Bar Rules 4-4(b) require that all parties that receive an inadvertent disclosure destroy the disclosure.

WHEREFORE, Plaintiff respectfully seeks the entry of an order: a) striking the inadvertently filed Memorandum containing Plaintiff’s attorneys note CM/ECF 8, b) requiring adverse counsel to destroy any copy of the Memorandum in their possession, custody or control,

and c) substituting for filing the Memorandum in opposition attached hereto as Exhibit A. A proposed order is attached for the Court's convenience.

Dated October 15, 2012

Respectfully submitted,

By: /s/ M. Keith Lipscomb
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2012, 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/ M. Keith Lipscomb