

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 13-cv-02394-WYD-MEH

MALIBU MEDIA, LLC,

Plaintiff,

v.

JEREMIAH BENSON,

Defendant.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE**

THIS MATTER is before the Court on plaintiff, Malibu Media, LLC's, Partially Unopposed Motion To Strike Defendant's Affirmative Defenses [ECF No. 26] and Magistrate Judge Hegarty's Recommendation [ECF No. 38]. I referred Malibu Media, LLC's motion to Magistrate Judge Hegarty on February 25, 2014. ECF No. 27. On April 11, 2014, Magistrate Judge Hegarty issued a Recommendation on Malibu Media, LLC's motion and stated that the motion should be granted. Magistrate Judge Hegarty's Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1), Rule 72(b) of the FEDERAL RULES of CIVIL PROCEDURE, and D.C.COLO.LCivR. 72.1.

Magistrate Judge Hegarty advised the parties that they had 14 days after service of a copy of his Recommendation to file objections to the Recommendation. ECF No. 38, p. 1, n.1. As of Friday, June 20, 2014, no party has filed objections. Because the parties did not file objections, I am vested with discretion to review the Recommendation "under any standard [I] deem[] appropriate." *Summers v. Utah*, 927

F.2d 1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that “[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings”). Nonetheless, though not required to do so, I review the Recommendation to “satisfy [my]self that there is no clear error on the face of the record.”¹ Advisory Committee Notes to FED. R. CIV. P. 72(b).

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Magistrate Judge Hegarty’s Recommendation is thorough, well-reasoned, and sound. Further, I agree that Malibu Media, LLC’s Partially Unopposed Motion To Strike Defendant’s Affirmative Defenses [ECF No. 26] should be granted.

CONCLUSION

After careful consideration of the matters before this Court, it is ORDERED that Magistrate Judge Hegarty’s Recommendation [ECF No. 38] is **AFFIRMED** and **ADOPTED**. Accordingly, it is FURTHER ORDERED that Malibu Media, LLC’s Partially Unopposed Motion To Strike Defendant’s Affirmative Defenses [ECF No. 26] is **GRANTED** and defendant, Jeremiah Benson’s, first, second, fourth, and fifth affirmative defenses, as stated in his Answer [ECF No. 21], are **STRICKEN**.

¹ Note, this standard of review is something less than a “clearly erroneous or contrary to law” standard of review, FED. R. CIV. P. 72(a), which in turn is less than a *de novo* review, FED. R. CIV. P. 72(b).

Dated: June 20, 2014.

BY THE COURT:

/s/ Wiley Y. Daniel

Wiley Y. Daniel

Senior U. S. District Judge