

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ELEKTRA ENTERTAINMENT
GROUP, INC., et al.,

Plaintiffs,

v.

JOHN HARLESS,

Defendant.

CIVIL ACTION NO. 04-74502

DISTRICT JUDGE BERNARD A. FRIEDMAN

MAGISTRATE JUDGE DONALD A. SCHEER

ORDER

Defendant's Motion to Compel Discovery, filed May 26, 2005, was referred to the undersigned magistrate judge for hearing and determination. The parties appeared, by counsel, for hearing on June 23, 2005. Having reviewed defendant's motion, together with plaintiffs' response, and having heard the arguments of counsel, I find that the motion should be granted in part, and denied in part, as follows:

1. Plaintiffs may designate non-party Media Sentry as a proper deponent in response to defendant's Rule 30(b)(6) Notice of Deposition. Provided, however, that plaintiffs shall perform in a timely manner all acts reasonably necessary to select the proper agent(s) of Media Sentry to be deposed, and to schedule the deposition(s) of the designee(s) within a reasonable time following the entry of this Order.

2. Plaintiffs shall further confirm in writing their claim that no officer, director, managing agent or employee of the plaintiffs possesses relevant evidence or information on the subject matters designated in defendant's Rule 30(b)(6) Deposition Notice, beyond

the information which defendant may obtain by means of the deposition(s) of the designated agent(s) of Media Sentry.

3. Plaintiffs shall be precluded at trial from offering any evidence or testimony on the subject areas designated in defendant's Rule 30(b)(6) Deposition Notice through their officers, directors, managing agents or other employees, beyond the evidence available to defendant through the agent(s) of Media Sentry who is/are designated as Rule 30(b)(6) deponent(s). Provided, however, that this prohibition shall not apply to evidence or information obtained by plaintiffs subsequent to the Rule 30(b)(6) deposition(s) of Media Sentry agent(s), so long as reasonable notice of the acquisition of such additional information is provided to counsel for defendant. In the event plaintiffs acquire, and provide notice to defendant of, after-acquired information on the subject areas designated in the Rule 30(b)(6) deposition notice, defendant shall be permitted to depose the officer, agent or employee designated by plaintiffs as possessed of such knowledge or information.

s/Donald A. Scheer
DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

DATED: June 24, 2005

CERTIFICATE OF SERVICE

I hereby certify on June 24, 2005 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on June 24, 2005. **John T. Hermann.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge Donald A. Scheer
(313) 234-5217