


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MALIBU MEDIA, LLC,)	
)	
Plaintiff,)	
)	
vs.)	
)	No. 1:13-cv-00205-WTL-MJD
KELLEY TASHIRO,)	
)	
Defendant.)	

ORDER ON PLAINTIFF’S MOTION FOR ORDER TO SHOW CAUSE

This matter is before the Court on Plaintiff Malibu Media’s Motion for Entry of an Order Requiring Defendant to Show Cause why Sanctions should not be Entered Against Her for Spoliation of Evidence and Perjury [Dkt. 76.] This motion, however, is procedurally backwards as Plaintiff attempts to shift the burden of proof to Defendant to show why sanctions should not be issued. However, the burden is on the Plaintiff to prove that sanctions are warranted. *See Trask-Morton v. Motel 6 Operating L.P.*, 534 F.3d 672, 681 (7th Cir. 2008) (to succeed on a motion for sanctions, there must have been a duty to preserve and an act of bad faith); *Bracey v. Grondin*, 712 F.3d 1012, 1019 (7th Cir. 2013) (“the moving party . . . must establish the defendant[] destroyed [evidence] in bad faith”). Accordingly, Plaintiff’s Motion [Dkt. 76.] is **DENIED** without prejudice to its resubmission as a motion for sanctions. Plaintiff is also granted permission to delay refile until after its Motion to Amend/Correct Amended Complaint [Dkt. 107] has been decided.

Date: 05/14/2014



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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