

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 16-11767

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D.C. Docket No. 8:13-cv-03007-JSM-TBM

MALIBU MEDIA, LLC,

Plaintiff–Appellee,

versus

ROBERTO ROLDAN,

Defendant–Appellant.

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Appeal from the United States District Court  
for the Middle District of Florida

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(April 17, 2018)

Before TJOFLAT, ROSENBAUM and SENTELLE,\* Circuit Judges.

PER CURIAM:

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\* Honorable David Bryan Sentelle, United States Circuit Judge for the District of Columbia, sitting by designation.

In this case, after Appellant, one of two defendants, moved the District Court for summary judgment on Plaintiff's copyright infringement claims, Plaintiff "stipulated" that the Court dismiss Appellant from the case without prejudice.<sup>1</sup> The Court, in response, entered an order dismissing Appellant without prejudice. Appellant thereafter moved the Court pursuant to Federal Rule of Civil Procedure 59(e) to amend its order to provide that the dismissal was with prejudice. The Court denied his motion, and Appellant appealed.

During oral argument, Plaintiff's counsel conceded that the District Court should have dismissed Appellant with prejudice. Given this concession, we vacate the District Court's order and instruct the Court to enter a judgment dismissing Appellant from this case with prejudice.

SO ORDERED.

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<sup>1</sup> Appellant did not join in the "stipulation."