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14 *Local Counsel*

15 *Attorneys for Defendant ComicMix LLC*

16 **UNITED STATES DISTRICT COURT**  
17 **SOUTHERN DISTRICT OF CALIFORNIA**

18 **DR. SEUSS ENTERPRISES, L.P.,**

19 Plaintiff,

20 v.

21 **COMICMIX LLC; GLENN**  
22 **HAUMAN; DAVID JERROLD**  
23 **FRIEDMAN a/k/a DAVID**  
24 **GERROLD; and TY TEMPLETON,**

25 Defendants.

Case No. 3:16-cv-02779-JLS-BGS

**COMICMIX LLC'S JOINT MOTION**  
**FOR A STIPULATED EXTENSION**  
**OF TIME TO ANSWER**

Assigned to Hon. Janis L. Sammartino  
United States District Judge

26 Pursuant to CivLR 7.2 and 12.1, plaintiff Dr. Seuss Enterprises L.P. ("DSE")  
27 and defendant ComicMix LLC ("ComicMix") hereby jointly move for and stipulate  
28 to a retroactive, one-day extension of time for ComicMix to answer or move to  
dismiss the complaint. In support of the motion, ComicMix states as follows.

DSE filed the complaint on November 10, 2016. Doc. 1. DSE had the  
complaint served on ComicMix on November 25, 2016. *See* Affidavit of Dan Booth  
("Aff.") ¶ 2 attached hereto. At the time, ComicMix had not engaged any counsel for  
the purposes of any anticipated litigation. *Id.* ¶ 3. It had engaged the services of the

1 undersigned attorney Dan Booth for the limited purposes of seeking reinstatement of  
2 its crowdfunding campaign on Kickstarter.com, and a negotiated settlement of its  
3 dispute with DSE. *Id.*; *see also* Doc. 1 ¶¶ 43-44; RJN Ex. 4.

4 Pursuant to Fed. R. Civ. P. 12, ComicMix would be due to answer the  
5 complaint or file a motion under Rule 12 on or before Friday, December 16, 2016.  
6 Attorney Booth informed ComicMix of that due date on November 25, 2016. Aff. ¶  
7 4. ComicMix, after weighing its options, first engaged Attorney Booth as its counsel  
8 for purposes of this litigation on December 14, 2016. *Id.*

9 ComicMix was able to engage the undersigned Michael Licari as local  
10 counsel on December 16, 2016. *Id.* ¶ 5. On that date, Attorney Licari filed his notice  
11 of appearance and Attorney Booth filed his request for *pro hac vice* admission. Doc.  
12 5 & 6. Also on that date, Attorney Licari contacted the Court's clerk on that date and  
13 obtained a hearing date of March 16, 2017 on the Rule 12 motion. Aff. ¶ 5.

14 In earnest, ComicMix and its counsel made best efforts to timely file  
15 responsive papers before midnight December 16, 2016, the deadline for electronic  
16 filing pursuant to Fed. R. Civ. P. 6(a)(4)(A). In the evening of December 16, 2016,  
17 Attorney Booth finalized the notice of motion, Rule 12 motion, memorandum of  
18 points and authorities in support thereof, corporate disclosure statement, request for  
19 judicial notice, exhibits thereto, and affidavit in support of request for judicial  
20 notice, with the intention of filing before midnight. Aff. ¶ 6. However, Attorney  
21 Booth was unable to file the documents through the Court's Electronic Case Filing  
22 (ECF) system when he attempted to do so on the evening of December 16, 2016,  
23 because his request for *pro hac vice* admission had not yet been approved. *Id.* Upon  
24 discovering that he was unable to file electronically, he sent the documents to  
25 Attorney Licari before midnight, but Attorney Licari was unavailable to file timely  
26 before midnight. *Id.*

27 No party will be prejudiced by allowing ComicMix a brief, one-day extension.  
28 DSE will still have the same period of time in which to file any response in

1 opposition to ComicMix’s motion, and the scheduled date for the hearing on the  
2 motion, three months away, will not be affected. The other parties had not been  
3 served as of December 16, 2016. Today, after Attorney Booth notified Attorney  
4 Duvdevani that he his attempt to file the Rule 12 motion on December 16 had been  
5 unsuccessful due to technical issues, DSE’s counsel Marc Miller sent Attorney  
6 Booth requests to waive service for the other Defendants. Aff. ¶ 7. DSE, through its  
7 counsel, has indicated to ComicMix that it joins in this motion and stipulates to the  
8 relief sought herein.

9 Wherefore, ComicMix respectfully requests that the Court grant this request for a  
10 retroactive extension of time to file its Rule 12 motion in response to the complaint.

11 The instant request is based on this request, undersigned counsel’s affidavit in  
12 support hereof, and the documents referenced herein.

1 Respectfully submitted,

2 DATED: December 19, 2016

3  
4 BOOTH SWEET LLP

D'EGIDIO LICARI & TOWNSEND, APC

5  
6 /s/ Dan Booth

/s/ Michael Licari

7  
8 Dan Booth  
9 *Pro Hac Vice Pending*

Michael Licari  
*Local Counsel*

10 *Attorneys for Defendant ComicMix LLC*

11  
12  
13  
14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on this December 19, 2016 I electronically filed the  
16 foregoing document by using the Court's ECF system, thereby causing a true copy  
17 thereof to be served upon counsel of record for each party to have appeared to date,  
18 as identified on the Notice of Electronic Filing.

19  
20 /s/ Michael Licari