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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

**AFFIDAVIT OF DAN BOOTH IN  
SUPPORT OF COMICMIX LLC'S  
JOINT MOTION FOR EXTENSION  
OF TIME TO ANSWER**

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

Hearing Date: March 16, 2017  
Hearing Time: 10:00 a.m.  
Hearing Place: Schwartz Courthouse,  
Courtroom 4A

26 I, Dan Booth, declare pursuant to 28 U.S.C. § 1746 as follows:

- 27 1. I am counsel for the defendant ComicMix LLC (“ComicMix”) in this action. I  
28 make this affidavit on my own personal knowledge.
2. Plaintiff Dr. Seuss Enterprises LLP (“DSE”) had the complaint served on  
ComicMix on November 25, 2016.
3. At the time, ComicMix had not engaged any counsel for the purposes of any  
anticipated litigation. It had engaged my services for the limited purposes of

1 seeking reinstatement of its crowdfunding campaign on Kickstarter.com, and a  
2 negotiated settlement of its dispute with DSE.

3 4. I informed ComicMix on November 25, 2016 that its answer or Rule 12  
4 motion would be due on or before December 16, 2016. ComicMix, after  
5 weighing its options, first engaged me as its counsel for purposes of this  
6 litigation on December 14, 2016.

7 5. ComicMix was able to engage Michael Licari as local counsel on December  
8 16, 2016. He contacted the Court's clerk on that date to obtain a hearing date  
9 of March 16, 2017 on the Rule 12 motion.

10 6. In earnest, ComicMix and its counsel made best efforts to timely file  
11 responsive papers before midnight December 16, 2016. That evening, I  
12 finalized the notice of motion, Rule 12 motion, memorandum of points and  
13 authorities in support thereof, corporate disclosure statement, request for  
14 judicial notice, exhibits thereto, and affidavit in support of request for judicial  
15 notice, with the intention of filing before midnight. However, I was unable to  
16 file the documents through the Court's Electronic Case Filing (ECF) system  
17 when I attempted to do so on the evening of December 16, 2016, because my  
18 request for *pro hac vice* admission had not yet been approved. Upon  
19 discovering that I could not file electronically, I sent the documents to  
20 Attorney Licari before midnight, but Attorney Licari was unavailable to file  
21 timely before midnight.

22 7. Today, Monday, December 19, 2016, I notified DSE's counsel Tamar  
23 Duvdevani that my attempt to file ComicMix's Rule 12 motion on December  
24 16 had been unsuccessful due to technical difficulties. Thereafter, DSE's  
25 counsel Marc Miller sent me requests to waive service for the other  
26 Defendants.

27  
28 I declare under penalty of perjury that the foregoing is true and correct.

1 Executed on December 19, 2016

2 /s/ Dan Booth

3  
4 **CERTIFICATE OF SERVICE**

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

9  
10 /s/ Michael Licari