

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-01546-REB-CBS

THE DIRECT MARKETING ASSOCIATION,

Plaintiff,

v.

ROXY HUBER, in her capacity as Executive Director,  
COLORADO DEPARTMENT OF REVENUE,

Defendant.

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**ORDER ON DEFENDANT'S UNOPPOSED MOTION 1) FOR LIMITED EXPEDITED DISCOVERY, 2) TO CONSOLIDATE PRELIMINARY INJUNCTION PROCEEDINGS WITH A TRIAL ON THE MERITS ON PLAINTIFF'S COMMERCE CLAUSE CLAIMS, 3) TO STAY PROCEEDINGS ON PLAINTIFF'S REMAINING CLAIMS, AND 4) IN THE ALTERNATIVE, FOR AN EXTENSION OF TIME IN WHICH DEFENDANT MAY RESPOND TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND REPLY IN SUPPORT OF HER MOTION TO DISMISS**

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This matter coming before the Court on Defendant's Unopposed Motion 1) for limited expedited discovery, 2) to consolidate preliminary injunction proceedings with a trial on the merits on Plaintiff's Commerce Clause claims, 3) to stay proceedings on Plaintiff's remaining claims, and 4) in the alternative, for an extension of time in which Defendant may respond to Plaintiff's Motion for Preliminary Injunction and reply in support of her Motion to Dismiss, and it appearing to the Court that the same should be GRANTED,

It is hereby ordered that Plaintiff's Motion for Preliminary Injunction shall be consolidated with a trial on the merits as to Counts I and II of Plaintiff's Complaint (the Commerce Clause claims).

The parties shall conduct limited expedited discovery on the issues raised in Plaintiff's Motion for Preliminary Injunction and on Plaintiff's Commerce Clause claims according to the following schedule:

- September 13, 2010: Parties to exchange Rule 26(a)(1) disclosures covering Plaintiff's Commerce Clause claims and any witnesses/documents to be used in conjunction with the Motion for Preliminary Injunction;
- September 20, 2010: Plaintiff to designate experts, including production of materials required by Rule 26(a)(2)(b) and the experts' complete files subject to discovery;
- October 11, 2010: Deadline for parties to serve written discovery (with a total of no more than 10 interrogatories, 10 requests for production, and 10 requests for admission to be served by each party), to make any supplemental disclosures related to Plaintiff's Commerce Clause claims and the Motion for Preliminary Injunction, to produce all documents identified in initial and supplemental disclosures, and to exchange initial proposals for Joint Stipulations of Fact;

- October 22, 2010: Defendant to designate experts, including production of materials required by Rule 26(a)(2)(b) and the experts' complete files subject to discovery;
- November 5, 2010: Deadline for non-expert depositions (limit of three (3) per party);
- November 15, 2010: Discovery cut-off for issues related to Plaintiff's Commerce Clause claims and the Motion for Preliminary Injunction;
- November 30, 2010: Deadline for filing stipulations of fact to the extent that the parties can agree upon stipulations; deadline for dispositive motions or pre-hearing memoranda addressing issues presented by Plaintiff's Motion for Preliminary Injunction and/or on Plaintiff's Commerce Clause claims;
- December 10, 2010: Deadline for filing responses to dispositive motions or pre-hearing memoranda.

It is further ordered that a three-day hearing on Plaintiff's request for an injunction and the merits of Plaintiff's Commerce Clause claims shall be held on

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It is further ordered that all remaining proceedings shall be stayed until an order is issued resolving Plaintiff's request for an injunction and the merits of Plaintiff's Commerce Clause claims. Specifically, the scheduling conference on September 23, 2010 is hereby vacated, all deadlines in the order of July 7, 2010 are vacated, and the time in which Defendant may reply in support of her Motion to Dismiss is stayed until

such time as an order is issued on Plaintiff's request for an injunction and the merits of Plaintiff's Commerce Clause claims.

ALTERNATIVELY, it is ordered that Defendant shall be permitted an additional three weeks, or up to and including September 28, 2010 in which to respond to Plaintiff's Motion for Preliminary Injunction. Defendant shall also be permitted up to and including September 21, 2010 in which to reply in support of her Motion to Dismiss.

Dated this \_\_\_ day of September, 2010.

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District Court Judge