

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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**DEFENDANT'S OPPOSED MOTION FOR LEAVE TO EXCEED PAGE LIMITATION  
FOR HER REPLY BRIEF IN SUPPORT OF HER MOTION TO DISMISS**

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Defendant, Roxy Huber, in her official capacity as the Executive Director of the Colorado Department of Revenue, respectfully moves the Court for leave to exceed the Court's page limitation for replies. As grounds therefore, Defendant states as follows:

1. Pursuant to D.C.COLO.LCivR. 7.1A of the Federal Rules of Civil Procedure, counsel for Defendant conferred with counsel for Plaintiff. Plaintiff opposes the relief requested in this Motion to the extent that the page limit is extended by more than 5 pages (for a total of 15 pages).

2. Plaintiff filed this suit challenging the constitutionality of a Colorado statute, HB 10-1193. Plaintiff challenges the Act under the Commerce Clause, the First Amendment, and on a variety of theories under the Fifth and Fourteenth Amendments. Plaintiff purports to bring the suit on behalf of not only the association, but also the association's member-retailers, and the retailers' customers.

3. Defendant filed her Motion to Dismiss First Amended Complaint on July 30, 2010 [Dkt #14]. Defendant's Motion to Dismiss contended that Plaintiff lacked standing and separately sought dismissal of each of Plaintiff's claims other than under the Commerce Clause. Defendant's brief was 36 pages long, in accordance with the Court's Order of July 21, 2010 limiting the opening brief to 40 pages [Dkt #9].

4. Plaintiff filed a brief responding in opposition to Defendant's Motion to Dismiss on August 27, 2010 [Dkt #23]. Plaintiff's Response Brief was 36 pages, in accordance with the Court's Order of August 19, 2010, granting a motion for Plaintiff to exceed the page limitation up to 36 pages [Dkt #21].

5. Defendant's reply brief in support of its Motion to Dismiss is due on November 30, 2010 [Dkt #40 (Scheduling Order)].

6. Pursuant to this Court's Practice Standards for Civil Actions, reply briefs shall not exceed 10 pages, which is two-thirds of the length of an initial or response brief. REB Civ. Practice Standard V.B.1.

7. Defendant requests leave to file a reply brief of up to 20 pages in length, which is less than two-thirds the lengths of the initial and response briefs.

8. Good cause exists for a finite extension of the Court's page limitation.

9. Although the parties have resolved Defendant's challenge to Plaintiff's standing under the Commerce Clause, Defendant continues to contest Plaintiff's standing to bring its other claims. Defendant additionally must reply in support of its Motion to Dismiss as to all of Plaintiff's other constitutional claims, several of which appear to raise issues of first impression, both in this circuit and around the country.

WHEREFORE, Defendant requests this Court enter an Order granting Defendant up to and including 20 pages in which to reply in support of her Motion to Dismiss.

Respectfully submitted this 23rd day of November, 2010.

JOHN W. SUTHERS  
Attorney General

*s/ Stephanie Lindquist Scoville*

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 23, 2010, I electronically filed the foregoing **DEFENDANT'S OPPOSED MOTION FOR LEAVE TO EXCEED PAGE LIMITATION FOR HER REPLY BRIEF IN SUPPORT OF HER MOTION TO DISMISS** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-addresses:

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*Attorney for Plaintiff*

s/ Stephanie Lindquist Scoville