

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA,**

Plaintiff,

v.

**JACQUES SERVIN, et al.**

Defendants.

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Case No. 09-CV-02014-RWR

**DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY TO  
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR EXTENSION OF TIME**

Pursuant to Fed. R. Civ. P. 6(b)(1), Defendants Jacques Servin, Igor Vamos, Support and Commitment, Inc., David Seivers, Morgan Goodwin, Sarah Murphy, and John and Jane Does Nos. 1-20 submit the following memorandum of points and authorities in reply to Plaintiff's response in opposition to Defendants' November 17, 2009 Motion for Extension of Time by they must answer or otherwise respond to Plaintiff's First Amended Complaint in the above-captioned action, in addition to the time prescribed by the Federal and Local Rules, to and including January 5, 2010:

1. In its response in opposition to Defendant's motion, Plaintiff alleges that Defendants seek an "extremely long extension" of time to answer or otherwise respond to the Complaint, but that Plaintiff would accept a "reasonable extension until December 11, 2009." (Pl.'s Resp. at 1.) Plaintiff mischaracterizes and exaggerates the extension requested, and fails to address that 60-day extensions of time are provided for under the Federal Rules of Civil Procedure where, as here, Defendants offer to waive service. (*See* Fed. R. Civ. P. 4(d)(1).)

2. An extension of time to December 11, as Plaintiff proposes, is not a "reasonable" alternative. Plaintiff claims that it "offered Defendants an extension of time until December 11,"

“[b]efore Defendants filed their Motion,” however, this offer was made the same date that Defendants’ motion was filed during the parties’ consultation pursuant to Local Civil Rule 7(m). (*See* Ex. 1 (Nov. 17, 2009 letter from William E. Potts, Jr.)) It would not have been “reasonable” for Defendants to agree to waive service on all Defendants without receiving the benefit of a 60-day extension of time provided for by Fed. R. Civ. P. 4(d)(1).

3. Plaintiff complains that it would be prejudiced by an extension of time to January 5, 2010, because “Defendants are engaged in an ongoing course of conduct detrimental to the Chamber,” but the conduct Plaintiff refers to are events, such as the parody news conference, that (it acknowledges) have already transpired. (Pl.’s Resp. at ¶ 5.) Specifically, Plaintiff claims that it would be prejudiced by an extension of time because “[a]s a result of Defendants’ fraudulent use of the Chamber’s trademarks and identity, several national news organizations have already been deceived into publishing reports that incorrectly attributed Defendants’ statements to the Chamber,” but Plaintiff acknowledges that such reports were “later retracted when they learned they had been deceived.” (*Id.*) Allegations of past acts (which are the subject of Plaintiff’s action), cannot properly be the basis for denying Defendants the requested extension of time to answer or otherwise respond to the First Amended Complaint. The alleged prejudicial effect of such media reports has no relevance to the motion for extension of time now before the Court.

4. Plaintiff further alleges that Defendants’ request for an extension of time to respond to the First Amended Complaint should be denied because Defendants should not be permitted to “us[e] the Chamber’s trademarks on the Web or otherwise pending a ruling on [Defendants’ as yet unfiled] motion to dismiss.” (Pl. Resp. at ¶ 5; *see also* Ex. 1 (Nov. 17, 2009 letter from William E. Potts, Jr.)) Again, a motion for extension of time pursuant to Fed. R. Civ. P. 6(b)(1) is not the appropriate procedural method to obtain the equitable relief sought in a complaint.

Indeed, Plaintiff may not hijack what is otherwise a preliminary procedural matter to restrict Defendants' substantive rights, under the First Amendment, to engage in political commentary and parody.

5. As Defendants outlined in their motion, undersigned counsel noted their appearance on behalf of all Defendants in this action on November 10, 2009, a week before filing the instant motion. Defendants seek an extension of time to answer or otherwise respond to Plaintiff's First Amended Complaint to obtain further time to review Plaintiff's factual allegations and prepare Defendants' various responses.

WHEREFORE, Defendants respectfully request the entry of an order extending the time by which they must answer or otherwise respond to Plaintiff's First Amended Complaint to and including January 5, 2010.

Dated this 1st day of December, 2009.

Respectfully submitted,

/s/ Robert Corn-Revere

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## CERTIFICATE OF SERVICE

Pursuant to LCvR 5.3, I hereby certify that, on December 1, 2009, I electronically filed with the Clerk of the Court the foregoing Memorandum of Points and Authorities in Reply to Plaintiff's Response to Defendants' Motion for Extension of Time using the CM/ECF system, and service was effected electronically pursuant to LCvR 5.4(d) on the following party:

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