

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

WHITNEY INFORMATION NETWORK, INC.  
and RUSS WHITNEY,

Plaintiffs,

vs.

Case No. 2:04-cv-47-FtM-33SPC

XCENTRIC VENTURES, LLC;  
BADBUSINESSBUREAU.ORG; and ED  
MAGEDSON,

Defendants.

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ORDER

This matter comes before the Court on Plaintiffs' Motion for Reconsideration of Order on Defendants' Motion to Dismiss, or in the Alternative, Motion for Clarification of Order an Unopposed Motion for Enlargement of Time to File Amended Complaint (Doc. #51) filed on July 28, 2005. The Plaintiffs seek reconsideration of the Court's Order (Doc. #49) filed on July 14, 2005, denying Plaintiffs' Motion to Strike Defendants' Second Motion to Dismiss - Failure to State a Claim (Doc. #28) and granting Defendants' Second Motion to Dismiss- Failure to State A Claim (Docs. #26-2 and #27-1). The Court dismissed the Complaint (Doc. #1) without prejudice.

Plaintiffs contend that the Court's Order (Doc. #49) should be reconsidered because the Court's Order (Doc. #30) filed on October 15, 2004, granted Plaintiffs twenty days from the date the Court ruled on the pending Motion to Strike (Doc. #28) in which to

respond to the Defendants' Second Motion to Dismiss (Docs. #26-2 and #27-1). Plaintiffs argue that the Court should withdraw its Order (Doc. #49) and allow Plaintiffs the opportunity to respond to Defendants' Second Motion to Dismiss- Failure to State A Claim (Docs. #26-2 and #27-1). In the alternative, the Plaintiffs note the Court's Order (Doc. #49) is a dismissal without prejudice and seek clarification as to whether Plaintiffs are allowed to file an amended complaint. If so, the Plaintiffs seek a ten day extension of time in which to file an amended complaint.

In the interest of judicial economy, this Court considered both the Plaintiffs' Motion to Strike (Doc. #28) and the Defendants' Second Motion to Dismiss (Docs. #26-2 and #27-1) in conjunction. Upon review of the Motion for Reconsideration (Doc. #51) and the Court's Order (Doc. #49), the Court finds that the Motion for Reconsideration (Doc. #51) should be denied in part and granted in part.

Accordingly, it is now

**ORDERED, ADJUDGED, and DECREED:**

1. Plaintiff's Motion (Doc. #51) is **DENIED** as to Reconsideration of Order on Defendants' Motion to Dismiss, and **GRANTED** as to Motion for Clarification of Order and Unopposed Motion for Enlargement of Time to File Amended Complaint.
2. The Court's Order (Doc. #49) dismissing the case without

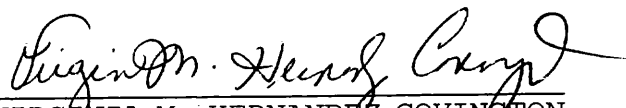
prejudice provides the Plaintiffs with an opportunity to file an amended complaint.

3. The Plaintiffs are hereby granted a TEN DAY extension of time from the date of this Order in which Plaintiffs may file an amended complaint.

4. The Clerk is directed to reopen the file.

DONE and ORDERED in Chambers in Fort Myers, Florida, this

3<sup>rd</sup> day of August, 2005.

  
VIRGINIA M. HERNANDEZ COVINGTON  
UNITED STATES DISTRICT JUDGE

Copies:

All Counsel of Record