

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case Number: 07-80438-CIV-HURLEY
U. S. Magistrate Hopkins

NYSE EURONEXT,
A foreign corporation,

Plaintiff,

v.

NICOLAS ATWOOD, a Florida citizen;
BITE BACK, INC., a Florida corporation;
ANIMAL LIBERATION FRONT, an
Unincorporated association, JANE DOES
1-100 names being unknown and fictitious;
and JOHN DOES 1-100 names being
unknown and fictitious,

Defendants.

_____/

**DEFENDANTS NICOLAS ATWOOD'S AND BITE BACK, INC.'S
MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO
PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER**

Defendants Nicolas Atwood and Bite Back, Inc. move for an enlargement of time of seven (7) days to file their response to Plaintiff's Motion for Temporary Restraining Order.

The good cause for this relief is as follows:

1. This action for injunctive relief and damages was filed on May 18, 2007 together with an *ex parte* motion for temporary restraining order. On May 25 the Court entered an Order Denying Motion for *Ex Parte* Temporary Restraining Order. The Order directed Plaintiff to hand serve the complaint, the motion and the Order on the defendants by June 4 and provided them an opportunity to file any opposition to the requested temporary restraining order by June 14.

2. Defendants Atwood and Bite Back were served by hand on June 4 and retained the undersigned attorneys as their counsel on June 11.

3. The undersigned counsel requires additional time to review the facts alleged in the motion and the lengthy supporting affidavit, and to investigate other relevant facts. The undersigned anticipates the need to prepare and file one or more declarations describing the pertinent facts and taking issue with the accuracy of certain “facts” asserted by Plaintiff.

4. Defendants’ counsel also requires additional time to analyze the law applicable to Plaintiff’s complaint and motion. The relief requested by Plaintiff raises First Amendment issues, issues of potential immunity under 47 U.S.C. §230, as well as issues concerning whether the underlying common law and equitable claims state viable causes of action. In addition, Defendant Atwood was served with process directed to defendant Animal Liberation Front (“ALF”), an unincorporated association, notwithstanding that he has no legal relationship to ALF that would authorize him to be served as its legal representative. The requested seven (7) day enlargement will provide counsel with adequate time to prepare opposition papers that will be more helpful to the Court in justly deciding the issues presented.

5. The relief requested is authorized by Fed. R. Civ. P. Rule 6(b) and is not sought merely for delay or for any other improper purpose. Atwood and Bite Back were diligent in retaining counsel in response to the May 25 Order. Atwood first discussed this potential representation with the undersigned on May 31 after he found copies of the suit papers in Bite Back’s corporate mailbox on or about that date. As a result of the death of the undersigned’s father on the morning of June 1, the undersigned was away from the office until Friday, June 8, and was unable to accept the representation until Monday, June 11.

6. A brief, seven (7) day enlargement will not unfairly prejudice Plaintiff. As the Court found in its May 25 Order, there is “no evidence” before the Court “suggesting that the named defendants in this case have ever incited, threatened or committed a crime of violence against any person, nor does [Plaintiff] present any evidence reasonably susceptible of interpretation that an act of violence against one of its employees is imminent.” Order at 6-7. Furthermore, as the Court also noted, the news reports of prior events appearing on defendant Bite Back’s website, which Plaintiff seeks to have enjoined, have been posted there since March 21 and April 7, 2007. *Id.* at 7. Considering that Plaintiff did not file this action until May 18 and that it has presented no evidence of any further incidents involving the employees identified in the reports or any of its other employees, there is no apparent reason why Plaintiff will be harmed by the brief enlargement being requested.

WHEREFORE, defendants Nicolas Atwood and Bite Back, Inc. respectfully request an enlargement of seven (7) days, through and including June 21, 2007, to file their opposition papers to Plaintiff’s Motion for Temporary Restraining Order. A proposed order is attached.

REEDER & REEDER P.A.

By s/ L. Martin Reeder, Jr.

L. Martin Reeder, Jr.
Fla. Bar No. 308684
250 S. Central Blvd.
Suite 200
Jupiter, Florida 33458
Tel.: 561-575-9750
Fax: 561-575-9765
martin@reederandreeder.com

*Attorneys for Defendants Nicolas Atwood
and Bite Back, Inc.*

CERTIFICATE OF COUNSEL

The undersigned counsel certifies, pursuant to S.D. Fla. L.R. 7.1(A)(3), that he attempted to confer with opposing counsel by telephone within regular business hours on Monday, June 11, and again on Tuesday, June 12, but was unable to reach him. Defendant's counsel also faxed and emailed a letter to Plaintiff's counsel late on June 12 asking whether Plaintiff opposed this motion, but no response has been received as of the time this motion was filed.

CERTIFICATE OF SERVICE

I hereby certify that on June 13th, 2007, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day via the transmission of Notices of Electronic Filing generated by CM/ECF on the following counsel of record for Plaintiff:

Paul M. Renner, Esq.
Milam Howard Nicandri Dees & Gillam, P.A.
4 East Bay Street
Jacksonville, FL 32202
preenner@milamhoward.com

s/ L. Martin Reeder, Jr.
L. Martin Reeder, Jr.
Fla. Bar. No. 308684