

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GEORGE S. MAY)
INTERNATIONAL COMPANY,)
)
Plaintiff,)
)
-vs-)
)
XCENTRIC VENTURES, LLC,)
RIP-OFF REPORT.COM)
BADBUSINESSBUREAU.COM,)
ED MAGEDSON, VARIOUS)
JOHN DOES, JANE DOES AND)
ABC COMPANIES,)
)
Defendants.)

Case Number: 04 C 6018
Judge Charles R. Norgle
Magistrate Judge Michael T. Mason

**PLAINTIFF GEORGE S. MAY INTERNATIONAL COMPANY’S MOTION FOR AN
EXTENSION OF TIME TO FILE WRITTEN OBJECTIONS TO MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff George S. May International Company (“GSMIC”), by its counsel, hereby moves for an extension of time to file written objections to Magistrate Judge Mason’s Report and Recommendation, issued on December 14, 2006, and respectfully requests that this Court grant GSMIC an additional ten (10) days from the date GSMIC receives a transcript of the proceedings underlying the Report and Recommendation to file written objections. GSMIC states in support of its motion as follows:

1. As this Court is aware, Defendants were found in contempt of court for violating the terms of the Temporary Restraining Order on September 13, 2005. Subsequently, the issue of the appropriate sanction against Defendants for their contempt of court was referred to Magistrate Judge Mason. Magistrate Judge Mason held an evidentiary hearing on December 12,

2006 for the purposes of determining what sanction was appropriate for Defendants' contempt of court.

2. At the December 12, 2006 hearing, GSMIC put on the testimony of three witnesses, including that of its President, Israel Kushnir, an employee, Mary Ann Rehak, and a damages expert, Ronald Bero, in support of its claim for damages for lost customers and loss of goodwill as a result of Defendants' contemptuous conduct. The hearing lasted approximately four to four and one-half hours, and was recorded by court reporter Michael Snyder. Plaintiff submitted twenty-five exhibits and ten rebuttal exhibits, and Defendants submitted thirty-nine exhibits, in anticipation of the hearing. The majority of these exhibits were offered into evidence, including numerous affidavits submitted by both parties relating to customers GSMIC alleged it lost as a result of the Defendants' contempt.

3. Magistrate Judge Mason issued his Report and Recommendation on December 14, 2006. Magistrate Judge Mason denied GSMIC any special damages for , among other things, for lost profits, and damage to goodwill or general damages. Magistrate Mason recommended that GSMIC be granted its reasonable attorneys' fees and costs, as more fully set forth in his Report and Recommendation.

4. As this Court is aware, under the Federal Rules of Civil Procedure and under the terms of the Magistrate's Report and Recommendation, GSMIC has ten (10) days (excluding Saturdays, Sundays, and legal holidays [Christmas Day]) to file written objections to Magistrate Mason's Report and Recommendation. GSMIC's written objections would be due on Friday, December 29, 2006. According to the clear language of Magistrate Mason's Report, "[f]ailure to file objections with the District Court within the specified time will result in a waiver of the

rights to appeal all findings, factual and legal, made by this Court in the report and recommendation.”

5. As of the date of this motion, and despite numerous attempts to contact Mr. Snyder, the court reporter, GSMIC has not received a copy of the transcript of the hearing. Therefore, GSMIC does not know when the transcript will be available.

6. Without the transcript of the hearing, it will be very difficult for this Court to evaluate the Report and Recommendation, and GSMIC will need to base its objections on its notes and recollection, not on precise references to the record. Therefore, judicial economy will be served by permitting GSMIC to file its objections ten (10) days after the transcript of the hearing is provided to GSMIC. GSMIC’s counsel attempted in earnest to obtain Defendants’ counsel’s agreement to an extension of time to file written objections, and left a telephone message for Maria Crimi Speth and also an e-mail message to both Ms. Speth and Mr. James Borcia, Defendants’ counsels, at approximately 1:00 p.m. on Friday, December 22, 2006, and specifically requested that Defendants’ counsel contact GSMIC’s counsel as to whether they were in agreement with an extension that day. GSMIC’s counsel received absolutely no response one way or the other as to whether Defendants’ counsel would agree to an extension, yet Defendants’ counsel filed its second motion for summary judgment and a one-page written objection to the Magistrate’s Report and Recommendations at approximately 6:00 p.m. on December 22, 2006.

7. Because GSMIC has not been able to retrieve a copy of the transcript despite numerous attempts, and because it has not received any response from Defendants in response to its request for an agreement as to an extension, GSMIC respectfully requests this extension of time to file written objections to Magistrate Mason’s Report and Recommendation. This request

is not being sought for an improper purpose, rather GSMIC needs to review the transcript in order to prepare its written objections and adequately respond to the factual and legal findings made by Magistrate Mason underlying his Report.

WHEREFORE, Plaintiff George S. May International Company respectfully requests that this Court grant its Motion for An Extension of Time to File Written Objections to Magistrate's Report and Recommendation, and grant George S. May an extension until ten (10) days from the date George S. May receives the transcript of proceedings from the December 12, 2006 hearing to file its written objections to Magistrate Mason's Report and Recommendation.

DATED: December 27, 2006

Respectfully submitted,

**GEORGE S. MAY INTERNATIONAL
COMPANY**

By: s/ Rachel Kindstrand
One of Its Attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2006, I electronically filed **Plaintiff's Motion for An Extension of Time to File Written Objections to Magistrate's Report and Recommendation** with the Clerk of Court using the CM/ECF system, which will send notification of such filings to the following:

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s/ Rachel Kindstrand
