

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

LARRY BENOIT

CIVIL ACTION

VERSUS

MICHAEL DAVIS

NO.: 12-00644-BAJ-DLD

**ORDER**

Before the Court is a **Motion to Dissolve Temporary Restraining Order (Doc. 2)**, filed by Defendants Michael Davis and Fleur de Lead Dog Trainer, LLC (collectively “Defendants”), seeking an order from this Court dissolving a temporary restraining order issued by the 19th Judicial District Court for East Baton Rouge Parish, State of Louisiana. Defendants also seek attorney’s fees in the amount of \$5,800.00. Plaintiffs Larry Benoit and Larry Benoit Dog Trainer, LLC (collectively “Plaintiffs”) oppose the motion. (Doc. 3.)

On September 26, 2012, Plaintiffs filed the instant lawsuit in the 19th Judicial District Court, seeking, *inter alia*, a temporary restraining order against Defendants. (Doc. 1-2, pp. 1-7.) On September 28, 2012, the 19th Judicial District Court granted Plaintiffs’ request and restrained Defendants from using a website, training manuals, videos, compact discs, and other materials allegedly developed by Plaintiffs and deceased dog trainer, Dick Russell. (Doc. 1-2, pp. 10-13.) On October 11, 2012, Defendants removed the lawsuit to this Court.

In support of their motion, Defendants argue that the temporary restraining

order issued the 19th Judicial District Court should be dissolved because the court did not have jurisdiction over the lawsuit and because the temporary restraining order does not comply with the requirements of Federal Rule of Civil Procedure (“Rule”) 65(b). Alternatively, they argue the temporary restraining order should be dissolved because it does not comply with the requirements of Louisiana Code of Civil Procedure, Article 3603. They further contend that they are entitled to attorney’s fees, pursuant to Louisiana Code of Civil Procedure, Article 3608.

In opposition, Plaintiffs argue that the temporary restraining order at issue expired on October 7, 2012. Thus, Defendants’ request for dissolution of the temporary restraining order and attorney’s fees should be denied as moot.

Pursuant to Louisiana Code of Civil Procedure, Article 3604, a temporary restraining order “shall expire by its terms within such time after entry, not to exceed ten days, as the court prescribes.” La. Code Civ. Proc. Ann. art. 3604(A). The temporary restraining order at issue was signed by the 19th Judicial District Court on September 28, 2012, and issued by the Clerk of the Court on October 1, 2012. (Doc. 1-2, pp. 10-13.) The order does not include an expiration date. Thus, it expired by operation of law ten (10) days later.

Accordingly, even using the October 1, 2012 issue date, the temporary restraining order at issue expired on October 11, 2012, the same day this matter was removed to this Court and Defendants filed the instant motion. Therefore,

Defendants' request is moot, and their request for attorney's fees is denied.

Accordingly,

**IT IS ORDERED** that Defendants **Motion to Dissolve Temporary Restraining Order (Doc. 2)** is **DENIED AS MOOT**.

**IT IS FURTHER ORDERED** that Defendants request for attorney's fees is **DENIED**.

Baton Rouge, Louisiana, this 1st day of November, 2012.

A handwritten signature in black ink, appearing to read "Brian A. Jackson", with a long horizontal flourish extending to the right.

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**BRIAN A. JACKSON, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**