

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

MPHJ TECHNOLOGY)
INVESTMENTS, LLC, <i>et al.</i> ,)
)
Plaintiff,)
)
v.)
)
FEDERAL TRADE COMMISSION,)
<i>et al.</i> ,)
Defendants.)
)

Civil No. 6:14-cv-00011-WSS

**UNOPPOSED MOTION FOR LEAVE TO FILE A
CORRECTED MOTION TO DISMISS BEYOND FILING DUE DATE**

The Federal Trade Commission (“FTC”), Edith Ramirez as FTC Commissioner and Chairwoman, Julie Brill as FTC Commissioner, Maureen K. Ohlhausen as FTC Commissioner, Joshua D. Wright as FTC Commissioner, and Jessica Rich as Director of FTC’s Bureau of Consumer Protection (collectively, the “Defendants”) move for leave to file a corrected motion to dismiss the complaint beyond the filing’s original due date. As grounds for the instant motion, the Defendants represent as follows:

1. Plaintiff filed its complaint on January 13, 2014. On March 17, 2014, the date on which a response to the complaint was originally due, Defendants moved to dismiss the complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. (Docket No. 15.) At the same time, Defendants filed a separate memorandum in support of the Motion to Dismiss. (Docket No. 15-1.)

2. On March 24, 2014, this Court denied the Motion to Dismiss on grounds that it failed to comply with Local Rules CV-7(d)(1) and (3) because Defendants filed a separate motion and brief, which in combination exceeded the 20-page limit. (Docket No. 17.) The Court simultaneously denied as moot Plaintiff's unopposed motion for an extension of time and page limit for responding to the Motion to Dismiss, which Plaintiff had filed on March 21, 2014.

3. Defendants respectfully submit that the failure to comply with the aforementioned Local Rules was a result of inadvertence due to a misreading of the Local Rules by the undersigned counsel. Defendants and the undersigned counsel regret the error and apologize to the Court.

4. Defendants respectfully request leave to file a corrected motion to dismiss, which complies with the page limits contained in the Local Rules and which is attached as Exhibit A to the instant motion. Defendants will not be prejudiced by the filing of the corrected motion to dismiss, as the Defendants have made only formatting changes to the corrected motion and advance the same arguments contained in the originally filed Motion to Dismiss and Memorandum.

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5. Defendants have consulted with counsel for Plaintiff. Counsel for Plaintiff has indicated that Plaintiff does not plan to file a response to this motion, and, in that sense, does not oppose the instant motion for leave.

DATED: March 25, 2014

Respectfully submitted,

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Assistant Attorney General

MAAME EWUSI-MENSAH FRIMPONG
Deputy Assistant Attorney General

MICHAEL S. BLUME
Director

/s/ _____
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