

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:15-cv-00111-RJC-DCK

EDDIE BOLLMEIER, BILL TRACY and)
SIMON PARROTT,)

Plaintiffs)

vs.)

GARY HUMMEL, STEPHEN BRADFORD,))
ROB STREBLE, STEVE SMYSER,))
ROBERT FREAR, COURTNEY BORMAN,))
And Jane Doe Berman, RONALD NELSON,))
PAUL DIORIO, PAUL MUSIC, JOHN))
TAYLOR, JOE STEIN, PETE DUGSTAD,))
JAY MILKEY and STEPHEN NATHAN,))

Defendants, sued in their)
individual capacity.)

**DEFENDANTS' MEMORANDUM
OF LAW IN SUPPORT OF
THEIR MOTION FOR LEAVE TO
EXCEED PAGE LIMITS IN THEIR
MEMORANDUM OF LAW IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR A TEMPORARY
RESTRAINING ORDER OR
PRELIMINARY INJUNCTION**

Pursuant to Local Rule 7.1 (C), defendants GARY HUMMEL, STEPHEN BRADFORD, ROB STREBLE, JOHN TAYLOR, JOE STEIN, PETER DUGSTAD, and STEPHEN NATHAN (collectively, the “defendants”) hereby submit this Memorandum of Law in Support of Defendants’ Motion for Leave to Exceed Page Limits for their Memorandum of Law in Opposition to Plaintiffs’ Motion for a Temporary Restraining Order or Preliminary Injunction (“Motion to Exceed Page Limits”).

NATURE OF THE MATTER BEFORE THE COURT

On February 23, 2015, plaintiffs filed a Verified Complaint under Title V of the Labor Management Reporting and Disclosure Act against defendants alleging defendants violated Section 501(a) fiduciary duties owed to them. Plaintiffs seek: (1) an accounting of certain expenditures; (2) restitution to USAPA of any monies spent in violation of defendants’ fiduciary duty to expend funds only in accordance with USAPA’s Constitution and Bylaws; (3) an

injunction against further such expenditures; and (4) disbursement of USAPA funds to its members in accordance with the Constitution. On April 15, 2015, defendants Hummel, Bradford, Streble, Taylor, Stein, Dugstad, and Nathan moved to vacate the Order dated March 5, 2015, or, in the alternative, to dismiss the verified complaint. Docs. 22, 22-1, 22-2, 22-3, 22-4, 22-5, and 22-6. On March 27, 2015, plaintiffs filed a Motion for Temporary Restraining Order or Preliminary Injunction against defendants Hummel, Bradford, Streble, Smyser, Frear, Borman, Nelson, DiOrio, Music, Taylor, Milkey, and Nathan in their individual capacities. Doc. 16. The deadline to respond to the motion is April 20, 2015.

Defendants are filing contemporaneously with the filing of this motion, their Memorandum of Law in Opposition to Plaintiffs' Motion for a Temporary Restraining Order or Preliminary Injunction. Because of the complexity of issues presented in plaintiffs' case and the extraordinary relief sought in their motion, defendants are unable to comply with the 25-page limit on the memorandum of law in opposition, which is 35 pages in length. Plaintiffs' counsel was contacted and consents to this motion.

Accordingly, defendants respectfully request that the Court grant them leave to exceed the page limits and ask that the Court consider their Memorandum of Law in Opposition to Plaintiffs' Motion for a Temporary Restraining Order or Preliminary Injunction in its entirety.

ARGUMENT

The Court may grant leave to a party to exceed the 25-page limit established by this Court in Local Rule 7.1(D), and consider a party's brief in its entirety. *Jeffries v. U.S.*, Civil Case No. 1:10cv205, 2010 WL 4291365, at *1 (W.D.N.C. Oct. 25, 2010) (granting motion to exceed the page limit and considering petitioner's 43-page memorandum of law in its entirety). Here, because of the extensive litigation history of the parties, complexity of issues involved, and

the relief sought by plaintiffs, defendants are unable to adequately and fully respond to plaintiffs' motion within the 25-page limit.

CONCLUSION

For the reasons set forth above, defendants respectfully request that the Court grant them leave to exceed the page limits set forth in Local Rule 7.1(D) and ask that the Court consider their Memorandum of Law in Opposition to Plaintiffs' Motion for a Temporary Restraining Order or Preliminary Injunction in its entirety.

Dated: April 20, 2015
Charlotte, North Carolina

Respectfully submitted,

TIN FULTON WALKER & OWEN
/s/ John Gresham

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR LEAVE TO EXCEED PAGE LIMITS FOR THEIR MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR A TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION with the Clerk of the Court using the CM/ECF system, and that notification pursuant to the CM/ECF system will be sent to:

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This the 20th day of April, 2015.

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