

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGES



ORIGINAL

_____)
In the matter of:)
)
Jerk, LLC, a limited liability company,) DOCKET NO. 9361
)
Also d/b/a JERK.COM, and)
) PUBLIC
John Fanning,)
Individually and as a member of)
Jerk, LLC,)
)
Respondents.)
_____)

**OBJECTION OF RESPONDENT JOHN FANNING
TO MOTION TO COMPEL DISCOVERY**

Respondent John Fanning (“Mr. Fanning”) has not “simply refused to comply with the rules governing discovery” as Complaint Counsel asserts in support of the motion to compel. Mr. Fanning provided responses to supplemental interrogatories and supplemental requests for production, albeit a bit late. Mr. Fanning was in the midst of responding to Complaint Counsel’s exceptionally lengthy motion for summary decision, which side-tracked completion of responses. Complaint Counsel suffered no prejudice from the late responses. Complaint Counsel already deposed Mr. Fanning for approximately seven (7) hours on September 4, 2014. In addition, Complaint Counsel already served a lengthy motion for summary decision claiming that the undisputed facts warrant relief granted summarily against Mr. Fanning on both liability and enforcement remedy. Complaint Counsel identifies no legitimate need for more discovery from Mr. Fanning. Indeed, Complaint Counsel in support of summary decision argued that Mr. Fanning has no reasonable defense for rebutting so-called facts based on the massive amounts of

alleged evidence gathered by Complaint Counsel through discovery, although Mr. Fanning contests such a characterization. Further, Complaint Counsel has also served multiple third-party subpoenas and has deposed multiple third-party witnesses, in addition to all of the information gathered during the course of the investigatory phase. Ironically, Mr. Fanning served discovery on Complaint Counsel, and Mr. Fanning basically received no substantive responses. Nonetheless, there is nothing to compel. To the extent Complaint Counsel does not like or agree with the answers provided by Mr. Fanning, that is not a basis for seeking relief through unnecessary motion practice.

CONCLUSION

For the foregoing reasons, Respondent John Fanning requests this Court to deny the Commission's motion to compel in its entirety.

Respectfully submitted,

JOHN FANNING,

By his attorneys,

/s/ Peter F. Carr, II

Peter F. Carr, II

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Dated: November 24, 2014

CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2014, I caused a true and accurate copy of the foregoing to be served electronically through the FTC's e-filing system and I caused a true and accurate copy of the foregoing to be served as follows:

One electronic courtesy copy to the Office of the Secretary:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, DC 20580
Email: secretary@ftc.gov

One electronic copy to the Office of the Administrative Law Judge:

The Honorable D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Avenue, N.E., Room H-110
Washington, DC 20580
Email: oalj@ftc.gov

One electronic copy to the Office of the Counsel for the Federal Trade Commission:

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One electronic copy per the prior order to:

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/s/ Peter F. Carr, II
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