

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:02CV382

STEVE WINTER AND PRERAPTURE SOLUTIONS, INC.,
D/B/A SELLCOM,

Plaintiffs,

v.

MARK BASSETT, *et al.*,

Defendants.

**REBUTTAL BY DEFENDANT
STEPHEN M. ADAMS IN OPPOSITION
TO PLAINTIFFS' BRIEF OP-
POSING MOTIONS TO DISMISS**

Comes now the undersigned defendant in this matter, and makes the following statement in rebuttal to Plaintiff's "Brief in Opposition to Motions to Dismiss" [PACER document reference 56], filed 19 August 2002, despite this court not granting permission for its filing. In making this rebuttal, defendant reserves the right to all defenses to which he is entitled, including that Plaintiffs have filed an untimely response without leave from the Court and that this Court lacks personal jurisdiction over the undersigned.

TIMELINESS OF FILING

The undersigned respectfully brings to the Court's attention that Plaintiffs, by and through their attorney, have filed their motions in this case long after the deadline set by the rules of the Court, and that this Court has not granted leave to do so, to the best of the undersigned's information. Plaintiff's out of time motions for an extension, and extremely tardy filing of 19 August without leave, are in direct violations of the rules of the Court. The undersigned refers the Court to his "Response in opposition" [PACER Document reference 43] of 26 July 2002, and incorporates it herein by reference.

WHEREFORE, the undersigned prays that the Court:

1. Deny Plaintiffs' motion to extend time for responding to the motion to dismiss filed by the undersigned, since the Plaintiffs' motion is untimely;
2. Deny Plaintiffs' motion for consolidated briefing schedule;
3. Grant the unopposed motion to dismiss filed by the undersigned on 30 April 2002 in the State Court and removed to this court on 20 May 2002.
4. Dismiss the case with prejudice as to the undersigned;
5. Award the undersigned costs incurred in responding to this action and these motions, including but not limited to copying/reproduction cost, postage and overnight courier fees;
6. Order such further relief for the undersigned that the Court deems just and proper.

This the 25th day of July, 2002.

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Response in Opposition to Plaintiffs' Motions to Extend Time and For Consolidated Briefing Schedule to be served on all parties in the manner required by Rule 5 by depositing a copy in the United States mail, postage prepaid and addressed as follows, unless otherwise noted:

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