

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NUMBER: 03-80295-CIV-MIDDLEBROOKS/JOHNSON

EMARKETERSAMERICA.ORG, INC.,
A Florida Non Profit Corporation,

Plaintiff,

vs.

SPEWS.ORG et. al.,

Defendants.

RECEIVED
S.D. OF FLORIDA
WEST PALM BEACH
MAY 15 2003
MB

MOTION TO DISMISS PURSUANT TO RULE 41 AND
MEMORANDUM OF LAW IN SUPPORT

Plaintiff, EMARKETERSAMERICA.ORG, INC., a Florida Non Profit Corporation, by and through its undersigned Counsel, hereby files the above-entitled Motion and Memorandum, and further Requests an Order dismissing this Cause with prejudice, with each party to bear its own costs and fees, and as grounds states as follows:

1. There has been a Complaint and an Answer in this matter, but no counterclaim. This matter has never been brought before this Court.
2. Months prior to the filing of this suit by EMA, the members of EMA and the undersigned conducted an investigation of the potential claims and potential defendants.
3. At the time of the filing of the suit and at the time of this Motion, it is still firmly believed and asserted that the claims made are within are with merit in fact and law.

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4. However, the members of EMA (which is a not for profit organization in its purist sense), do not have the manpower, nor the administrative and financial resources to further pursue this matter further.
5. Secondly, the members are six (6) members of EMA. EMA is in debt, and has been since its inception. EMA received a modest amount of money from some of its members, but it has long exhausted those monies on filing fees and service of process fees for this suit. No compensation what so ever has been paid to any EMA member, person or entity from the modest monies received by EMA. Again, EMA is in currently in debt.
6. Regardless, of the lack of monies of EMA, EMA and its law firm are not in the position to litigate against the resources of the Defendants' large law firms.
7. The undersigned has attempted in good faith to resolve this matter months ago with opposing counsel, but that opposing counsel for whatever reason has not agreed. There does not appear to be any valid reason not to dismiss this case. Failure of the Defendants or its attorneys to agree to dismiss leads one to only to dismiss to speculate as to its motives and agenda.
8. There is no compelling reason not to dismiss this case. Judicial resources are finite and can be better used.

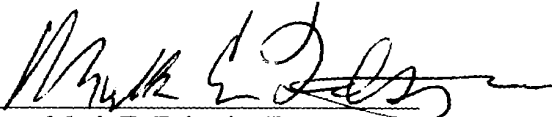
WHEREFORE, Plaintiff, EMARKETERSAMERICA.ORG, INC., requests entry of an Order pursuant to Rule 41 dismissing this matter in its entirety with prejudice, with each party to bear its own fees and costs.

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2003, a true and correct copy of the

foregoing was sent as follows: via facsimile 305-810-1610 and Regular U.S. Mail to Samuel A. Danon, Esq., Hunton Williams, LLP, 1111 Brickell Avenue, Suite 2500, Miami, FL 33131 and via facsimile 1-404-815-9957 and Regular U.S. Mail to Paul F. Wellborn, III, Esq., Wellborn & Butler, LLC, 1372 Peachtree Street, N.E., Suite 204, Atlanta, GA 30309.

FELSTEIN & ASSOCIATES, P.A.
Attorneys for eMarketersAmerica.org, Inc.
555 South Federal Highway, Suite 450
Boca Raton, Florida 33432
(561) 367-7990 Phone
(561) 367-7980 Facsimile
mark@ eMarketersAmerica.org

BY 
Mark E. Felstein, Esq.
FBN: 192139