

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 14-CV-0815-W-BCW
)	
BF LABS INC., et al.,)	
)	
Defendants.)	

**DEFENDANTS BF LABS INC., SONNY VLEISIDES, AND DARLA DRAKE’S
MOTION FOR LEAVE TO FILE SUPPLEMENTAL EVIDENCE**

Defendants BF Labs Inc., Sonny Vleisides, and Darla Drake (collectively “Defendants”) move for leave to file supplemental evidence that was received for the first time by Defendants’ counsel both yesterday morning and this morning, from a consumer who had been attempting to correspond with the Federal Trade Commission. More specifically, at 7:29 a.m. on November 19, 2014, Defendants’ counsel was copied on an email from the consumer to the FTC’s counsel and to the Temporary Receiver, in which the consumer was pleading for someone to respond to his query for information. The email on which Defendants’ counsel was copied also includes an email chain showing the consumer’s repeated attempts to contact the FTC’s counsel and the Temporary Receiver. Then, at 5:46 a.m. on November 20, 2014, the consumer reached out to Defendants’ counsel once again, forwarding a response that the consumer received from the FTC, wherein the FTC copied counsel for the Temporary Receiver, but did not include counsel for the Defendants.

After being copied on the email yesterday, Defendants’ counsel replied to “All,” including to the FTC counsel and the Temporary Receiver, and stated that Defendants’ counsel intended to seek leave to submit the email chain to the Court. The consumer then responded,

stating that he was “happy for the email chain to be submitted as evidence,” and that he was not “approached by anyone or any company legally involved in the court case” and that he expanded his email efforts to include Defendants’ counsel’s email addresses of his “own free will . . . in order to try to gain a response.”

In Defendants’ view, the two complete email chains, proposed to be filed as supplemental evidence to Defendants’ Additional Factual Evidence (Doc. No. 155), will assist the Court in determining whether the “extraordinary and drastic remedy” of a preliminary injunction is in the “public’s interest.” *See FTC v. Freeman Hosp.*, 911 F.Supp. 1213, 1227 (W.D. Mo. 1995); *see also FTC v. Mktg. Response Group*, 1996 WL 420865, at *2 (M.D. Fla. 1996) (stating preliminary injunction standard). These two email chains are highly relevant as to how consumers view the FTC’s approach as well as the FTC’s position that it does not stand in the shoes of consumers when bringing enforcement actions.

Defendants therefore respectfully request leave to file a true and correct copy of each of the two complete email chains as supplemental evidence for the Court’s consideration in advance of the preliminary injunction hearing scheduled for November 24, 2014, and for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2014, a true and correct copy of the foregoing pleading was served by the Court's ECF system on the following:

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