

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

EARTHLINK, INC., )  
 )  
 Plaintiff, )  
 )  
 v. ) CASE NO. 1:04-CV-3008 CAP  
 )  
 )  
 CHRISTINA REESE; YAMBOCS, INC.; )  
 ANGELA M. NICKERSON d/b/a )  
 YAMBOCS.COM; and JOHN DOES 4-25 )  
 (the "ASMP Spammers"), )  
 )  
 Defendants. )

**WITHDRAWAL OF DEFENDANTS' ANSWER AND COUNTERCLAIM AND  
JOINT MOTION FOR EXTENSION OF TIME FOR DEFENDANTS TO FILE  
RESPONSIVE PLEADING**

Defendants Christina Reese ("Reese"), Angela Nickerson d/b/a Yambocs.com ("Nickerson"), and Yambocs, Inc. ("YamboCS") (collectively "Defendants") hereby file this withdrawal of their Answer and Counterclaim (entitled, "Response to Complaint for Injunction and Damages", hereafter the "Response") and, jointly with Plaintiff EarthLink, Inc. ("EarthLink"), move this court to extend the time for Defendants to file a responsive pleading to October 28, 2005, and show as follows:

**Defendants Cooperating With EarthLink's Investigation**

Prior to filing the Response, Reese contacted Plaintiff's counsel and attempted to explain Defendants' involvement in the conduct at issue in this lawsuit. Defendant Reese offered to

cooperate with EarthLink's investigation and subsequent litigation in this case. At that time, EarthLink's counsel expressly advised Reese of the imminent due date for the Defendants' answer and expressly offered to participate in a joint request to the Court to extend the time for the Defendants' answer. EarthLink's Counsel expressly noted that such an extension would allow the Defendants to cooperate with EarthLink's ongoing investigation and would allow the parties to continue negotiations which might resolve the Defendants' involvement in the suit without the requirement that Defendants formally answer. Defendants, however, mistakenly believed that the "answer" to which EarthLink's counsel referred was some "answer" other than the formal responsive pleading required by the Federal Rules of Civil Procedure, and filed the Response.

Defendants and Plaintiff's counsel have since spoken and have agreed that Defendants shall withdraw their Answer and Counterclaim (i.e., the Response) and that Defendants and EarthLink would make this joint motion for extension of time for Defendants to file a proper responsive pleading in this case. Due to Defendants' personal travel plans, they will be unable to come to Atlanta to meet with and continue negotiations with Plaintiff's counsel until the first week of October, and the parties have agreed to request, and hereby do request, that the

Court extend the date for Defendants to file their responsive pleading(s) to and through October 28, 2005.

**CONCLUSION**

Defendants Reese, Nickerson, and YamboCS hereby withdraw and their Answer and Counterclaim (i.e., the Response). Moreover, all parties jointly respectfully request that the Court extend the Defendants' time to file an initial responsive pleading to and through October 28, 2005. A Proposed Order granting this relief is attached hereto at Exhibit A.

Respectfully submitted this 16<sup>th</sup> day of September, 2005.

**DEFENDANT CHRISTINA REESE**



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Christina Reese

**DEFENDANT ANGELA NICKERSON**

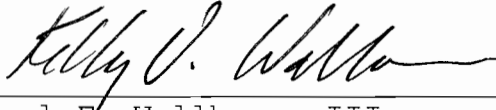


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**FOR PLAINTIFF EARTHLINK, INC.:  
WELLBORN & WALLACE, LLC**



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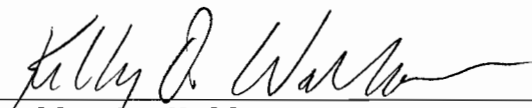
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(the "ASMTF Spammers"),	)	
	)	
Defendants.	)	

**RULE 7.1 CERTIFICATE OF  
COMPLIANCE WITH LOCAL RULE 5.1**

This is to certify that the foregoing Verified Complaint was prepared using 12 point Courier New font and accordingly complies with Local Rule 5.1. This certificate is given in compliance with Local Rule 7.1(D) this 16<sup>th</sup> of September, 2005.

**WELLBORN & WALLACE, LLC**

  
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Attorneys for EarthLink, Inc.

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	)	
Defendants.	)	

**CERTIFICATE OF SERVICE**

This is to certify that I have this date served a copy of the foregoing Withdrawal Of Defendants' Answer And Counterclaim And Joint Motion For Extension Of Time For Defendants To File Responsive Pleading upon the below-identified by U.S. first class mail addressed as follows with sufficient postage attached:

Christina Reese  
1801 Martin Luther King Jr. Way  
Seattle, WA 98122

Angela Nickerson  
1801 Martin Luther King Jr. Way  
Seattle, WA 98122

This 16<sup>th</sup> day of September, 2005.

**WELLBORN & WALLACE, LLC**

/s/ 

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