

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ST. LOUIS COUNTY, MISSOURI,	)	
	)	
Plaintiff,	)	Cause No. 4:20-CV-655 RLW
	)	
v.	)	
	)	
HOUSE OF PAIN GYM SERVICES, LLC,	)	
et al.,	)	
	)	
Defendants.	)	

**JOINT MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER
AND TO DISMISS CASE AS MOOT**

COME NOW, Plaintiff St. Louis County, Missouri (“Plaintiff”) and Defendants House of Pain Gym Services, LLC and F Four, LLC (together, “Defendants”) (Plaintiff and Defendants collectively, the “Parties”), by and through their respective undersigned counsel, and respectfully move the Court pursuant to Federal Rule of Civil Procedure 65(b)(4) to, effective at 12:00 a.m. on June 15, 2020, vacate and dissolve the Temporary Restraining Order entered on May 22, 2020 and thereafter extended by consent of the Parties, and to dismiss this action at such time as moot. In support of this Motion, the Parties state as follows:

1. On May 22, 2020, the Court entered a Temporary Restraining Order (the “TRO”), as well as a schedule for briefing and a hearing on Plaintiff’s forthcoming Motion for Preliminary Injunction. (ECF No. 38.)

2. On May 26, 2020, the Parties filed a Joint Motion (the Parties’ “Joint Motion”) to modify the briefing and hearing schedule on Plaintiff’s forthcoming Motion for Preliminary Injunction and to extend the TRO until June 26, 2020, unless otherwise mutually agreed to by the parties or altered by the Court. (ECF No. 39.)

3. On May 27, 2020, the Court entered an Order granting the Parties' Joint Motion; modifying the briefing and hearing schedule on Plaintiff's forthcoming Motion for Preliminary Injunction; and extending the TRO until June 26, 2020, unless otherwise mutually agreed to by the parties or altered by the Court. (ECF No. 40.)

4. The Parties now jointly move to vacate and dissolve the TRO effective at 12:00 a.m. on June 15, 2020.

5. On May 29, 2020, the Acting Director of the St. Louis County Department of Public Health ("DPH") issued that certain "St. Louis County Department of Public Health 2019 Novel Coronavirus ("COVID-19") Amended Business and Individual Guidelines for Social Distancing and Re-Opening" (See: <https://stlcorona.com/dr-pages-messages/public-health-orders/director-of-public-health-amended-business-and-individual-guidelines-for-social-distancing-and-re-opening/>) (Last checked June 9, 2020) (the "May 29 Order").

6. Under Section III.9.g. of the May 29 Order, "Gyms and fitness centers may open on June 15, 2020" subject to the provisions of the May 29 Order and "general and business-specific operating standards, guidelines and/or protocols published by DPH."

7. Because DPH is now permitting St. Louis County gyms to open on June 15, 2020, including the gyms at issue in this case which are owned and operated by Defendant F Four, LLC, the TRO and Plaintiff's prayer for further injunctive relief will become moot at 12:00 a.m. on June 15, 2020.

8. In addition, the Parties request that the Court dismiss this action as moot upon dissolving and vacating the TRO.

9. Upon the Court's entry of an order vacating and dissolving the TRO and dismissing this case as moot, the plaintiffs in the related case styled *F Four, LLC, et al. v. Page, et al.*, Case No. 4:20-cv-00656 RLW, intend to voluntarily dismiss that case as well.

WHEREFORE, Plaintiff St. Louis County, Missouri and Defendants House of Pain Gym Services, LLC and F Four, LLC respectfully request that the Court grant their Motion; effective at 12:00 a.m. on June 15, 2020 dissolve and vacate the Temporary Restraining Order entered on May 22, 2020 and extended on May 27, 2020; and, upon dissolving and vacating the Temporary Restraining Order, dismiss this case as moot, with each party to bear its own attorneys' fees and costs herein.

Respectfully submitted,

THE McDONOUGH LAW FIRM, LLC

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VERIFICATION OF SIGNED ORIGINAL DOCUMENT

Pursuant to Local Rule 11-2.11, W. Christopher McDonough, hereby attests to the existence of a paper copy of this document bearing the original signature of W. Christopher McDonough. The document was electronically filed on June 10, 2020. Counsel will retain the paper copy bearing the original signatures during the pendency of the litigation including all possible appeals.

/s/ W. Christopher McDonough

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing has filed with the Court for service on all counsel of record via the Court's ECF system on June 10, 2020.

/s/ W. Christopher McDonough