

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>KEITH ERVIN, ET AL.</b>	:	<b>CIVIL ACTION</b>
<b>Plaintiffs,</b>	:	
<b>v.</b>	:	
	:	
<b>FIRST AMERICAN MARKETING CORPORATION, ET AL.</b>	:	
<b>Defendants.</b>	:	<b>NO. 05-00184</b>

Stengel, J.

March 29, 2006

**MEMORANDUM and ORDER**

In this business dispute, the plaintiffs filed a Motion to Appoint a Receiver and a Motion for Involuntary Liquidation and Dissolution of First American Marketing Corporation and First American Capital Corporation, two of the defendants. These motions were filed, along with a request for a Preliminary Injunction, on August 25, 2005.

The plaintiffs have also filed a complaint outlining the nature of their claims against the defendant corporation and requesting both legal and equitable relief, including a claim for damages, a request for an accounting, and such other equitable relief as the court considers appropriate. Since the complaint was filed and after several conferences with the court, including settlement conferences with a United States Magistrate Judge, the parties are continuing in discovery in preparation for a trial on the merits of the claims raised in the complaint.

The Motion to Appoint a Receiver and the Motion for Involuntary Liquidation and Dissolution were filed before discovery commenced and basically consisted of requests

for relief on an emergency basis. The parties have been coexisting and some of the disputes affecting the day-to-day business operations of the plaintiffs and the defendants, have been resolved among themselves or through conferences with the U.S. Magistrate Judge or this court. The emergency nature of the initial filings has passed and all claims raised by the parties may be resolved in the trial on the issues raised in the complaint and answer.

For this reason, the court will dismiss the Motion to Appoint Receiver and will dismiss the Motion for Involuntary Liquidation and Dissolution because the motions are, at this point, duplicative of the relief requested in the complaint. This dismissal is without prejudice to request these forms of relief at the trial of this case. The plaintiffs have preserved their right to request this relief in the complaint. An appropriate order follows.

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<b>Defendants.</b>	:	<b>NO. 05-00184</b>

**ORDER**

**AND NOW**, this 29th day of March, 2006, upon consideration of the plaintiffs' Motion for Involuntary Liquidation and Dissolution of First American Marketing Corporation and First American Capital Corporation and for the Appointment of a Receiver (Docket # 9), it is hereby **ORDERED** that the motion is **DISMISSED**, without prejudice, for being duplicative of the relief requested in the plaintiffs' complaint.

BY THE COURT:

s/ Lawrence F. Stengel  
LAWRENCE F. STENGEL, J.