

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE  
20TH JUDICIAL DISTRICT, DAVIDSON COUNTY  
PART IV, AT NASHVILLE**

**AMERICAN CATALOG MAILERS )  
ASSOCIATION and NETCHOICE, )**

**Plaintiffs, )**

**v. )**

**No. 17-307-IV**

**TENNESSEE DEPARTMENT OF )  
REVENUE and DAVID GERREGANO, )  
in his capacity as the Commissioner of the )  
Tennessee Department of Revenue, )**

**Defendants. )**

---

**DEFENDANTS' MOTION TO COMPEL**

---

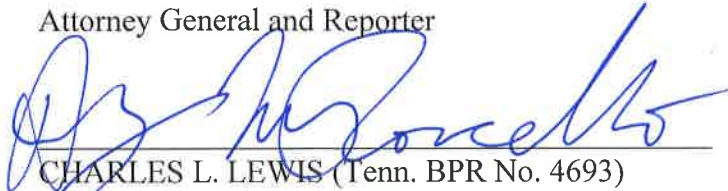
Pursuant to Rule 37.01(2) of the Tennessee Rules of Civil Procedure, Defendants hereby move this Court to compel Plaintiffs to fully respond to interrogatories and requests for production propounded by Defendants pursuant to Rules 33 and 34 and served on April 24, 2017. Specifically, Defendants move to compel full responses to Interrogatory Nos. 3-17 and Requests for Production Nos. 1-13. As explained at greater length in Defendants' memorandum filed with this motion, Plaintiffs' responses to Defendants' written discovery are insufficient and Plaintiffs' objections lack merit. The discovery requested by Defendants is relevant to Plaintiffs' claims challenging the constitutionality of Department of Revenue Rule 1320-05-01-.129(2) under the Commerce Clause and Due Process Clause and to Plaintiffs' associational standing to litigate those claims on behalf of their members.

Defendants therefore move this Court for an order compelling Plaintiffs to fully respond to Defendants' interrogatories and to produce responsive documents. Pursuant to Rule 37.01(4),

Defendants further move this Court to award to them the reasonable expenses incurred as a result of Plaintiffs' failure to fully respond to Defendants' written discovery.

Respectfully submitted,

HERBERT H. SLATERY III  
Attorney General and Reporter



CHARLES L. LEWIS (Tenn. BPR No. 4693)

Deputy Attorney General

MARY ELLEN KNACK (Tenn. BPR No. 14927)

Senior Counsel

R. MITCHELL PORCELLO (Tenn. BPR No. 25055)

Senior Counsel

Office of the Attorney General, Tax Division

P.O. Box 20207-0207

Nashville, Tennessee 37202

Phone: (615) 532-2547

Fax: (615) 532-2571

**LOCAL RULE § 22.09(d) CERTIFICATION**

Undersigned counsel hereby certifies that he has complied with the good faith efforts requirements of Local Rule § 22.08.



R. MITCHELL PORCELLO

Senior Counsel

**NOTICE OF HEARING**

**THIS MOTION IS EXPECTED TO BE HEARD ON THE COURT'S REGULARLY-SCHEDULED MOTION DOCKET ON FRIDAY, JULY 14, 2017, WHICH BEGINS AT 9 A.M. FAILURE TO FILE AND SERVE A TIMELY WRITTEN RESPONSE TO THIS MOTION WILL RESULT IN THE MOTION BEING GRANTED WITHOUT FURTHER HEARING.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Interrogatories has been served upon Plaintiffs' counsel of record via email and U.S. Mail, postage prepaid, addressed as follows:

Charles A. Trost ([Charlie.Trost@WallerLaw.com](mailto:Charlie.Trost@WallerLaw.com))  
G. Michael Yopp ([Mike.Yopp@WallerLaw.com](mailto:Mike.Yopp@WallerLaw.com))  
Christopher A. Wilson ([Chris.Wilson@WallerLaw.com](mailto:Chris.Wilson@WallerLaw.com))  
WALLER LANSDEN DORTCH & DAVIS, LLP  
Nashville City Center, Suite 2700  
511 Union Street  
Nashville, TN 37219-1750

and

George S. Isaacson ([GIsaacson@BrannLaw.com](mailto:GIsaacson@BrannLaw.com))  
Matthew P. Schaefer ([MSchaefer@BrannLaw.com](mailto:MSchaefer@BrannLaw.com))  
BRANN & ISAACSON  
184 Main Street; P.O. Box 3070  
Lewiston, ME 04243-3070

on the 30<sup>th</sup> of June, 2017.

  
\_\_\_\_\_  
R. MITCHELL PORCELLO  
Senior Counsel