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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BEN & JERRY'S FRANCHISING, INC.,
et al.,

Plaintiffs,

v.

MPA GROUP, INC. and MEHRDAD
PORGHAVAMI, et al.,

Defendants.

CASE NO. 2:07-CV-02599-JAM-KJM

[Assigned to Hon. John A. Mendez]

**ORDER ON "MOTIONS TO STRIKE
ANSWER AND COUNTERCLAIM" AND
"MOTIONS TO EXCLUDE EXPERT
TESTIMONY AND REPORTS"**

MEHRDAD PORGHAVAMI, et al.,

Counter-Claimant,

v.

BEN & JERRY'S FRANCHISING INC.,
BEN & JERRY'S HOMEMADE INC.,
BEN & JERRY'S OF CALIFORNIA, INC.
and WONDER ICE CREAM, LLC,

Counter-Defendants.

On August 26, 2009, the following motions were duly heard: (1) Plaintiffs/Counter-Defendants Ben & Jerry's Franchising, Inc. and Ben & Jerry's Homemade, Inc.'s ("Ben & Jerry's") "Motion to Strike the Answer and Counter-Claim of MPA Group, Inc. for Failure to Notice Appearance of Counsel and Dismiss MPA's Claims" [Docket at 148] and Counter-Defendant Wonder Ice Cream, LLC's ("Wonder") "Motion to Strike the Counter-Claim of MPA Group, Inc. and Dismiss MPA Group, Inc.'s Claims" [Docket at 156] (collectively referred to herein as "Motions to Strike"), and (2) Counter-Claimants/Defendants Mehrdad Porghavami and MPA Group, Inc.'s Motions to Exclude the Expert Witness Testimony and Reports of Robert H. Wallace [Docket at 146] and Gerard S. Clancy [Docket at 147] (collectively referred to herein as "Motions to Exclude Expert Witness Testimony and Reports").

I. Motions to Strike

The Court has heard the arguments of the parties, considered the papers submitted in

1 support of and in opposition to the Motions to Strike, reviewed the authorities cited by the parties
2 and reviewed the record in the case. Being so informed, the Court finds that applicable federal
3 law and local court rules provide no exception to the well-established rule that a corporation must
4 be represented by a licensed attorney. Rowland v. California Men's Colony, 506 U.S. 194, 202
5 (1993); The Rock v. Decision One Mortgage, 2009 U.S. Dist. LEXIS 9368 at *2 (E.D. Cal., Jan.
6 28, 2009); see also Local Rule 83-183. Thus, this Court finds GOOD CAUSE and GRANTS the
7 Motions to Strike. Accordingly,

8 **IT IS ORDERED, ADJUDGED and DECREED that:**

9 Pursuant to F.R.C.P. 41 (b) and (c), and Local Rule 83-183, the relief sought by Ben &
10 Jerry's and Wonder in their respective Motions to Strike is GRANTED in its entirety and,
11 accordingly, MPA Group, Inc.'s Answer to the First Amended Complaint [Docket at 70] and
12 MPA's Second Amended Counter-Claim [Docket at 73] against Ben & Jerry's and Wonder are
13 hereby stricken and MPA Group, Inc.'s claims are dismissed.

14 **II. Motion to Exclude Expert Witness Testimony and Reports**

15 The Court has heard the arguments of the parties, considered the papers submitted in
16 support of and in opposition to the Motions to Exclude Expert Witness Testimony and Reports,
17 reviewed the authorities cited by the parties and reviewed the record in the case. Being so
18 informed, the Court DENIES the Motions to Exclude Expert Witness Testimony and Reports.
19 Accordingly,

20 **IT IS ORDERED, ADJUDGED and DECREED that:**

21 Counter-Claimants/Defendants' Motions to Exclude the Expert Witness Testimony and
22 Reports of Robert H. Wallace [Docket at 146] and Gerard S. Clancy [Docket at 147] are
23 DENIED without prejudice to them being refiled at time of trial.

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26 Dated: August 28, 2009

/s/ John A. Mendez
John A. Mendez
United States District Judge

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