Baird v. Office Depot Doc. 72

1 MICHAEL E. BREWER, Bar No. 177912 mbrewer@littler.com 2 PHILIP A. SIMPKINS, Bar No. 246635 pasimpkins@littler.com 3 LITTLER MENDELSON, P.C. Treat Towers 4 1255 Treat Boulevard, Suite 600 Walnut Creek, California 94597 5 Telephone: 925.932.2468 Facsimile: 925.946.9809 6 Attorneys for Defendant 7 OFFICÉ DEPOT. INC. 8 RICHARD M. ROGERS, Bar No. 045843 RogersRMR@yahoo.com 9 LAW OFFICE OF RICHARD M. ROGERS 100 Bush Street, #1980 10 San Francisco, CA 94104 Telephone: 415.981.9788 415.981.9798 11 Facsimile: 12 Attorney for Plaintiff MICHAEL BARID 13 UNITED STATES DISTRICT COURT 14 NORTHERN DISTRICT OF CALIFORNIA 15 16 Case No. 3:12-CV-06316-EMC MICHAEL BAIRD, 17 Plaintiff, STIPULATED REQUEST FOR DISMISSAL OF AFFIRMATIVE 18 **DEFENSES WITHOUT PREJUDICE; AND** V. [PROPOSED] ORDER 19 OFFICE DEPOT, 20 Defendant. 21 22 WHEREAS, in light of the Court's Order Granting in Part and Denying in Part Plaintiff's 23 Motion for Partial Summary Judgment, Defendant has reanalyzed the remaining affirmative defenses 24 and determined that it should voluntarily dismiss without prejudice the Tenth, Eighteenth, 25 Nineteenth, Twentieth, Fortieth, Forty-First, and Forty-Third Affirmative Defenses as they "are, in 26 effect, denials of liability" with respect to elements on which Plaintiff has the burden of proof, and 27 WHEREAS, the Parties have met and conferred regarding Defendant's Fifth and Sixth 28 STIPULATED REQUEST FOR DISMISSAL OF (NO. 3:12-CV-06316-EMC)

LITTLER MENDELSON, P.C. Treat Towers 1255 Treat Boulevard Suite 600 Walnut Creek, CA 94597 925 932 2468

STIPULATED REQUEST FOR DISMISSAL OF AFFIRMATIVE DEFENSES WITHOUT PREJUDICE; [PROPOSED] ORDER

1	Affirmative Defenses and Defendant has agreed to dismiss those defenses without prejudice,		
2	THEREFORE, IT IS HEREBY STIPULATED by and between the undersigned parties,		
3	through their counsel of record:		
4	1. That Defendant's Fifth, Sixth, Tenth, Eighteenth, Nineteenth, Twentieth, Fortieth,		
5	Forty-First, and Forty-Third Affirmative Defenses be dismissed without prejudice;		
6	6 2. That such dismissals shall not bar Defend	2. That such dismissals shall not bar Defendant from arguing at trial that Plaintiff cannot	
7	establish the essential elements of his claims based on the same underlying facts Defendant		
8	previously offered in support of the dismissed affirmative defenses.		
9	IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.		
10	0		
11	1 DATED: March 20, 2014 /S/P	hilip A. Simpkins	
12	2 MIC	HAEL E. BREWER LIP A. SIMPKINS	
13	LIT	FLER MENDELSON, P.C. rneys for Defendant, OFFICE DEPOT, INC.	
14		ineys for Berendant, of Free BEr & 1, inve.	
15	5 DATED: March 20, 2014 /S/1	Richard M. Rogers	
16	6 RIC	CHARD M. ROGERS W OFFICE OF RICHARD M. ROGERS	
17	A	orney for Plaintiff, MICHAEL BAIRD	
18	8		
19	I, the filer of this document, attest that all other signatories listed, and on whose behalf the		
20	filing is submitted, concur in the filing's content and have authorized the filing.		
21	1		
22		ilin A Cinnelina	
23	3 MICH	ilip A. Simpkins IAEL E. BREWER	
24	4 LITT	IP A. SIMPKINS LER MENDELSON, P.C.	
25	5 Attorn	neys for Defendant, OFFICE DEPOT, INC.	
26	6		
27	7		
28	8		
I, P.C.	c. (NO. 3:12-CV-06316-EMC) 2.	STIPULATED REQUEST FOR DISMISSAL OF AFFIRMATIVE DEFENSES WITHOUT	

[PROPOSED] ORDER

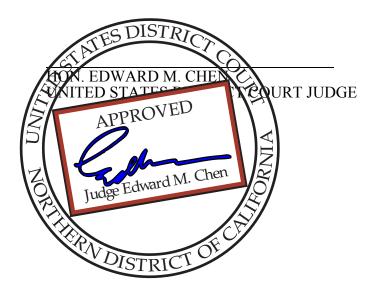
- 1. Defendant's Fifth, Sixth, Tenth, Eighteenth, Nineteenth, Twentieth, Fortieth, Forty-First, and Forty-Third Affirmative Defenses shall be dismissed without prejudice;
- Such dismissals shall not bar Defendant from arguing at trial that Plaintiff cannot establish the essential elements of his claims based on the same underlying facts Defendant previously offered in support of the dismissed affirmative defenses.

3.

IT IS SO ORDERED.

3/21 Dated: , 2014

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(NO. 3:12-CV-06316-EMC)

STIPULATED REQUEST FOR DISMISSAL OF AFFIRMATIVE DEFENSES WITHOUT PREJUDICE; [PROPOSED] ORDER