

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

DONNA DOUGLAS,

Plaintiff,

VERSUS

**MATTEL, INC. and CBS CONSUMER
PRODUCTS, INC.,**

Defendants

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CIVIL ACTION NO. 3:11-cv-00297

(FJP) (CN)

**ANSWER TO AMENDED COMPLAINT
AND JURY TRIAL DEMAND**

NOW INTO COURT, through undersigned counsel, comes Defendant Mattel, Inc. (“Mattel”) who files this response to Plaintiff Donna Douglas’ Amended Complaint as follows:

RESERVATION OF RIGHT TO DEMAND ARBITRATION

This action is subject to mandatory arbitration pursuant to collective bargaining agreements applicable to Plaintiff’s work on *The Beverly Hillbillies*, including the Screen Actors Guild agreements. The parties are in discussions regarding a possible resolution of the claims asserted by Plaintiff, but, in the event those discussions are unsuccessful and the Plaintiff refuses to consent to arbitration, Mattel will seek to compel arbitration. This answer is filed in order to preserve the record and is not intended, nor should it be construed, as a waiver of Mattel’s right to arbitrate under the applicable agreements.

ANSWER TO COMPLAINT

Without waiving its demand for arbitration as outlined above, Mattel offers the following answer to the allegations set forth in Plaintiff's Amended Complaint:

1.

Mattel admits that Plaintiff Donna Douglas is the actor who played Elly May Clampett in the television series *The Beverly Hillbillies*. Mattel also admits that it recently introduced a Barbie®Collector doll, based on the fictional character of Elly May Clampett from the television series *The Beverly Hillbillies* (the "Elly May Doll"). CBS Consumer Products, Inc. ("CBS") maintains exclusive rights to the use of the Elly May Clampett character and, accordingly, does not need to obtain Plaintiff's consent before using the character. Mattel introduced the Elly May Doll under a license granted to Mattel by CBS. The remaining allegations in Paragraph 1 are denied.

2.

Mattel is without sufficient information to affirm or deny the allegations of Paragraph 2.

3.

Mattel admits that it is a Delaware Corporation with its principal place of business in California.

4.

Mattel admits that CBS is a Delaware Corporation with its principal place of business in New York.

5.

The allegations contained in paragraph 5 constitute legal conclusions which require no answer.

6.

The allegations contained in paragraph 6 constitute legal conclusions which require no answer. To the extent a response is required, Mattel lacks sufficient information to affirm or deny the allegations of paragraph 6.

7.

The allegations contained in paragraph 7 are admitted.

8.

Mattel is without sufficient information to affirm or deny the allegations of paragraph 8.

9.

Mattel admits that in approximately December 2010 it began to sell an Elly May Doll designed to resemble the Elly May Clampett character, a fictional character over which CBS maintains the exclusive rights and to which Mattel was granted a license. Mattel admits that Exhibit A appears to reflect the retail packaging for the Elly May Doll but asserts that the packaging materials speak for themselves. Mattel admits that Exhibit B appears to be a printout from Amazon.com in which Amazon.com attributes the Elly May Doll to Mattel, but Mattel lacks sufficient information to affirm or deny the validity of Exhibit B. Moreover, the promotional materials speak for themselves. The remaining allegations are denied.

10.

Denied. Mattel avers that CBS has exclusive rights to the use of the Elly May Clampett character. Mattel further avers that, pursuant to a license between Mattel and CBS, Mattel has the right to use the Elly May Clampett character in association with the Elly May Doll.

11.

Denied. The Elly May Doll is designed to resemble the Elly May Clampett character, over which CBS maintains exclusive rights. Pursuant to a license between Mattel and CBS,

Mattel has the right to use the Elly May Clampett character in association with the Elly May Doll and is not required to obtain the consent of Plaintiff before using the Elly May Clampett character.

12.

The allegations contained in paragraph 12 do not require an answer.

13.

Denied.

14.

The allegations contained in paragraph 14 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

15.

The allegations contained in paragraph 15 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

16.

The allegations contained in paragraph 16 do not require an answer.

17.

The allegations contained in paragraph 17 do not require an answer from Mattel. To the extent a response is required, the allegations in paragraph 17 are denied.

18.

The allegations contained in paragraph 18 do not require an answer from Mattel. To the extent a response is required, the allegations in paragraph 18 are denied.

19.

The allegations contained in paragraph 19 do not require an answer from Mattel and/or constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

20.

The allegations contained in paragraph 20 do not require an answer from Mattel and/or constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

21.

The allegations contained in paragraph 21 do not require an answer.

22.

The allegations contained in paragraph 22 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

23.

The allegations contained in paragraph 23 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

24.

The allegations contained in paragraph 24 do not require an answer.

25.

The allegations contained in paragraph 25 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

26.

The allegations contained in paragraph 26 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

27.

The allegations contained in paragraph 27 do not require an answer.

28.

The allegations contained in paragraph 28 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

29.

The allegations contained in paragraph 29 constitute legal conclusions which require no answer. To the extent a response is required, Mattel denies the allegations.

ANSWERING FURTHER, Mattel pleads the following defenses:

A.

Plaintiff has failed to state a claim against Mattel for some or all of her asserted causes of action.

B.

Plaintiff's claims are barred by the terms of the contracts and Screen Actors Guild agreements applicable to her work on *The Beverly Hillbillies*.

C.

Plaintiff is not entitled to any relief in this matter as a result of waiver by conduct.

D.

Plaintiff is not entitled to any relief in this matter because CBS maintains exclusive rights to the use of the Elly May Clampett character and, pursuant to a license between Mattel and CBS, Mattel has the right to use the Elly May Clampett character in association with the Elly May Doll.

E.

This action is subject to mandatory arbitration pursuant to the agreements applicable to Plaintiff's work on *The Beverly Hillbillies*, including the Screen Actors Guild agreements.

F.

Mattel reserves the right to assert all other affirmative defenses as discovery may reveal to be applicable.

WHEREFORE, defendant Mattel prays that this answer be deemed good and sufficient and that after due proceedings had, there be judgment in its favor and against the plaintiff dismissing all claims and awarding all costs of these proceedings to defendant. Defendant further prays for all other relief to which it may be entitled, including an award of attorney fees.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2011, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to the counsel of record for the Plaintiff.

/s/ Loretta G. Mince