

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RALPH VARGAS and
BLAND-RICKY ROBERTS

Plaintiffs

vs.

PFIZER INC., PUBLICIS, INC., FLUID MUSIC,
EAST WEST COMMUNICATIONS, INC. and
BRIAN TRANSEAU p/k/a “BT”

Defendants

CASE NO.: 04 CV 9772 (WHP)
(JCF)

ECF CASE

**DECLARATION OF PAUL A. CHIN IN SUPPORT OF PLAINTIFFS’
OPPOSITION TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

PAUL A. CHIN declares and states as follows:

1. I am an attorney licensed to practice law in the courts of the state of New York and in this District and am counsel for Ralph Vargas (“Plaintiff Vargas”) and Bland-Ricky Roberts (“Plaintiff Roberts”) (collectively “Plaintiffs”) in the above captioned matter. I hereby submit this declaration identifying the exhibits which contain the relevant portions of Plaintiffs’ evidence that establish disputed material issues of fact in support of Plaintiffs’ Opposition to Defendant Brian Transeau’s (“Defendant BT”) motion for summary judgment (“Defendant’s Motion”) ¹:

2. Attached hereto as **Plaintiffs’ Exhibit 1** is a true and correct copy of Plaintiffs’ Second Amended Complaint filed in this action.

¹ Defendant East West Communications, Inc. (“Defendant EWC”) has joined in Defendant’s Motion.

3. Attached hereto as **Plaintiffs' Exhibit 2** is a true and correct copy of the relevant portions of the deposition transcript of Plaintiff Ralph Vargas taken on July 31, 2006.

4. Attached hereto as **Plaintiffs' Exhibit 3** is a true and correct copy of the Declaration of Matthew Ritter ("Ritter Decl."), with attached exhibits, which was marked as Defendants' Exhibit 5 during the deposition of Ralph Vargas on July 31, 2006.

5. Attached hereto as **Plaintiffs' Exhibit 4** is a true and correct copy of the Plaintiffs' document bates stamped numbers 000003 and 000017 which produced to Defendant BT during discovery.

6. Attached hereto as **Plaintiffs' Exhibit 5** is a true and correct copy of the relevant portions of the deposition transcript of Plaintiff Bland-Ricky Roberts taken on August 2, 2006.

7. Attached hereto as **Plaintiffs' Exhibit 6** is a true and correct copy of the relevant portions of the deposition transcript of Defendant Brian Transeau taken on August 16, 2006.

8. Attached hereto as **Plaintiffs' Exhibit 7** is a true and correct copy of a Plaintiffs' First Set of Interrogatories to Defendant Brian Transeau and Responses Thereto ("Defendant BT's Interrogatory Resp.") dated September 2, 2005.

9. Attached hereto as **Plaintiffs' Exhibit 8** is a true and correct copy of a Plaintiffs' First Set of Interrogatories to Defendant East West Communications and Responses Thereto ("Defendant EWC's Interrogatory Resp.") dated September 2, 2005.

10. Attached hereto as **Plaintiffs' Exhibit 9** is a true and correct copy of the Declaration of Ivan A. Rodriguez ("Rodriguez Decl."), which was marked as Defendants' exhibit 22 during Defendants' deposition of Ivan A. Rodriguez on August 9, 2006.

11. Attached hereto as **Plaintiffs' Exhibit 10** is a true and correct copy of the relevant portions of the deposition transcript of Ivan Rodriguez taken on August 9, 2006.

12. Attached hereto as **Plaintiffs' Exhibit 11** is a true and correct copy the Expert Report of Dr. Steven Smith ("Dr. Smith's Expert Report"), which was marked as Defendants' exhibit 34 during Defendants' deposition of Dr. Steven Smith on August 15, 2006.

13. Attached hereto as **Plaintiffs' Exhibit 12** is a true and correct copy of the relevant portions of the deposition transcript of Matthew Ritter dated August 10, 2006.

14. Attached hereto as **Plaintiffs' Exhibit 13** is a true and correct copy of the relevant portions of the deposition transcript of Dr. Steven Smith taken on August 15, 2006.

15. Attached hereto as **Plaintiffs' Exhibit 14** is a true and correct copy of the expert opinion of Defendant BT's expert Dr. Richard Boulanger dated January 31, 2006 ("Boulanger's Report").

Dated: New York, New York
October 12, 2006

Respectfully submitted,

s/ Paul A. Chin

Paul A. Chin, Esq. (PC9656)
LAW OFFICES OF PAUL A. CHIN
The Woolworth Building
233 Broadway, 5th Floor
New York, NY 10279
(212) 964-8030
Attorneys for Plaintiffs

TO: Julie Ahrens, Esq.
Kirkland & Ellis, LLP
555 California Street, Suite 2700
San Francisco, CA 94104
Counsel for Defendant Transeau

David S. Olson, Esq.
Center for Internet and Society
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305-8610
Counsel for Defendant Transeau

Eric M. Stahl, Esq.
Davis Wright Tremaine, LLP
1501 4th Avenue, Suite 2600
Seattle, WA 98101-1688
Counsel for Defendant East West Communications

CERTIFICATE OF SERVICE

On the 12th day of October, 2006, a true and correct copy of the DECLARATION OF PAUL A. CHIN IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT was served via priority mail, with delivery confirmation, postage pre-paid to the following attorneys representing the Defendants:

Julie Ahrens, Esq.
Kirkland & Ellis, LLP
555 California Street, Suite 2700
San Francisco, CA 94104
Counsel for Defendant Transeau

David S. Olson, Esq.
Center for Internet and Society
Stanford Law School
559 Nathan Abbott Way
Stanford, CA 94305-8610
Counsel for Defendant Transeau

Eric M. Stahl, Esq.
Davis Wright Tremaine, LLP
1501 4th Avenue, Suite 2600
Seattle, WA 98101-1688
Counsel for Defendant East West Communications

10/12/06
Date

s/ Paul A. Chin
Paul A. Chin, Esq. (PC 9656)
LAW OFFICES OF PAUL A. CHIN
The Woolworth Building
233 Broadway, 5th Floor
New York, NY 10279
(212) 964-8030
Attorneys for Plaintiffs