

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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 :  
 MARVEL WORLDWIDE, INC., :  
 MARVEL CHARACTERS, INC. and :  
 MVL RIGHTS, LLC, :  
 :  
 Plaintiffs, :  
 :  
 - against- :  
 :  
 LISA R. KIRBY, BARBARA J. KIRBY, :  
 NEAL L. KIRBY and SUSAN N. KIRBY, :  
 :  
 Defendants. :  
 -----X

Civil Action No. 10 Civ. 141 (CM) (KNF)

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 :  
 LISA R. KIRBY, BARBARA J. KIRBY, :  
 NEAL L. KIRBY and SUSAN N. KIRBY, :  
 :  
 Counterclaimants, :  
 :  
 - against- :  
 :  
 MARVEL ENTERTAINMENT, INC., :  
 MARVEL WORLDWIDE, INC., :  
 MARVEL CHARACTERS, INC., :  
 MVL RIGHTS, LLC, :  
 THE WALT DISNEY COMPANY, :  
 and DOES 1 through 10, :  
 :  
 Counterclaim-Defendants. :  
 -----X

**NOTICE OF MOTION TO STRIKE**

PLEASE TAKE NOTICE that upon the annexed Memorandum of Law and accompanying Declaration of Jodi A. Kleinick, dated April 8, 2011, and the exhibits thereto, Plaintiffs and Counterclaim-Defendants Marvel Worldwide, Inc., Marvel Characters, Inc. and MVL Rights, LLC, Marvel Entertainment, LLC (sued herein as Marvel Entertainment, Inc.) and The Walt Disney Company hereby move the Court, before the Honorable Colleen McMahon,

United States District Judge, United States District Court for the Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York for an order pursuant to Rule 37(c)(1) of the Federal Rules of Civil Procedure striking: (1) the declarations of Joe Sinnott and James F. Steranko in support of Defendants' Motion for Summary Judgment and in Opposition to Plaintiffs' Motion for Summary Judgment; and (2) certain documents that were never produced by Defendants in discovery but were attached as exhibits to the Declarations of Marc Toberoff and John Morrow dated March 25, 2011 in support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment, and for such other and further relief as this Court may deem just and proper.

Dated: April 8, 2011

By: /s/ Jodi A. Kleinick

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