

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.

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.

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**DECLARATION OF JODI A. KLEINICK IN SUPPORT OF PLAINTIFFS' AND  
COUNTERCLAIM-DEFENDANTS' MOTION TO STRIKE (1) THE DECLARATIONS  
OF JOE SINNOTT AND JAMES F. STERANKO, AND (2) CERTAIN DOCUMENTS  
ATTACHED AS EXHIBITS TO DEFENDANTS' DECLARATIONS IN SUPPORT OF  
THEIR OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

I, Jodi A. Kleinick, declare under penalty of perjury as follows:

1. I am a partner of Paul, Hastings, Janofsky & Walker LLP and am duly admitted to practice in the State of New York and before this Court. Together with the law firms Weil, Gotshal & Manges LLP and Haynes and Boone, LLP, I am counsel to Plaintiffs and

Counterclaim-Defendants Marvel Worldwide, Inc., Marvel Characters, Inc., MVL Rights, LLC, Marvel Entertainment, LLC (sued herein as Marvel Entertainment, Inc.) (collectively, “Marvel”) and The Walt Disney Company (“Disney”) in this action.

2. Annexed hereto as Exhibit 1 is a true and correct copy of Defendants’ Initial Disclosures, served on April 28, 2010.

3. Annexed hereto as Exhibit 2 is a true and correct copy of Plaintiffs’ Document Request, which was served on each Defendant on March 10, 2010.

4. Annexed hereto as Exhibit 3 is a true and correct copy of Plaintiffs’ Second Document Request, which was served on each Defendant on August 17, 2010.

5. Annexed hereto as Exhibit 4 is a true and correct copy of Plaintiffs’ Request For The Production Of Expert Documents, served on November 12, 2010.

6. On March 16, 2011, in connection with the parties’ preparation of their proposed joint pre-trial order to be filed April 1, 2011, counsel for Defendants provided counsel for Marvel and Disney with a list of their proposed witnesses for trial. This list included, among others, Joe Sinnott and Stan Goldberg, neither of whom had been disclosed in Defendants’ Initial Disclosures. A true and correct copy of Defendants’ March 16, 2011 list of trial witnesses is attached hereto as Exhibit 5.

7. On March 23, 2011, Defendants served an amended list of trial witnesses, to which they added James Steranko, who was also not disclosed in Defendants’ Initial Disclosures. A true and correct copy of Defendants’ March 23, 2011 amended list of trial witnesses is attached hereto as Exhibit 6.

8. On March 23, 2011, Marvel and Disney advised Defendants that they objected to Defendants’ reliance on the testimony of Messrs. Sinnott, Goldberg and Steranko because they

