

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.

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

LISA R. KIRBY, BARBARA J. KIRBY,  
NEAL L. KIRBY and SUSAN N. KIRBY,

Counterclaim-Plaintiffs,

- 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 DAVID FLEISCHER IN SUPPORT OF MOTION  
BY PLAINTIFFS AND COUNTERCLAIM-DEFENDANTS TO EXCLUDE  
THE EXPERT REPORT AND TESTIMONY OF JOHN MORROW**

David Fleischer hereby declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am a member of Haynes and Boone, LLP, co-counsel for plaintiffs

Marvel Worldwide, Inc., Marvel Characters, Inc. and MVL Rights, LLC (collectively

“Plaintiffs”) and counterclaim-defendants Marvel Entertainment, LLC (sued herein as Marvel

Entertainment, Inc. and together with Plaintiffs, “Marvel”) and The Walt Disney Company (“Disney”) and submit this declaration in support of the motion (the “Motion”) of Marvel and Disney to exclude the expert report and testimony of John Morrow.

2. A copy of the expert report of John Morrow dated November 4, 2010 is annexed hereto as Exhibit A.

3. Copies of the pages from the transcript of the January 10, 2011 deposition of John Morrow cited in the accompanying memorandum of law submitted in support of the Motion are annexed hereto as Exhibit B.

4. A copy of the expert report of Mark Evanier dated November 4, 2010 is annexed hereto as Exhibit C.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 18, 2011.

/s/ David Fleischer  
David Fleischer