

5. FEI admits that on November 7, 2007, the Court stayed this case in its Opinion (Docket Entry #23), which speaks for itself. As to the remaining allegations in this paragraph, FEI denies them, including the allegations that are inconsistent with the complete record or taken out of context.

6. The Complaint speaks for itself. Denied.

7. Denied.

8. Denied.

9. Denied.

10. FEI admits that PAWS was one of the original plaintiffs in the ESA Action and that it settled the ESA Action with FEI. FEI further admits that PAWS filed a separate action against FEI, in which the RICO claim was dismissed. As to the remaining allegations in this paragraph, FEI denies them.

11. The *Salon* article speaks for itself. Denied.

12. Denied.

13. Denied.

14. Denied.

15. FEI admits that Kenneth Feld testified at trial on March 9, 2006, and that his trial testimony speaks for itself. FEI denies the remaining allegations in paragraph 15.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

As to each paragraph beginning with “WHEREFORE”, FEI is not required to answer such prayers for relief but, if it is required to answer, FEI denies each of them.

As to any remaining allegations not specifically admitted, FEI denies them.

AFFIRMATIVE AND OTHER DEFENSES

First Defense

Defendant and counterclaim plaintiff MGC has failed to state a claim for abuse of process upon which relief may be granted.

Second Defense

MGC’s counterclaim is or may be barred, in whole or in part, by the statute of limitations.

Third Defense

MGC’s counterclaim is or may be barred, in whole or in part, by the Noerr-Pennington Doctrine and/or by the protections afforded by the First Amendment to the United States Constitution.

Fourth Defense

MGC has, or may have, failed to mitigate its damages.

Fifth Defense

MGC’s counterclaim is or may be barred because FEI’s conduct was lawful and in good faith, and without an improper purpose or ulterior motive.

Sixth Defense

MGC's demand for punitive damages of \$100 million is or may be barred because, if awarded, it would be grossly excessive, arbitrary and unreasonable and deprive FEI of its right to due process under the United States Constitution.

Seventh Defense

MGC's demand for punitive damages is or may be barred because FEI did not act with malice or its equivalent.

Eighth Defense

MGC's counterclaim is or may be barred, in whole or in part, by estoppel, including judicial estoppel.

Ninth Defense

MGC's counterclaim is or may be barred, in whole or in part, by the doctrine of res judicata and/or collateral estoppel.

Tenth Defense

MGC's counterclaim is or may be barred by its failure to plead and/or prove causation.

FEI reserves the right to assert each and every additional defense, including affirmative defenses that may become available during the course of discovery.

WHEREFORE, FEI requests that the Court:

- (1) Dismiss MGC's counterclaim with prejudice;
- (2) Award FEI costs and attorneys' fees; and
- (3) Grant such further relief as it deems proper.

JURY DEMAND

FEI demands a trial by jury of all issues triable to a jury.

Dated: May 2, 2013

Respectfully submitted,

/s/ John M. Simpson

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