

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger**

Civil Action No. 09-CV-00309 MSK-KMT

SUZANNE SHELL,
Plaintiff,

v.

AMERICAN FAMILY RIGHTS ASSOCIATION, et al.,
Defendants.

**MOTION TO DISMISS DEFENDANTS WILLIAM O. TOWER AND AMERICAN
FAMILY RIGHTS ASSOCIATION AND FOR SANCTIONS AGAINST PLAINTIFF
PURSUANT TO RULES 12 (B)(2) AND 12(B)(6)**

COME NOW, Defendants William O Tower and American Family Rights Association (americanfamilyrightsassociation.com.) (hereinafter, “Tower and AFRA Defendants”) In proper, and (pursuant to F.R.C.P.R. 12 (b)) hereby move this Court to dismiss the Plaintiff’s case against them, and for the Court to levy sanctions against Plaintiff. In Support of this Motion, Tower and AFRA Defendants state as follows:

1. The Defendants certify that, pursuant to D.C. Colo.L.Civ. R. 7.1(A), this motion was not discussed with Plaintiff due to the fact that this is a Rule 12 Motion to Dismiss and it is expected that Plaintiff will oppose this Motion.

FACTS

2. Plaintiff alleges eleven causes of action against Tower and AFRA Defendants. AFRA is a

passive website used to post information largely related to family rights and issues with Child Protective Services. It is a public website and derives no income, either directly or indirectly through any forum related activity. AFRA receives no income from any advertising and has no commercial interest. Tower and AFRA Defendants do not conduct training seminars or grant licenses, and do not offer training seminars on the AFRA website or through any yahoo group. AFRA is a web domain (hosted on a commercial server located in Chicago, Illinois), owned by Defendant William Tower, a California resident. Defendant William Tower received ownership of the AFRA domain in April 2006. Defendant William Tower has no agency relationship with any person associated with AFRA or any yahoo group. No person has the authority through AFRA or any yahoo group to bind Tower and AFRA Defendants to any contract or obligation. Defendant William Tower's sole control over any AFRA member or yahoo group linked to the AFRA website is to control membership.

3. Plaintiff describes her business as being a superior product where the delivery system is based on training seminars and various writings and publications sold on her website "Profane Justice." Plaintiff has advertised at different times that her seminars are designed to inform people about parental rights and additional seminars are available to train and certify family advocates through her corporation Family Rights Advocacy Institute, Inc. (FRAI Inc.). Trainees becoming FRAI Inc. certified family advocates must be licensed by Plaintiff as a condition of engaging in any family advocacy activity. It is unclear to Defendant Tower whether Plaintiff has standing to bring any causes of action on behalf of business damages for FRAI Inc., a corporation, in her capacity as an in pro per litigant, before this court.

4. Plaintiff was one of the original founding members of AFRA and contributed material to the

website as well as using it as a resource to further Plaintiff's separate business interests. Over time, Plaintiff's conduct became increasingly disruptive and divisive and Plaintiff formally withdrew membership in February 2005. Plaintiff's withdrawal terminated forum related activity by AFRA in Colorado. No AFRA monitored internet site based in Colorado has existed since Plaintiff's departure. Defendants subsequently removed all links to Plaintiff's website and known yahoo groups.

5. Plaintiff alleges the yahoo group, AFRA_BOD (Board of Directors) acts as a business arm for AFRA. The BOD is simply the name given to the twelve member yahoo group that serves as the moderator for autonomous, private yahoo groups who requested to use the AFRA name or who wanted to link to AFRA.

The BOD exists to reduce incidents of "flaming" that erupt on internet groups, identify and prevent hawking of questionable goods and services, as well as eliminating any other predatory or illegal conduct. The BOD does not engage in any commercial activity in any forum, nor does the BOD act in any business capacity. Yahoo group AFRA_Cencom is a chat group for AFRA members. Plaintiff's use of the AFRA_Cencom group was largely to promote her business interests. AFRA_Cencom did not, however, seek or receive any commercial benefit related to Plaintiff's activities. Plaintiff's membership from the group terminated in February 2005.

ARGUMENT

Personal Jurisdiction (All Causes of Action Except RICO)

6. Plaintiff's Complaint should be dismissed because it fails under F.R.C.P.R. 12(b)(2), in that that Court lacks personal jurisdiction (either general or specific) over Tower and AFRA Defendants. **International Shoe, Zippo - See brief.**

Subject Matter Jurisdiction (Diversity Claims)

7. Plaintiff's claims as applies to Plaintiff's First, Fifth, Sixth, Eighth, Ninth and Tenth causes of action as to diversity jurisdiction should fail because there is not absolute diversity of parties. At least two of the named defendants are Colorado residents.

Failure to State a Claim (All Claims)

8. Plaintiff's Complaint should be dismissed under F.R.C.P.R. 12(b)(6) because the Plaintiff has failed to state any claim against Tower and AFRA Defendants, upon which relief can be granted.

Standards For Motions to Dismiss

9. Plaintiff fails to allege with particularity facts sufficient to establish Tower and AFRA Defendants acts necessary to support any of the alleged causes of action. Plaintiff attempts to use sweeping allegations imputed to Tower, through the existence of the AFRA website. Plaintiff names Defendant Tower in a single instance, and even than fails to allege sufficient facts to enable Defendant Tower to respond, leaving it up to Defendant to figure out the details. In *Bell Atl. Corp. V. Twombly*, 550 U.S. 544 (2007), the United States Supreme Court held that "a claim attacked by a Fed. R. Civ. P. 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do. Factual allegations must be enough to raise a right to relief above the speculative level." The Twombly Court applies a standard of review that requires that the "a plaintiff must 'nudge his claims across the line from conceivable to plausible' in order to survive a motion to dismiss." *Bell Atl. Corp. V. Twombly, supra.*; *Smith v. United States*, 561 F.3d 1090 (10th Circuit 2009)

First Cause of Action (Misappropriation/Theft of Trade Secrets)

10. **Burden of Proof:** The Plaintiff bears the burden of production to present facts demonstrating a *prima facie* case. *DTM Research v AT&T Corp.*, 245 F.3d 327 (4th Cir. 2001).
11. **Elements:** The Plaintiff must allege that: (1) there exists an idea not generally known and treated by the owner as a secret; (2) improper disclosure or use; and, (3) proof of loss, either present or future. *Texas Urethane, Inc. V. Seacrest Marine Corp.*, 608 F.2d 136, 138 (5th Cir. 1979); *Fast Capital Mktg., LLC v. Fast Capital LLC*, 2008 U.S. Dist. LEXIS 103988 (S.D. Tex. Dec. 24, 2008).

12. Elements Not Supported by Complaint:

- a. **Element 1:** Plaintiff has not alleged any specific trade secret that is not generally known. Plaintiff's allegation is vague, lacks specificity and is a legal conclusion.
- b. **Element 2:** Plaintiff does not allege any improper disclosure of information by Tower and AFRA Defendants.

Second Cause of Action (Copyright Infringement)

13. **Burden of Proof:** The Plaintiff has the burden of production by presenting facts that demonstrate a *prima facie* case on all elements of a copyright infringement case. *Palladium Music, Inc. v. EatSleepMusic, Inc.*, 398 F.3d 1193, 1196 (10th Cir. 2005).
14. **Elements:** The Plaintiff must allege: "...1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original." *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361, 111 S. Ct. 1282 (1991). Tower and AFRA Defendants, concede that Plaintiff has pled ownership of some valid copyrights.
15. **Elements Not Supported by the Complaint:**

a. **Element 2:** Plaintiff fails to specify with any particularity what copyrighted article or material was allegedly republished and distributed by William Tower and AFRA Defendants on or about 18 March 2006. Plaintiff alleges a fact without providing any information on what was allegedly taken from her copyrighted website and as such, does not sufficiently allege facts to permit Tower and AFRA defendants to respond to Plaintiff's allegation. As such, Plaintiff's allegation is merely a legal conclusion. Legal conclusions, unsupported by factual allegations in a complaint do not reach the standard necessary to impose an obligation for the court to accept an allegation as true. The Twombly Court "prescribed a new inquiry for [courts] to use in reviewing a dismissal: whether the complaint contains 'enough facts to state a claim to relief that is plausible on its face.'" See *Smith v. United States*, 561 F.3d 1090, 1098 (10th Circuit 2009).

16. The Doctrine of Laches renders the Plaintiff's claim invalid.

Third Cause of Action (Contributory Copyright Infringement)

17. **Burden of Proof:** "There can be no contributory infringement without a direct infringement." *Ellison v. Robertson*, 357 F.3d 1072, 1076 (9th Cir. 2004), *La Resolana Architects, PA v. Reno, Inc.*, 555 F.3d 1171 (10th Cir. 2009) It is therefore, Plaintiff's burden to produce facts necessary to establish a prima facie case, *Palladium Music, supra*.

18. **Elements:** Plaintiff must allege that (1) defendants had knowledge of another person's infringement; and, (2) defendant either materially contributed to or induced infringement. *Perfect 10, Inc. v. Visa Int'l Serv. Ass'n*, 494 F.3d 788, 802 (9th Cir. 2007).

19. **Elements Not Supported by Complaint:**

a. **Element 1:** Plaintiff has made no factual allegations to support her legal conclusion. Such failure must lead to dismissal of this claim.

b. **Element 2:** Plaintiff has made a legal conclusion that is not supported by any factual allegation. This must lead to dismissal of this claim.

20. Plaintiff is barred from raising these claims for contributory infringement because allegations are based on acts that occurred more than three years prior to the filing.

Fourth Cause of Action (Vicarious Copyright Infringement)

21. **Burden of Proof:** The Plaintiff bears the burden of production and must come forward with facts necessary to demonstrate a prima facie case. *A&M Records, Inc. v. Napster*, 239 F.3d 1004, 1013(9th Cir. 2001).

22. **Elements:** The Plaintiff must allege that: (1) defendant had a right and ability to supervise the infringing conduct; and (2) a direct financial interest in the infringing activity. *Perfect 10* at 802.

23. **Elements Not Supported by Complaint:**

a. **Element 1:** Plaintiff has made no factual allegation which would lead any reasonable person to arrive at her conclusory legal allegation. *In Perfect 10* at 803, the court noted that the "right to control the infringing acts of third parties even though that ability would allow [the defendants] to affect those infringing acts to some degree."

b. **Element 2:** Plaintiff has made a conclusory legal allegation and has not made a single factual allegation that would support her legal conclusion. See *Smith v. United States*, 561 F.3d 1090 *supra*. This must lead to dismissal of the claim. Where the Plaintiff only alleges indirect financial benefits, vice direct financial benefits, this element fails.

24. The Statute of Limitations bars recovery in that the Plaintiff bases her claims on alleged infringements that occurred more than three years prior to the filing of the Complaint.

Fifth Cause of Action (Breach of Contract)

25. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a prima facie case. *Western Distributing Co. v. Diodosio*, 841 P.2d 1053, 1057-1058.

26. **Elements:** The Plaintiff must allege that: (1) a contract existed between Plaintiff and each Defendant; (2) Plaintiff performed its obligations under that contract, or that the Plaintiff had substantial justification for nonperformance; (3) each Defendant failed to perform its obligation under the contract; and, (4) damage to Plaintiff resulted from that failure. *Hemmann Mgt. Svcs. V. Mediacell*, 176 P.3d 856, 859 (Colo. 2007).

27. **Elements Not Supported by Complaint:**

a. **Element 1:** Plaintiff makes no factual allegations indicating that a contract existed between Plaintiff and Tower and AFRA Defendants.

b. **Element 2:** Because Plaintiff failed to allege the existence of a contract, Plaintiff has failed to allege her duty of performance.

c. **Element 3:** Because Plaintiff failed to allege the existence of a contract, Plaintiff has also failed to allege the failure of Tower and AFRA Defendants to perform under the contract.

d. **Element 4:** Because Plaintiff has failed to allege the existence of a contract or the breach of that contract by Tower and AFRA Defendants. Plaintiff has failed to allege damages resulted from such breach.

Sixth Cause of Action (Tortious Interference with Business Relationship and/or Business Contract)

28. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a *prima facie* case. *Western Distributing Co. v. Diodosio*, 841 P.2d 1053, 1057-1058 (Colo. 1992).

29. **Elements:** The Plaintiff must allege that: (1) There existed a valid contract between the Plaintiff and a third party; (2) each Defendant knew of this contract, or had knowledge of facts that should lead it to inquire as to the existence of a contract; (3) intent by each Defendant to induce a breach of the contract by a third party; (4) action by each Defendant that induced a breach of the contract; and, (5) damage to the plaintiff.

30. **Elements Not Supported by Complaint:**

a. **Element 2:** Plaintiff has failed to allege facts that would show that Tower and AFRA Defendants had any knowledge of any contracts nor are any facts alleged that would infer a duty on Defendant to inquire into the existence of any contracts described in the Complaint.

b. **Element 3:** Plaintiff has failed to allege facts specific to Tower and AFRA Defendants that show that there was any intent by Tower and AFRA Defendants to induce breach by a third party.

c. **Element 4:** Plaintiff has failed to allege any facts showing that Tower and AFRA Defendants took any action to induce such a breach.

d. **Element 5:** Plaintiff has failed to allege any damages resulting from any inducement by Tower and AFRA Defendants.

31. Plaintiff's action for this cause of action must fail because it was brought outside of the applicable two-year statute of limitations. C.R.S. § 13-80-102 (1) (a). With respect to the contracts described with Defendants Swallow and Durand, Plaintiff alleged the breach of those contracts occurred in 2005. This claim is barred by the statute of limitations as the instant suit was filed in 2009. Therefore this claim must fail.

Seventh Cause of Action (Racketeering or RICO)

32. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a *prima facie* case. *Preferred Mut. Ins. Co. v. Dumas*, 905 F.2d 1538, 1990 WL 87048, *3 (6th Cir. 1990).

33. **Elements:** The Plaintiff must allege that: (1) defendants had investment in, control of, or conduct in (2) an enterprise (3) through a pattern (4) of racketeering activity. *Tal v. Hogan*, 453 F.3d 1244, 1261 (10th Cir. 2006).

34. **Elements Not Supported by Complaint:**

a. **Element 1:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

b. **Element 2:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

c. **Element 3:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim. Accordingly, due to the statute of limitations issue, Plaintiff has failed to state an actionable claim against Tower and AFRA Defendants.

d. **Element 4:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations sufficient to lead to this conclusory legal allegation. This must lead to dismissal of this claim.

35. In addition, Plaintiff relies on mail fraud as a predicate act which would trigger RICO liability. However, Plaintiff has failed to adequately plead with particularity the facts necessary to establish a fraud claim.

36. Finally, Plaintiff's RICO claims are barred by the applicable statutes of limitations.

a. Plaintiff claims that "the predicate acts have been committed by The Enterprise continuously since 2000."

b. The applicable statute of limitations for RICO actions is four years. *Agency Holding Corp. v. Malley-Duff & Assoc.*, 483 U.S. 143, 156 (1987).

c. The Supreme Court has clearly indicated that RICO actions cannot use the "last predicate act" to relate back to all actions and preserve the legitimacy of a claim. *Klehr v. A.O. Smith Corp.*, 521 U.S. 179, 190 (1997).

d. Since the applicable statute of limitations began to run in 2000, and this suit was filed nine years later. Plaintiff's RICO claims are barred by the statute of limitations.

Eighth Cause of Action (False and Misleading Advertising)

37. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a *prima facie* case. *Coach Leatherware Co. v. AnnTaylor, Inc.*, 933 F.2d 162, 167 (2nd Cir. 1991).

38. **Elements:** The Plaintiff must allege that: (1) each Defendant made material false or misleading representations of fact in connection with the commercial advertising or promotion of its product; (2) in commerce; (3) that are either likely to cause confusion or mistake as to (a) the origin, association, or approval of the product with or by another, or (b) the characteristics of the goods or services; and (4) injure the plaintiff. *Cottrell v. Biotrol Int'l*, 191 F.3d 1248, 1252 (10th Cir. 1999). Tower and AFRA Defendants concede that the Plaintiff has alleged the fourth element; that is, that she was injured.

39. **Elements Not Supported by Complaint:**

a. **Element 1:** The Plaintiff has not alleged any actions by Tower and AFRA Defendants. The Plaintiff has not alleged that any representations by Tower and AFRA Defendants took place as a part of any commercial advertising or promotion.

b. **Element 2:** The Plaintiff has not alleged any facts to show that any statements were made in the course of commerce.

c. **Element 3:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made no factual allegations which would lead to her conclusory legal allegation. This must lead to dismissal of this claim.

40. The Lanham Act does not contain a statute of limitations, so the appropriate state statute of limitations must be borrowed. See, e.g., *Miller v. Glenn Miller Prod., Inc.*, 454 F.3d 975, n.11

(9th Cir. 2006). C.R.S. § 13-80-102 (1) (g) provides that the statute of limitations is two years on “All actions upon liability created by a federal statute where no period of limitation is provided in said statute.” The only date mentioned in the cause of action is August of 2000 – well beyond the statute of limitations. Complaint at ¶ 231. Accordingly, Plaintiff’s claims under this cause of action are barred.

Ninth Cause of Action (Unfair or Deceptive Trade Practices and Unfair Methods of Competition)

41. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a *prima facie* case. *Western Distributing Co. v. Diodosio*, 841 P.2d 1053, 1057-1058 (Colo. 1992).

42. **Elements:** The Plaintiff must allege that: (1) Each defendant engaged in an unfair or deceptive trade practice; (2) the challenged practice occurred in the course of each defendant’s business, vocation, or occupation; (3) it significantly impacts the public as actual or potential consumers of the defendant’s goods, services or property; (4) the Plaintiff suffered injury in fact to a legally protected interest; and, (5) the challenged practice caused the Plaintiff’s injury. *Rhino Linings USA, Inc. v. Rocky Mtn. Rhino Lining, Inc.*, 62 P.3d 142, 146-147 (Colo. 2003).

43. **Elements Not Supported by Complaint:**

a. **Element 1:** Plaintiff has made a conclusory legal allegation. Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation, nor has Plaintiff alleged any fact that Tower and AFRA Defendants have engaged in unfair or deceptive trade practice. This must lead to dismissal of this claim. SEE BRIEF

b. **Element 2:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made no factual allegations which would lead to her conclusory legal allegation. This must lead to dismissal of this claim.

c. **Element 3:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made

absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

d. **Element 4:** Plaintiff has made a conclusory legal allegation. Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

e. **Element 5:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

44. Further, the statute of limitations for this action is three years. C.R.S. § 6-1-115. Plaintiff's allegation that these practices began in August 2000, bars recovery under the statute of limitations. Therefore, Plaintiff is barred from recovery under this claim.

Tenth Cause of Action (Conspiracy)

45. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a prima facie case. *Western Distributing Co. v. Diodosio*, 841 P.2d 1053, 1057-1058 (Colo. 1992).

46. **Elements:** The Plaintiff must allege that: (1) there is a combination of two or more persons; (2) there exists an object to be accomplished; (3) there existed a meeting of the minds on the object or the course of action; (4) there were one or more unlawful, overt acts; (5) damages exist as a proximate result thereof. *Orient Mineral Co. v. Bank of China*, 506 F.3d 980, 1004 (10th Cir. 2007).

47. **Elements Not Supported by Complaint:**

a. **Element 1:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

b. **Element 2:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

c. **Element 3:** Plaintiff has failed to even make the customary conclusory legal allegation regarding a meeting of the minds, and thus this claim must fail.

d. **Element 4:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

e. **Element 5:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

Eleventh Cause of Action (Antitrust / The Sherman Act)

48. **Burden of Proof:** The Plaintiff has the burden of production to come forward with facts demonstrating a *prima facie* case. *Pfizer Inc. v. Lord*, 456 F.2d 545, 550 (8th Cir. 1972).

49. **Elements:** The Plaintiff must allege that: (1) the existence of a conspiracy; (2) specific intent to monopolize; and, (3) overt acts in furtherance of the conspiracy. *Full Draw Prod. v. Easton Sports, Inc.*, 182 F.3d 745, 757 (10th Cir. 1999).

50. **Elements Not Supported by Complaint:**

a. **Element 1:** Plaintiff has made a conclusory legal allegation, Plaintiff has made no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

b. **Element 2:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to her conclusory legal allegation. This must lead to dismissal of this claim.

c. **Element 3:** While Plaintiff has made a conclusory legal allegation, Plaintiff has made absolutely no factual allegations which would lead to this conclusory legal allegation. This must lead to dismissal of this claim.

CONCLUSION

51. The Plaintiff has offered the Court a Complaint riddled with legal conclusions and conclusory allegations. Plaintiff has concocted an elaborate theory in order to hale all defendants into this court based on her legal conclusion that AFRA, a passive, non commercial website, is at the center of an illegal enterprise. Plaintiff claims this alleged enterprise consists of numerous yahoo groups whose members have collectively conspired for the purpose of misappropriating her trade secrets and copyrights. Allegedly all members engage in misappropriation of her trade secrets and breaches of contract to accomplish these nefarious goals. This conspiracy allegedly exists for the purpose of taking over what Plaintiff defines as a “Market.” Plaintiff lists named defendants, as well as certain government agencies, as her competitors in the “Market.” Plaintiff offers the court her legal conclusion that this has resulted in a monopoly that now affects Interstate Commerce across the United States. Plaintiff further alleges all these acts were done by diverse defendants, many of whom are unknown to Defendant William Tower and with no association with AFRA, acting in unison and therefore collectively liable, for the purpose of harming her business interests. Plaintiff presents the legal conclusion that Tower and AFRA Defendants, are the actual and proximate causes of her damages without stating with particularity any facts necessary to support any of her allegations and therefore fails to establish a *prima facie* case as to any of the causes of action. Therefore, this case should not proceed against William O. Tower and AFRA Defendants or any of the other named defendants.

WHEREFORE, Tower and AFRA Defendants, hereby requests that this Court **DISMISS** all claims against them. The aforementioned Defendants further request that this Court award

sanctions against Plaintiff, attorneys fees, costs, and such other relief as the Court may deem necessary due to the groundless, frivolous, and vexatious nature of this litigation.

DATED this 5th day of July, 2009.

William O. Tower, individually and for
AFRA
In pro per, Defendant
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