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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **WESTERN DIVISION**

14 ALLERGAN, INC., ALLERGAN  
15 SALES, LLC,

16 Plaintiff(s),

17 vs.

18 FERRUM FERRO CAPITAL, LLC;  
19 KEVIN BARNES,

20 Defendants.

Case No. 8:15-CV-00992-JAK-PLA

**DEFENDANT KEVIN BARNES’  
NOTICE OF MOTION AND  
MOTION FOR RELIEF FROM  
THE COURT’S STANDING ORDER  
AND TO STAY DISCOVERY**

**Date:** November 9, 2015

**Time:** 8:30 AM

**Judge:** Hon. John A. Kronstadt

**Courtroom:** 750, 7<sup>th</sup> Floor

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22  
23 **TO THE HONORABLE COURT AND TO ALL PARTIES:**

24 PLEASE TAKE NOTICE that on November 9, 2015 at 8:30 A.M., or  
25 as soon thereafter as this matter may be heard, before the  
26 Honorable John A. Kronstadt, in Courtroom 750 of the United States  
27 Courthouse for the Central District of California, Western Division,  
28

1 located at 255 East Temple Street Los Angeles, CA 90012,  
2 Defendants Ferrum Ferro Capital, LLC ("FFC") and Kevin Barnes will  
3 and hereby do move this Court for relief from the Court's Standing  
4 Order allowing pre-initial case management conference discovery  
5 and an order staying all discovery proceedings until after the Court  
6 has ruled on Defendants' Special Motion to Strike, or unless Plaintiffs  
7 demonstrate by separate motion that such discovery is essential to  
8 respond to Defendants' Anti-SLAPP Motion.<sup>1</sup>

9 Pursuant to Local Rule 7-3, on July 30, 2015 counsel for  
10 Defendants Ferrum Ferro Capital, LLC and Kevin Barnes, Gill Sperlein,  
11 called counsel for Plaintiffs Allergan, Inc. and Allergan Sales, Inc.,  
12 Michael Amon, in an attempt to confer regarding this motion.  
13 Counsel were unable to reach a resolution of the issues discussed in  
14 this motion.

15 This motion is based upon the following Memorandum of Points  
16 and Authorities, any exhibits filed therewith, the complete files and  
17 records in this action, and upon such oral and documentary  
18 evidence as may be allowed at the hearing on this motion.  
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21 <sup>1</sup> Defendants believe this is the proper Court to hear this motion, as it  
22 is intricately related to Defendants' Special Motion to Strike and  
23 addresses the question of whether discovery should be permitted at  
24 all, rather than disputes as to particular discovery requests.  
25 Moreover, the Court's standing Order only allows Parties to engage  
26 in pre-Rule 26 discovery when there is not a likelihood that the Court  
27 will order that any or all discovery is premature. (See, Dkt. No.13 at  
28 ¶18(b).) During the meet and confer process, Plaintiffs' Counsel  
indicated they disagreed with this position and believe this Motion  
should be filed with a Magistrate.

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Dated: August 10, 2015

Respectfully Submitted,

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14 ALLERGAN, INC., ALLERGAN  
15 SALES, LLC,

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17 vs.

18 FERRUM FERRO CAPITAL, LLC;  
19 KEVIN BARNES,

20 Defendants.

Case No. 8:15-CV-00992-JAK-PLA

**MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT OF  
DEFENDANT KEVIN BARNES'  
MOTION FOR RELIEF FROM THE  
COURT'S STANDING ORDER AND  
TO STAY DISCOVERY**

**Date:** November 9, 2015

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**1.0 INTRODUCTION**

Plaintiffs filed this Strategic Lawsuit Against Public Participation ("SLAPP" suit) against Defendants in retaliation for their protected petitioning activity of seeking Inter Partes Review ("IPR") with the United States Patent and Trademark Office's ("USPTO's") Patent Trial & Appeal Board ("PTAB") of Plaintiffs' '149 patent, as they were entitled to under 35 U.S.C. § 311. They filed this suit, alleging unsupportable causes of action, for the purpose of stopping Defendants' IPR proceeding and intimidating any other potential challengers of its obvious and invalid '149 patent.

This is the hallmark of the SLAPP plaintiff. And in true SLAPP fashion, on July 17, 2015, Plaintiffs served Defendants with burdensome and irrelevant discovery requests in order to drive up legal defense costs as quickly as possible. (See Plaintiffs' First Set of Interrogatories to Defendant Ferrum Ferro Capital, LLC, attached as **Exhibit 1**; first set of First Set of Interrogatories to Defendant Kevin Barnes, attached as **Exhibit 2**; Plaintiffs' First Set of Requests for Production to Defendant Ferrum Ferro Capital, LLC, attached as **Exhibit 3**; and Plaintiffs' First Set of Requests for Production to Defendant Kevin Barnes, attached as **Exhibit 4**.) In order to resolve this meritless action as quickly as possible, Defendants filed a Special Motion to Strike under Cal. Code Civ. Proc. § 425.16, California's Anti-SLAPP statute, on August 10, 2015 (Dkt. No. 026). The filing of an Anti-SLAPP motion automatically stays discovery under California law,

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1 and so Plaintiffs' discovery requests are premature, particularly given  
2 their lack of any tendency to uncover relevant information.

3 **2.0 LEGAL STANDARD**

4 California's Anti-SLAPP statute is a creation of state law, but it  
5 applies in federal court. See *Batzel v. Smith*, 333 F.3d 1018 (9th Cir.  
6 2003); see also *Price v. Stossel*, 1266 (C.D. Cal. 2008) ("[I]t is beyond  
7 dispute that the California anti-SLAPP motion is available in federal  
8 court").

9 The Legislature enacted § 425.16 to protect defendants from  
10 interference with the exercise of their constitutional rights, particularly  
11 the right to petition the government, as Defendants did just before  
12 this case, and in retaliation Allergan brought this suit. See  
13 *Contemporary Servs. Corp. v. Staff Pro Inc.*, 152 Cal. App. 4th 1043,  
14 1052 (2007); see also *Seelig v. Infinity Broad. Corp.*, 97 Cal. App. 4th  
15 798, 806 (Cal. Ct. App. 2002) ("The goal is to eliminate meritless or  
16 retaliatory litigation at an early stage of the proceedings").

17 Cal. Code Civ. Proc. 425.16(g) provides that:

18 All discovery proceedings in the action shall be stayed  
19 upon the filing of a notice of motion made pursuant to  
20 [the Anti-SLAPP statute]. The stay of discovery shall remain  
21 in effect until notice of entry of the order ruling on the  
22 motion. The court, on noticed motion and for good cause  
23 shown, may order that specified discovery be conducted  
24 notwithstanding this subdivision."

25 The effect of this provision is to "create a default rule that allows the  
26 defendant served with a complaint to immediately put the plaintiff  
27



1 to his or her proof before the plaintiff can conduct discovery."  
2 *Rogers v. Home Shopping Network, Inc.*, 57 F. Supp. 2d 973, 980 (C.D.  
3 Cal. 1999). Thus, under California law, all discovery in this case must  
4 be stayed until Defendants' Anti-SLAPP motion is resolved. This result  
5 aligns with the purpose of the Anti-SAPP statute, as a SLAPP plaintiff  
6 by definition knows his case is meritless and merely wishes to make  
7 litigation as expensive as possible, frequently through burdensome  
8 early discovery.

9 **3.0 ARGUMENT**

10  
11 **3.1 All Discovery Should Be Stayed Until the Anti-SLAPP Motion**  
12 **Is Resolved**

13 **3.1.1 Plaintiffs' Complaint is legally deficient, and thus**  
14 **discovery would be fruitless**

15 While the *Batzel* court determined that the substantive  
16 immunity afforded by California's Anti-SLAPP statute applies in  
17 federal court, there is some division in the Ninth Circuit as to whether  
18 and to what extent the statute's discovery-staying provisions apply in  
19 federal court. A provision of a state statute cannot apply in federal  
20 court "if it is in 'direct collision' with the Federal Rules." *Rogers*, 57 F.  
21 Supp. 2d at 979 (quoting *Walker v. Armco Steel Corp.*, 446 U.S. 740,  
22 749 (1980)).

23 A key determination in deciding whether the discovery-staying  
24 provisions apply is the nature of the Anti-SLAPP motion. While  
25 typically thought of in terms analogous to a motion for summary  
26 judgment, Anti-SLAPP motions can also be based upon legal  
27 deficiencies in a complaint, similar to a motion to dismiss under Fed.

1 R. Civ. P. 12(b)(6). See *Rogers*, 57 F. Supp. 2d at 976. Courts in the  
2 Ninth Circuit have found that an Anti-SLAPP motion that relies on  
3 extrinsic evidence and is treated as a motion for summary judgment  
4 cannot stay discovery, as doing so would contravene the purpose of  
5 Fed. R. Civ. P. 56. See *id.* at 982; see also *Metabolife Int'l v. Wornick*,  
6 64 F.3d 832, 846 (9th Cir. 2001); and see *Davis v. Elec. Arts, Inc.*, 2011  
7 U.S. Dist. LEXIS 71642, \*12 (N.D. Cal. July 5, 2011). A stay on discovery  
8 of an Anti-SLAPP motion reviewed under the standards of Federal  
9 Rules 8 and 12, however, i.e., analyzed as a 12(b)(6) motion, does  
10 not collide with the Federal Rules. See *Rogers*, 57 F. Supp. 2d at 982-  
11 83.

12 Unlike a motion for summary judgment, a motion to dismiss  
13 under Rule 12(b)(6) only tests the legal sufficiency of the complaint,  
14 and assumes the truth of all non-conclusory factual allegations. See,  
15 *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). As thoroughly explained in  
16 the Anti-SLAPP motion, even under this liberal standard Plaintiffs have  
17 not laid out a cognizable claim for relief. Plaintiffs' extortion claim is  
18 premised upon Defendants' settlement offer, not an extortionate  
19 threat, and there is no legal injury threatened by bringing a petition  
20 for IPR pursuant to the America Invents Act. Plaintiffs' unfair  
21 competition claim rests entirely on conduct made explicitly legal  
22 under California law, misrepresentations of communications from  
23 Plaintiffs and their counsel, and the conclusory statement that  
24 Defendants' IPR petition is objectively baseless. As all these actions  
25 are legal, they cannot legally make out a claim for unfair  
26 competition. And Plaintiffs' malicious prosecution claim is particularly  
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1 baseless, as Plaintiffs admit in their Complaint that this claim is  
 2 premature given that the IPR petition is still pending.

3 Even accepting all of Plaintiffs' factual assertions as true, each  
 4 cause of action is still frivolous. Accordingly, the Court should treat  
 5 Defendants' Anti-SLAPP motion as a Rule 12(b)(6) motion to dismiss.  
 6 Because Cal. Code Civ. Proc. § 425.16(g) does not collide with the  
 7 Federal Rules as applied to such a motion, the Court should thus stay  
 8 discovery proceedings until it rules on the Anti-SLAPP motion.

### 9 10 **3.1.2 Plaintiffs' discovery requests are premature under the** 11 **Court's Standing Orders**

12 Even without the benefit of Cal. Code Civ. Proc. § 425.16(g)'s  
 13 provisions, it is still apparent that discovery should be stayed at least  
 14 until a discovery conference under Fed. R. Civ. P. 26(f).

15 The Court's June 25, 2015 Standing Orders (Dkt. No. 13) provide  
 16 that "[t]he Court **encourages** counsel to begin to conduct discovery  
 17 actively before the Scheduling Conference . . . Even if there is no  
 18 agreement to conduct discovery prior to the Scheduling  
 19 Conference, the parties shall comply fully with the letter and spirit of  
 20 Fed. R. Civ. P. 26(a) . . . ." (Dkt. No. 13 at 35.) This is not meant as an  
 21 edict completely abrogating Fed. R. Civ. P. 26(d)(1)'s requirement to  
 22 conduct a Rule 26(f) conference prior to conducting discovery, but  
 23 rather is an encouragement for parties to resolve preliminary  
 24 discovery issues so that the 26(f) conference can be more fruitful. This  
 25 is made even more clear by the Court's statement that the parties  
 26 should conduct discovery prior to the 26(f) conference "[u]nless  
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1 there is a likelihood that, upon motion by a party, the Court would  
2 order that any or all discovery is premature.” (*Id.* at 8.)

3 It is readily apparent that Plaintiffs’ discovery requests are  
4 premature. They do not go to the merits of any of Plaintiffs’ asserted  
5 causes of action, and are instead calculated to be as burdensome  
6 as possible. They are the very sort of discovery requests that Cal.  
7 Code Civ. Proc. § 425.16(g) is meant to curb, and the information  
8 sought will not assist Plaintiffs in opposing Defendants’ Anti-SLAPP  
9 motion.  
10

### 11 **3.2 Defendants Should Only Be Required to Respond to** 12 **Discovery Requests That Plaintiffs Demonstrate Are** 13 **Essential to Respond to the Anti-SLAPP Motion**

14 Even if the Court finds that Defendants’ Anti-SLAPP motion  
15 should be treated as a motion for summary judgment under Rule 56,  
16 this does not entitle Plaintiffs to receive responses to their overbroad  
17 and irrelevant discovery requests. Under Rule 56(d), if a party feels  
18 that “it cannot present facts **essential** to justify its opposition” to a  
19 motion for summary judgment, the court may permit limited  
20 discovery (emphasis added). The non-moving party must specify  
21 precisely what discovery it **needs** to survive summary judgment, not  
22 the broad discovery to which it is normally entitled. Cal. Code Civ.  
23 Proc. § 425.16(g) is similar to this provision of the Federal Rules in that  
24 “[t]he court, on noticed motion and for good cause shown, may  
25 order that specified discovery be conducted notwithstanding” the  
26 statute’s stay on discovery. Courts in the Ninth Circuit have found  
27 that even with an Anti-SLAPP motion treated as a motion for  
28 summary judgment, the non-moving party must demonstrate that

1 the discovery they seek is essential to their opposition. See *Price v.*  
2 *Stossel*, 590 F. Supp. 1262, 1271 (C.D. Cal. 2008) (denying plaintiff's  
3 motion to compel discovery because discovery sought was  
4 irrelevant to issues in defendant's pending Anti-SLAPP motion); see  
5 also *Davis*, 2011 U.S. Dist. LEXIS 71642 at \*20 (same).

6 Even a cursory review of Plaintiffs' discovery requests show that  
7 they do not seek any information that is even relevant, much less  
8 essential, to their opposition to Defendants' Anti-SLAPP motion. Most  
9 of Plaintiffs' discovery requests fall into five categories: 1) requests  
10 related to FFC's corporate and financial status; 2) requests related to  
11 Defendants' marketing and development of compounds; 3)  
12 requests related to Defendants' plans to use the IPR process; 4)  
13 requests related to settlement discussions between Defendants and  
14 third parties; and 5) requests related to Defendants' research and  
15 analysis of Allergan's patents.

16 During meet and confer discussions, Plaintiffs stated their  
17 position that "the vast majority of the information requested is  
18 directly related to issues that will be raised by [Plaintiffs'] proposed  
19 Anti-SLAPP motion" in opposition to Defendants' requested relief.  
20 (See, meet and confer email, attached as **Exhibit 5**.) This blanket  
21 assertion is not borne out by reality. There are threshold requirements  
22 for each of Plaintiffs' claims that they cannot meet, and their  
23 requested discovery will not change this. As explained in greater  
24 detail in Defendants' Anti-SLAPP motion: 1) the extortion claim fails  
25 because Defendants' settlement is not, as a matter of law, extortion,  
26 and there is no illegal threat of injury; 2) the unfair competition claim  
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1 is premised entirely on legal conduct; and 3) the malicious  
2 prosecution claim is not ripe. The latter of these claims is  
3 unquestionably deficient, as even admitted by Plaintiffs in their  
4 Complaint, and thus there is no need to discuss it here.  
5

### 6 **3.2.1 Requests related to FFC's corporate and financial** 7 **status are not relevant to Plaintiffs' claims**

8 These requests ask for information concerning (1) members,  
9 investors, and Officers of FFC (FFC Interrogatory ("FFC Rog") Nos.1,  
10 11; FFC Request for Production "FFC RPD" No. 6), (2) property  
11 acquired, leased, or maintained by FFC (FFC Rog No. 2; FFC RPD  
12 Nos. 7-9, 32; Kevin Barnes Request for Production "Barnes RPD" No.  
13 2), (3) FFC's business and investment strategies (FFC Rog No. 10; FFC  
14 RPD Nos. 27), (4) the corporation formation of FFC (FFC RPD No. 1;  
15 Barnes RPD No. 1), and (5) FFC's financials, including tax returns (FFC  
16 RPD Nos. 2-5).

17 None of this information has anything to do with Plaintiffs'  
18 claims. The corporate status and financial information of FFC are  
19 obviously unrelated to the merits of Plaintiffs' claims. To the extent  
20 Plaintiffs are trying to establish illegal conduct by their requests  
21 related to FFC's maintenance of a mail drop box and its business  
22 strategies, Plaintiffs are trying to discover a claim; they have no  
23 reason to think that any conduct of Defendants amounts to unfair  
24 competition. While some such information would potentially be  
25 discoverable under normal circumstances, under the more exacting  
26 standards of Rule 56(d), hoping against hope that a discovery  
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1 request **might** reveal something to hitch a claim to does not entitle  
2 Plaintiffs to this discovery.

3  
4 **3.2.2 Requests related to Defendants' marketing and**  
5 **development of medical products are not relevant**  
6 **to Plaintiffs' claims**

7 These requests seek information concerning (1) Defendants'  
8 efforts to research and develop a generic brimonidine  
9 tartrate/timolol maleate ophthalmic solution (FFC Rog No. 3; Barnes  
10 Rog Nos. 5-7; FFC RPD Nos. 10-14; Barnes RPD Nos. 5-6, 8, 12-14, 18)  
11 and (2) Defendants' efforts to seek FDA approval of such  
12 compounds (FFC Rog No. 4; FFC RPD Nos. 15-17, 19; Barnes RPD Nos.  
13 7, 9-11, 15).

14 It is unclear why Plaintiffs think this information has any relation  
15 whatsoever to this case. The requests have nothing to do with  
16 Defendants' ability to bring an IPR petition, as one does not need to  
17 be a competitor of a patent holder or in the process of creating a  
18 particular product to petition the PTAB under 35 U.S.C. § 311(a). Nor  
19 do the requests tend to show any sort of unfair or extortionate nature  
20 of the statement that "FFC is prepared to seek FDA approval . . . to  
21 produce and market a generic brimonidine tartrate/timolol maleate  
22 ophthalmic solution . . . upon the invalidation of the Combigan  
23 Orange Book-listed patents." (Dkt. No. 1-4 at 3.) Defendants  
24 appreciate that Plaintiffs seek substantiation of statements made in  
25 FFC's letter to them, but even full compliance with these discovery  
26 requests would bring Plaintiffs no closer to having a valid claim  
27 against Defendants. The requests are thus irrelevant, and are  
28

1 certainly not essential to Plaintiffs' opposition to Defendants' Anti-  
2 SLAPP motion.

### 3 4 **3.2.3 Requests related to Defendants' plans to use the IPR 5 process are not relevant to Plaintiffs' claims**

6 These requests seek information concerning (1) Defendants'  
7 communications with third parties about preparing or filing IPR  
8 petitions (FFC Rog No. 6, 12; Barnes Rog No. 8; FFC RPD Nos. 22-23;  
9 Barnes RPD Nos. 4, 17, 19-22), (2) planned revenue generation from  
10 Defendants' IPR petition (FFC Rog No. 7, 9; Barnes Rog No. 9; FFC  
11 RPD Nos. 26, 28-29; Barnes RPD Nos. 25-28), and (3) Defendants'  
12 preparation and filing of IPR petitions (Barnes Rog Nos. 1-2, FFC RPD  
13 Nos. 20, 25, 33; Barnes RPD Nos. 3, 16, 24, 33).

14 It is with these discovery requests that the SLAPP nature of this  
15 suit becomes especially obvious. Plaintiffs seek all information related  
16 to Defendants' preparation and filing of **any** IPR petitions, not just the  
17 one actually at issue in this case, including communications with  
18 third parties. These requests necessarily seek information protected  
19 by the attorney-client privilege, and Plaintiffs apparently hope to  
20 receive the names of other parties that they can intimidate through  
21 litigation from challenging their patents through the IPR process.

22 Abusive nature aside, none of these requests are relevant.  
23 Defendants have already laid out the basis for their seeking review  
24 of the '149 patent in their IPR petition, and any further information  
25 would serve only to give them an unfair advantage in that  
26 proceeding. The only potentially relevant requests are those  
27 concerning communications with any parties barred from petitioning  
28



1 for IPR of the '149 patent. Plaintiffs have no reason to think there is  
2 any affiliation between Defendants and any of these parties, and  
3 the requests are merely fishing expeditions. Even if they were not, this  
4 information would go to standing to petition the PTAB, which Plaintiffs  
5 do not assert FFC lacks. Once again, these requests are not even  
6 relevant, much less necessary for Plaintiffs' opposition.  
7

### 8 **3.2.4 Requests related to settlement discussions are not** 9 **relevant to Plaintiffs' claims**

10 These requests seek information concerning Defendants'  
11 settlement discussions with third parties regarding other IPR petitions  
12 (FFC Rog No. 8; Barnes Rog Nos. 3-4; FFC RPD Nos. 30-31; Barnes RPD  
13 Nos. 29-31).

14 With these requests, Plaintiffs shift from seeking attorney-client  
15 communications and attorney work product to seeking confidential  
16 settlement communications in completely unrelated matters.  
17 Apparently, Plaintiffs think that Defendants are engaged in some  
18 kind of serial settlement scheme in which they threaten people with  
19 lawsuits and extract payment for quick dismissal. Defendants do not  
20 do this, and Plaintiffs have no reason to think they do; Plaintiffs are  
21 grasping at straws once again. Although Defendants do not engage  
22 in this behavior, these are tactics that patent trolls and SLAPP  
23 plaintiffs frequently employ. While deplorable, the remedy for this  
24 conduct is shifting of attorneys' fees in an appropriate forum, not a  
25 separate lawsuit with bumptious claims for civil extortion and unfair  
26 competition.  
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1                   **3.2.5 Requests related to Defendants' research and**  
2                   **analysis of Allergan patents are not relevant to**  
3                   **Plaintiffs' claims**

4                   These requests seek information concerning Defendants'  
5 analysis of Allergan's patents and the basis for their IPR petition of the  
6 '149 patent (FFC Rog Nos. 5, 12; FFC RPD Nos. 21, 24, 33; Barnes RPD  
7 Nos. 18, 23).

8                   There is little question that these requests are included for the  
9 sole purpose of obtaining an advantage in the '149 Patent IPR  
10 proceeding. Plaintiffs seek confidential and privileged  
11 communications and work product, in the hope that they will  
12 uncover some kind of weakness in Defendants' arguments. It is  
13 obvious that this is not the proper purpose for discovery. If a plaintiff  
14 sought in discovery everything pertaining to the defendant's  
15 subjective evaluation of their case and all the research his counsel  
16 performed, the plaintiff would likely be sanctioned for seeking  
17 material obviously protected by the attorney-client privilege and the  
18 work product doctrine. That is effectively what Plaintiffs seek to do  
19 here, only the requests are directed to a proceeding in a different  
20 forum.

21                   To the extent that any requested information might be relevant,  
22 Plaintiffs already have it. Defendants have laid out the basis for their  
23 IPR petition of the '149 Patent both in the pending PTAB proceeding  
24 and in their Anti-SLAPP motion. Defendants cannot conceive of any  
25 further discoverable information Plaintiffs think exists.

26                   Finally, the one request that does not fall into one of the five  
27 categories enumerated above is Request for Production No. 32  
28

1 addressed to Mr. Barnes, which seeks his "current *curriculum vitae*,  
2 including any university and post-university education, and all  
3 employments held during or after [his] university and post-university  
4 education." This is the sort of arguably relevant request that is  
5 typically permitted under general liberal rules of discovery, but Mr.  
6 Barnes' education and employment history will not help Plaintiffs'  
7 survive Defendants' Anti-SLAPP motion.

8 **4.0 CONCLUSION**

9 For the foregoing reasons, the Court should stay all discovery  
10 proceedings until it rules on Defendants' pending Special Motion to  
11 Strike under Cal. Code Civ. Proc. § 425.16. In the alternative,  
12 Defendants should only be required to respond to discovery requests  
13 that Plaintiffs demonstrate are essential to its opposition to the Anti-  
14 SLAPP motion.

15  
16 Dated: August 10, 2015

Respectfully Submitted,

17  
18 RANDAZZA LEGAL GROUP

19 /s/ D. Gill Sperlein

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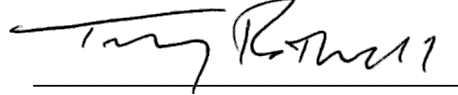
27 Attorneys for Defendants,  
28 Ferrum Ferro Capital, LLC, and  
Kevin Barnes

Case No. 8:15-CV-00992-JAK-PLA

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 10, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF.

Respectfully Submitted,



Employee,  
Randazza Legal Group

RANDAZZA | LEGAL GROUP

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