

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WORLD WRESTLING ENTERTAINMENT, INC.,

Plaintiff,

No. 04-CV-8223 (KMK)
Hon. Kenneth M. Karas

-against-

JAKKS PACIFIC, INC., et al.

ECF Case

Defendants.

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**MEMORANDUM OF LAW IN SUPPORT OF THE MOTION
OF DEFENDANTS STANLEY SHENKER AND STANLEY
SHENKER AND ASSOCIATES, INC. TO DISMISS
PLAINTIFF'S CLAIM UNDER THE SHERMAN ACT, 15 U.S.C. § 1**

LAW OFFICES OF MICHAEL A. FREEMAN

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Counsel for Defendants Stanley Shenker and
Stanley Shenker and Associates, Inc.

Defendants Stanley Shenker and Stanley Shenker and Associates, Inc. (collectively, the “Shenker Defendants”) submit this brief in support of their motion pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss Count III of the amended complaint, which alleges a violation of section 1 of the Sherman Act, 15 U.S.C. § 1.

The Shenker Defendants hereby adopt and incorporate by reference the legal arguments contained in the Memorandum of Law in Support of the Jakks Defendants’ Motion To Dismiss The Sherman Act Claim in the Amended Complaint, dated September 19, 2005. Specifically, the Shenker Defendants assert that: (1) plaintiff has failed to allege the requisite antitrust injury; (2) this claim is time-barred; and (3) plaintiff has otherwise failed to adequately plead a substantive antitrust violation under section 1 of the Sherman Act.

Accordingly, based on these arguments and those contained in the Shenker Defendants’ previously submitted motion to dismiss, this action should be dismissed against the Shenker Defendants in its entirety.¹

Dated: New York, New York
September 19, 2005

Respectfully submitted,

LAW OFFICES OF MICHAEL A. FREEMAN

By: _____ /s/
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¹ Currently *sub judice* before the Court is a motion by the Shenker Defendants, dated February 26, 2005, to dismiss or stay the claims brought by plaintiff under the RICO Act, 18 U.S.C. § 1962(c) and (d). Although plaintiff amended its complaint, after the Shenker Defendants submitted their motion, to include additional factual allegations that may bear on the RICO claims, none of plaintiff’s changes impact the legal arguments contained in the Shenker Defendants’ motion. Accordingly, consistent with the Court’s ruling at the conference in this action on August 18, 2005, the Court is respectfully requested to consider the Shenker Defendants’ motion to dismiss or stay the RICO claims together with this motion to dismiss the Sherman Act claim. The Shenker Defendants are not named in any of the other counts in the amended complaint.