

86 27 1999

1 M. RANDALL OPPENHEIMER (S.B. #77649)
2 PETER J. McPARTLIN (S.B. #193794)
3 PAUL A. ROSE (S.B. #198962)
4 O'MELVENY & MYERS LLP
5 1999 Avenue of the Stars, Seventh Floor
6 Los Angeles, California 90067-6035
7 Telephone: (310) 553-6700
8 Facsimile: (310) 246-6779

9 Attorneys for Defendant
10 Seth MacFarlane

FILED
LOS ANGELES SUPERIOR COURT
CANCELLED
AUG 27 1999
AUG 27 1999
By: H. HINAGA, DEPUTY
H. HINAGA, Deputy

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES**

13 JIM KEESHEN and JIM KEESHEN
14 PRODUCTIONS, INC.,

15 Plaintiffs,

16 v.

17 SETH McFARLANE; FOX
18 BROADCASTING COMPANY; THE
19 IRV SHECHTER COMPANY; JOHN
20 GOLDSMITH; and DOES 1 through
21 100, inclusive,

22 Defendants.

Case No. BC 211205

**ANSWER OF DEFENDANT SETH
MacFARLANE TO PLAINTIFFS'
UNVERIFIED COMPLAINT**

23 Defendant Seth MacFarlane ("MacFarlane"), erroneously sued as Seth
24 McFarlane, for himself and for no other party, hereby generally denies each and every
25 allegation of Plaintiffs' unverified Complaint for Breach of Contract and Breach of the
26 Implied Covenant of Good Faith and Fair Dealing (the "Complaint") pursuant to
27 California Code of Civil Procedure § 431.30(d).

28 For his affirmative defenses to all causes of action asserted against him,
MacFarlane alleges as follows:

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1 any amount, MacFarlane is entitled to have that amount reduced to the extent Plaintiffs
2 could have avoided or reduced their alleged losses by the exercise of reasonable care and
3 diligence.

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5 **SIXTH AFFIRMATIVE DEFENSE**

6 **(Statute of Frauds)**

7 6. MacFarlane is informed and believes, and on that basis alleges, that
8 Plaintiffs' claims for relief are barred, in whole or in part, by the statute of frauds.

9
10 **SEVENTH AFFIRMATIVE DEFENSE**

11 **(Indemnity)**

12 7. MacFarlane is informed and believes, and on that basis alleges, that
13 the damages suffered by plaintiffs, if any, were proximately caused by the actions of the
14 other defendants and/or persons, firms, or entities not specifically named in the
15 Complaint, and therefore MacFarlane is entitled to indemnity, in whole or in part, from
16 these other defendants and/or other persons, firms, or entities.

17
18 **EIGHTH AFFIRMATIVE DEFENSE**

19 **(Conduct of Plaintiff and/or Third Parties)**

20 8. MacFarlane is informed and believes, and on that basis alleges, that
21 the alleged damages complained of by Plaintiffs, if any there actually were (said damages
22 being expressly denied by MacFarlane) were proximately caused by the negligence and/or
23 other fault of plaintiff and/or firms, persons, corporations or entities other than
24 MacFarlane, and said negligence and/or other fault proportionately reduces the percentage
25 of any negligence and/or other fault attributable to defendants, if it should be found that
26 defendants were negligent or otherwise at fault (which MacFarlane expressly denies).

1 **NINTH AFFIRMATIVE DEFENSE**

2 **(Good Faith)**

3 9. MacFarlane is informed and believes, and on that basis alleges, that
4 any and all acts alleged by Plaintiffs to have been performed by or on behalf of
5 MacFarlane were performed, if at all, in good faith, without malice, and were based upon
6 legally sufficient justification.

7
8 **TENTH AFFIRMATIVE DEFENSE**

9 **(Unclean Hands)**

10 10. MacFarlane is informed and believes, and on that basis alleges, that
11 Plaintiffs' claims for relief are barred, in whole or in part, by the doctrine of unclean
12 hands.

13
14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **(Failure to Satisfy Conditions)**

16 11. MacFarlane is informed and believes, and on that basis alleges, that
17 Plaintiffs' claims for relief are barred, in whole or in part, because not all conditions
18 precedent and/or subsequent of the alleged contracts have been satisfied.

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20 **TWELFTH AFFIRMATIVE DEFENSE**

21 **(Impossibility)**

22 12. MacFarlane is informed and believes, and on that basis alleges, that
23 Plaintiffs' claims for relief are barred, in whole or in part, by the doctrine of impossibility.
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1 WHEREFORE, MacFarlane prays for judgment in his favor as follows:

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3 (1) that plaintiffs take nothing by their complaint;

4
5 (2) that MacFarlane be awarded his costs of suit and attorneys' fees; and

6
7 (3) for such other and further relief as the Court deems just and proper.
8

9 Dated: August 27, 1999

10 M. RANDALL OPPENHEIMER
11 PETER J. McPARTLIN
12 PAUL A. ROSE
13 O'MELVENY & MYERS LLP

14 By Paul A. Rose
15 Paul A. Rose
16 Attorneys for Defendant Seth MacFarlane
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1 **PROOF OF SERVICE**

2 I, Laila Z. Possani, declare:

3 I am a resident of the State of California and over the age of eighteen years, and
4 not a party to the within action; my business address is 1999 Avenue of the Stars, Seventh Floor,
Los Angeles, California 90067-6035. On August 27, 1999, I served the within documents:

5 **ANSWER OF DEFENDANT SETH MacFARLANE TO PLAINTIFFS'**
6 **UNVERIFIED COMPLAINT**



by placing the true copy of the original document listed above in a sealed
envelopes with postage thereon fully prepaid, in the United States mail at Los
Angeles, California addressed as set forth below.



9 by personally delivering the document(s) listed above to the person(s) at the
address(es) set forth below.

10 Scott H. Carr, Esq.
11 Browne Greene, Esq.
12 GREENE, BROILLET, TAYLOR,
13 WHEELER & PANISH
100 Wilshire Boulevard
Suite 2100
14 Santa Monica, California 90407

15 Charles J. Harder, Esq.
16 Michael J. Plonsker, Esq.
17 LAVELY & SINGER
Attorneys at Law
2049 Century Park East
Suite 2400
18 Los Angeles, California 90067-2906

19
20 I am readily familiar with the firm's practice of collection and processing
21 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
22 Service on that same day with postage thereon fully prepaid in the ordinary course of business. I
am aware that on motion of the party served, service is presumed invalid if postal cancellation
date or postage meter date is more than one day after date of deposit for mailing in affidavit.

23 I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

24 Executed on August 27, 1999, at Los Angeles, California

25 

26 LAILA Z. POSSANI