

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Case No.: 06-60881-CIV-MARRA/SELTZER

VINCENT STRUMOLO,

Plaintiff,

vs.

ALTERNATE FAMILY CARE, INC.,
a Florida corporation, CENTRE FOR
INNOVATIVE SOLUTIONS, INC., a
Florida non-for-profit corp., and
DAVID L. FERGUSON, individually,

Defendants.

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES TO COUNT I OF
AMENDED COMPLAINT, AND COUNTERCLAIM¹**

Defendant, ALTERNATE FAMILY CARE, INC., by and through its undersigned counsel,
hereby files its Answer and Affirmative Defenses to Count I of the Amended Complaint, and states
as follows:

1. Without knowledge, thus denied.
2. Admitted.
3. Without knowledge, thus denied.
4. Without knowledge, thus denied.
5. Without acknowledging the existence of the remedies sought or Plaintiff's
entitlement to relief, Defendant admits that this lawsuit purports to arise under the Copyright Laws
of the United Sates. All remaining allegations of Paragraph 5 are denied.
6. Denied.
7. Denied.

¹ Defendant, Alternate Family Care, Inc., has also filed a Motion to Dismiss Counts II and III of the Amended Complaint. The new Defendants in this lawsuit, Centre for Innovative Solutions, Inc. and David L. Ferguson, have not yet been served. Accordingly, this Answer and Affirmative Defenses are solely on behalf of Defendant Alternate Family Care, Inc.

8. It is admitted that venue in this District Court is proper. All remaining allegations of Paragraph 8 are denied.

9. It is admitted that Plaintiff is a licensed marriage and family therapist in the State of Florida. Defendant is without knowledge and thus denies the remaining allegations of Paragraph 9.

10. It is admitted that Plaintiff is a licensed marriage and family therapist in the State of Florida. Defendant is without knowledge and thus denies the remaining allegations of Paragraph 10.²

11. It is admitted that Plaintiff began working for Defendant in 1990, and ultimately became director of clinical services. Defendant is without knowledge and thus denies the remaining allegations of Paragraph 11.

12. Without knowledge, thus denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Without acknowledging Plaintiff's entitlement to relief, Defendant admits that Plaintiff is seeking injunctive relief and damages in this action.

21. It is admitted that Resolution Focused Therapy ("RFT") targets the behavioral as well as the emotional effects of trauma on a child. All remaining allegations of Paragraph 21 are denied.

² The allegations in ¶ 10 are identical to the allegations in ¶ 9.

- 22. Denied.
- 23. Denied.
- 24. Denied.
- 25. Admitted.
- 26. Denied.
- 27. Denied.
- 28. Denied.
- 29. Denied.
- 30. Denied.
- 31. Denied.
- 32. Denied.
- 33. Denied.
- 34. Denied.
- 35. Denied.
- 36. Denied.
- 37. Admitted.
- 38. Denied.
- 39. Denied.
- 40. Denied.
- 41. Denied.
- 42. Denied.
- 43. Denied.
- 44. Denied.
- 45. Denied.

- 46. Denied.
- 47. Denied.
- 48. Denied.
- 49. Denied.
- 50. Denied.
- 51. Denied.
- 52. Denied.

COUNT I – COPYRIGHT INFRINGEMENT

- 53. Defendant realleges its responses to Paragraphs 1 through 52 above.
- 54. Admitted.
- 55. Denied.
- 56. Denied.
- 57. Denied.
- 58. Denied.
- 59. Denied.
- 60. Denied.
- 61. Denied.
- 62. Denied.
- 63. Denied.
- 64. Denied.
- 65. Denied.
- 66. Denied.
- 67. Denied.
- 68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

73. Denied.

COUNT II – COMMON LAW RIGHT AGAINST MISATTRIBUTION

74. - 88. Defendant, ALTERNATE FAMILY CARE, INC., has moved to dismiss Count II of the Amended Complaint.

COUNT III – COMMON LAW RIGHT AGAINST FALSE ATTRIBUTION

89. - 100. Defendant, ALTERNATIVE FAMILY CARE, INC., has moved to dismiss Count III of the Amended Complaint.

PRAYER FOR RELIEF

101. Defendant denies that Plaintiff is entitled to any of the relief sought in his Prayer for Relief.

Further responding to Paragraphs 1 through 73 of the Amended Complaint, all allegations not specifically admitted herein are denied.

AFFIRMATIVE DEFENSES

102. As and for an affirmative defense, Defendant asserts that Count I of the Amended Complaint fails to state a claim upon which relief may be granted.

103. As and for an affirmative defense, Defendant asserts that Plaintiff was an employee of Defendant and the RFT was created in the course and scope of his employment with Defendant. The RFT is, therefore, a work for hire.

104. As and for an affirmative defense, Defendant asserts that Plaintiff's Copyright Registration is invalid because the RFT is a work for hire.

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