

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF THE ADMINISTRATIVE LAW JUDGES
Washington, D.C.

In the Matter of

ECM BioFilms, Inc.,
a corporation, also d/b/a
Envioplastics International,

Respondent.

Docket No. 9358

PUBLIC DOCUMENT

**RESPONDENT'S ANSWERS TO
COMPLAINT COUNSEL'S FIRST REQUEST FOR ADMISSIONS**

Pursuant to the Federal Trade Commission's Rules of Practice ("Rules"), 16 C.F.R. 3.32, Respondent ECM BioFilms, Inc. ("ECM") submits its Answers and Objections to Complaint Counsel's First Request for Admissions ("Requests").

GENERAL OBJECTIONS

1. ECM objects to Complaint Counsel's Requests to the extent that they call for information protected from discovery pursuant to sections 3.31(c)(2)-(4) of the Rules.
2. ECM objects to Complaint Counsel's Requests to the extent that they call for information protected from discovery by the attorney-client privilege, the work product doctrine, or any other applicable privilege.
3. ECM objects to Complaint Counsel's Requests to the extent they call for disclosure of its trade secrets and/or confidential and proprietary commercial and financial information. ECM will provide responses containing its confidential and proprietary information subject to the terms of the Protective Order Governing Discovery Material issued by Judge Chappell on October 22, 2013.

4. ECM objects to Complaint Counsel's Requests to the extent they are overly broad, vague, ambiguous, unduly burdensome, oppressive, and are not reasonably calculated to lead to the discovery of admissible evidence. ECM denies each request, and/or each portion of a request, unless expressly admitted.

5. ECM objects to Complaint Counsel's Requests to the extent that they call for information previously provided to Complaint Counsel or information that may be less onerously obtained through other means.

6. ECM objects to Complaint Counsel's Requests to the extent they are not relevant to the pending proceeding against ECM and/or do not relate to statements or opinions of fact or of the application of law to fact, and thereby exceed the scope of Rule 3.32, governing admissions.

7. ECM objects to Complaint Counsel's Requests to the extent that any Request quotes from a document or references a statement and solicits an admission that the quote or statement is evidence of the truth of the matter asserted.

8. ECM reserves all of its evidentiary objections or other objections to the introduction or use of any response at any hearing in this action and does not, by any response to any Request, waive any objections to that Request, stated or unstated.

9. ECM does not, by its response to any Request, admit to the validity of any legal or factual contention asserted or assumed in the text of any Request.

10. ECM objects to Complaint Counsel's Requests on the ground that its discovery and analysis are ongoing and reserves the right to assert additional objections,

as appropriate, and to amend or supplement these objections and responses as appropriate.

The foregoing general objections shall apply to each of the following Requests whether or not restated in the response to any particular response.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST FOR ADMISSION NO. 1

“The website URL known as www.ecmbiofilms.com (“ECM Website”) has been controlled at all times by ECM.”

RESPONSE:

Answer: Admitted

REQUEST FOR ADMISSION NO. 2

“Since its creation, the ECM Website has been publically available on the Internet.”

RESPONSE:

Answer: Denied. Denied to the extent that few individuals other than plastics manufacturers and plastics distributors have accessed the site and none other than plastics manufacturers and plastics distributors has purchased product from ECM. Admitted to the extent that it is on the internet.

REQUEST FOR ADMISSION NO. 3

“Plastic is not inherently biodegradable”

RESPONSE:

Answer: Denied. ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “inherently biodegradable.” Subject to such objections, ECM denies the allegation.

REQUEST FOR ADMISSION NO. 4

“Exhibit CX-00001, “Certificate of Biodegradability of Plastics” is representative of the certificates that ECM provided to at least some of its customers.”

RESPONSE:

Answer: Denied; Exhibit CX-00001 is not “representative.” Without waiving the foregoing and the following objections, ECM admits that the document contained in CX-00001 has been received by some entities that have purchased products from ECM. ECM objects to and denies this Request to the extent that it assumes that ECM insinuated, implied, marketed, or advertised any undefined message, meaning, and/or particular advertisement through use of Exhibit CX-00001. ECM also objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “representative,” “some,” and “customers.”

REQUEST FOR ADMISSION NO. 5

“Exhibit CX-00002, ECM-FTC-000066, a biodegradable logo (“Logo”), is representative of the logos that ECM provided to at least some of its customers.”

RESPONSE:

Answer: Denied; Exhibit CX-00002 is not “representative.” Without waiving its objections, ECM admits that the image depicted in CX-00002 is located on commercial

documents received by some entities that have purchased products from ECM. ECM objects to and denies this Request to the extent that it assumes that ECM insinuated, implied, marketed, or advertised any message, meaning, and/or particular advertisement. ECM also objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “representative” and “some.”

REQUEST FOR ADMISSION NO. 6

“The documents that ECM submitted to Federal Trade Commission staff, with Bates numbers between ECM-FTC-000001 and ECM-FTC-000241, constitute all of the scientific tests and studies that ECM submitted in response to the FTC Access Letter requesting substantiation for its claims that ECM Plastics are Biodegradable (“ECM Substantiation Materials”).

RESPONSE:

Answer: Denied; documents other than those supplied provide scientific substantiation for ECM claims. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact. ECM admits that it provided the Commission staff with the documents identified in this request, but denies that they constitute all support for ECM’s advertising claims.

REQUEST FOR ADMISSION NO. 7

“None of the ECM Substantiation Materials are based on testing protocols that state that they simulate conditions typically found in Landfills.”

RESPONSE:

Answer: Denied. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 8

“ECM does not possess or rely on any scientific test that showed, during the course of the test, complete Biodegradation of ECM Plastics.”

RESPONSE:

Answer: Denied. Based on generally recognized scientific principles, ECM’s tests were sufficient to reveal that ECM plastics will completely biodegrade. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 9

~~“ECM does not possess or rely on any scientific test that showed, during the course of the test, that 90% or more of the ECM Plastic Biodegraded.”~~

RESPONSE:

Answer: Denied. Based on generally recognized scientific principles, tests relied upon by ECM do support products containing the ECM additive product will degrade above 90%. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 10

“ECM bases its claims that ECM Plastics will completely Biodegrade in some period greater than a year on extrapolations of test results obtained in tests conducted over periods less than a year in which the test sample did not completely Biodegrade.”

RESPONSE

Answer: Denied. ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous particularly with respect to the terms “some period” and “extrapolations.” Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal

~~conclusion; thus, the request is incompetent because it is not a request for admission of fact.~~

REQUEST FOR ADMISSION NO. 11

“ECM based its claim that ECM Plastics will completely Biodegrade in nine months to five years on extrapolations of results obtained in tests conducted over periods less than a year in which the test sample did not completely Biodegrade.”

RESPONSE:

Answer: Denied. ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous particularly with respect to the term “extrapolations.” ECM objects to this Request in that it mischaracterizes ECM’s claim language and excerpts such claims out of context from disclaimers and qualifying language. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 12

“ECM does not possess or rely on any consumer perception evidence supporting how ECM’s customers or end-use consumers interpret the term “biodegradable.”

RESPONSE:

~~Answer: Denied. ECM solely sells its product to plastic product manufacturers~~
and distributors, not end-use consumers. ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “evidence” and “biodegradable.” Subject to such objections, ECM denies the Request. The Request calls for responsive information related to legal standards put in issue by Complaint Counsel in this proceeding. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 13

“ECM does not possess or rely on any consumer perception evidence supporting how ECM’s customers or end-use consumers interpret the term “biologically active landfill.”

RESPONSE:

Answer: Denied. ECM objects to Request No. 13. ECM solely sells its product to plastic product manufacturers and distributors, not end-use consumers. ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “evidence,” and “biologically active landfill.” The Request calls for responsive information related to legal standards put in issue by Complaint Counsel in this proceeding. Denied also to the extent the Response

depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013).

Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 14

“ECM does not possess or rely on any consumer perception evidence supporting how ECM’s customers or end-use consumers interpret a “reasonable” period of time for complete biodegradation.”

RESPONSE:

Answer: Denied. ECM solely sells its product to plastic product manufacturers and distributors, not end-use consumers. ECM also objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “‘reasonable’ period of time” and “biodegradation.” The Request calls for responsive information related to legal standards put in issue by Complaint Counsel in this proceeding. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 15

“ECM does not possess or rely on any consumer perception evidence supporting how ECM’s customers or end-use consumers interpret the phrase ‘some period greater than one year.’”

RESPONSE:

Answer: Denied. ECM solely sells its product to plastic product manufacturers and distributors, not end-use consumers. ECM also objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the term “evidence.” The Request calls for responsive information related to legal standards put in issue by Complaint Counsel in this proceeding. Denied also to the extent the Response depends on expert opinion before the time designated for identification of experts and issuance of expert reports. *See* Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request is incompetent because it is not a request for admission of fact.

REQUEST FOR ADMISSION NO. 16

“ASTM test protocols do not permit extrapolation of the results of ASTM tests to prove complete Biodegradation.”

RESPONSE:

Answer: Denied. ECM also objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the term “ASTM test protocols” and “the results.” Subject to such objections, ECM denies the

~~Request. Denied also to the extent the Response depends on expert opinion before the~~
time designated for identification of experts and issuance of expert reports. *See*
Scheduling Order, Dkt. No. 9358 (Nov. 21, 2013). Denied also to the extent that what is
shown or demonstrated by testing calls for an ultimate legal conclusion; thus, the request
is incompetent because it is not a request for admission of fact.

**SPECIFIC OBJECTIONS AND RESPONSES TO ADDITIONAL REQUESTS
FOR ADMISSION FOR THE PURPOSES OF AUTHENTICITY AND
ADMISSIBILITY OF EXHIBITS**

ECM reserves the right to object to the admission or use of any document at
hearing if, in context, its admission or use would be objectionable on grounds of hearsay,
relevance, materiality, prejudice, or any other cognizable objection under Rule § 3.43 of
the Commission’s Rules of Practice for Adjudicative Proceedings. Subject to those
reserved objections, ECM responds as follows:

REQUEST FOR ADMISSION NO. 1

“Exhibit CX-00001 attached hereto is authentic, genuine, and a true and correct copy
of the Certificate of Biodegradability of Plastic Products that ECM provided to SL Plastic
Co. LTD, a customer of ECM. Exhibit CX-00001 is admissible into evidence in this matter
under Rule 3.43(e).

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 2

“Exhibit CX-00002 attached hereto is authentic, genuine, and a true and correct copy
of a promotional logo that ECM produced in response to the FTC Access Letter with Bates

~~number ECM-FTC-000066. Exhibit CX-00002 is admissible into evidence in this matter~~
under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 3

“Exhibit CX-00003 attached hereto is authentic, genuine, and a true and correct copy of promotional materials that ECM made available on the ECM Website from at least August 2010 until October 2012. Exhibit CX-00003 is admissible into evidence in this matter under Rule 3.43(b).

RESPONSE:

Answer: ECM objects to the request as argumentative, prejudicial, improper, incorrect, vague, and/or ambiguous, particularly with respect to the terms “promotional materials” and “made available.” ECM’s website www.ecmbiofilms.com did display content depicted in Exhibit CX-00003, however such content was not for promotional reasons, but instead for informational and/or educational purposes for a narrow industry audience.

REQUEST FOR ADMISSION NO. 4

“Exhibit CX-00004 attached hereto is authentic, genuine, and a true and correct copy of promotional materials that ECM made available on the ECM website after October 2012. Exhibit CX-00003 is admissible into evidence in this matter under Rule 3.43(b).”

RESPONSE:

~~Answer: ECM objects to the request as argumentative, prejudicial, improper,~~
incorrect, vague, and/or ambiguous, particularly with respect to the terms “promotional materials” and “made available.” ECM’s website www.ecmbiofilms.com did display content depicted in Exhibit CX-00004, however such content was not for promotional reasons, but instead for informational and/or educational purposes for a narrow industry audience.

REQUEST FOR ADMISSION NO. 5

“Exhibit CX-00005 attached hereto is authentic, genuine, and a true and correct copy of a promotional flyer that ECM that disseminated. Exhibit CX-00005 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 6

“Exhibit CX-00006 attached hereto is authentic, genuine, and a true and correct copy of a promotional brochure that ECM disseminated. Exhibit CX-00006 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 7

“Exhibit CX-00007, attached hereto is authentic, genuine, and a true and correct copy of the report “Anaerobic Biodegradation of bioPVC” by ENVIRON International Corporation, Aug. 2008, produced by ECM in response to the FTC Access Letter with

~~beginning Bates number ECM-FTC-000069. Exhibit CX-00007 is admissible into~~
evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 8

Exhibit CX-00008, attached hereto is authentic, genuine, and a true and correct copy of the “Ecological Assessment of ECM Plastic” by ChemRisk, a service of McLaren/Hart, Inc., Feb. 16, 1999, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000106. ECM also produced a copy of this document with beginning Bates number ECM-FTC-000283. Exhibit CX-00008 is admissible into evidence in this matter under Rule 3.43(e).

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 9

Exhibit CX-00009, attached hereto is authentic, genuine, and a true and correct copy of the Final Report by O.W.S. Inc. of Biodegradation Testing, “Aerobic Biodegradation Under Controlled Composting Conditions for 40-gal trash bags,” Study PFR-5, Mar. 3, 2000, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000124. ECM also produced a copy of this document with beginning Bates number ECM-FTC-000244. Exhibit CX-00009 is admissible into evidence in this matter under Rule 3.43(e).

RESPONSE:

~~Answer: Admitted.~~

REQUEST FOR ADMISSION NO. 10

“Exhibit CX-00010, attached hereto is authentic, genuine, and a true and correct copy of “SEM imaging of EPS samples” by Electron Microprobe Lab at the University of New Mexico, Mar. 6, 2007, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000163. Exhibit CX-00010 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 11

“Exhibit CX-00011, attached hereto is authentic, genuine, and a true and correct copy of “SEM imaging of green PET bottles” by Electron Microprobe Lab at the University of New Mexico, Feb. 8, 2007, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000171. Exhibit CX-00011 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 12

“Exhibit CX-00012, attached hereto is authentic, genuine, and a true and correct copy of “SEM imaging of bubble wrap” by Electron Microprobe Lab at the University of New Mexico, Dec. 12, 2006, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000186. Exhibit CX-00012 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 13

“Exhibit CX-00013, attached hereto is authentic, genuine, and a true and correct copy of the “SEM imaging of PVC samples” by Electron Microprobe Lab at the University of New Mexico, Mar. 5, 2007, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000198. Exhibit CX-00013 is admissible into evidence in this matter under Rule 3.43(e).

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 14

“Exhibit CX-00014, attached hereto is authentic, genuine, and a true and correct copy of the “SEM Examination of ECM Plastic” by Prof. Morgan Litt, Macromolecular Science Department, Case Western Reserve University, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000206. ECM also produced a copy of this document with beginning Bates number ECM-FTC-000301. Exhibit CX-00014 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 15

“Exhibit CX-00015, attached hereto is authentic, genuine, and a true and correct copy of the “Report about biodegradability of a plastic artefact [sic] . . .” by Ecologia Applicata

~~srl, Cert No. 130/bio/180/10, Nov. 19, 2010, produced by ECM in response to the FTC~~

Access Letter with beginning Bates number ECM-FTC-000226. Exhibit CX-00015 is admissible into evidence in this matter under Rule 3.43(e).”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 16

“Exhibit CX-00016, attached hereto is authentic, genuine, and a true and correct copy of the “Biopolymers and additived [sic] plastics: biodegradability, degradability and compostability. Basic concepts, comparisons and legislation: The case of ECM MasterBatch Pellets additive,” Edited by Paolo Broglio, Oct. 23, 2008, produced by ECM in response to the FTC Access Letter with beginning Bates number ECM-FTC-000230. Exhibit CX-00016 is admissible into evidence in this matter under Rule 3.43(e).

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 17

“Exhibit CX-00017, attached hereto is authentic, genuine, and a true and correct copy of the Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials Under High-Solids Anaerobic-Digestion Conditions, ASTM D 5511 – 02.”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 18

~~“Exhibit CX-00018, attached hereto is authentic, genuine, and a true and correct copy~~
of the Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials
Under High-Solids Anaerobic-Digestion Conditions, ASTM D 5511 – 11.”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 19

“Exhibit CX-00019, attached hereto is authentic, genuine, and a true and correct copy
of the Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials
Under High-Solids Anaerobic-Digestion Conditions, ASTM D 5511 – 12.”

RESPONSE:

Answer: Admitted.

REQUEST FOR ADMISSION NO. 20

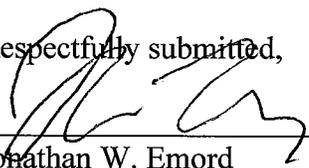
“Exhibit CX-00020, attached hereto is authentic, genuine, and a true and correct copy
of the Standard Test Method for Determining Anaerobic Biodegradation of Plastic Materials
Under High-Solids Anaerobic-Digestion Conditions, ASTM D 5526 – 94 (Reapproved
2002).”

RESPONSE:

Answer: Admitted.

DATED this 9th day of December 2013

Respectfully submitted,



Jonathan W. Emord
EMORD & ASSOCIATES, P.C.

~~11808 Wolf Run Lane~~
Clifton, VA 20124
Telephone: 202-466-6937
Facsimile: 202-466-6938
Email: jemord@emord.com

~~**CERTIFICATE OF SERVICE AND ELECTRONIC FILING**~~

I hereby certify that on December 11, 2013, I caused a true and correct copy of the paper original of the foregoing **RESPONDENT'S ANSWERS TO COMPLAINT COUNSEL'S FIRST REQUEST FOR ADMISSIONS** to be filed and served as follows:

One electronic copy to the **Office of the Secretary:**

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Room H-159
Washington, D.C. 20580
Email: secretary@ftc.gov

One electronic courtesy copy via email to the **Office of the Administrative Law Judge:**

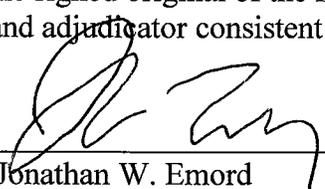
The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Room H-110
Washington, D.C. 20580

One electronic copy to **Counsel for Complainant:**

Katherine Johnson
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, NW
Mail stop M-8102B
Washington, D.C. 20580
Email: kjohnson3@ftc.gov

Elisa Jillson
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, NW
Mail stop M-8102B
Washington, D.C. 20580
Email: ejillson@ftc.gov

I further certify that I retain a paper copy of the signed original of the foregoing document that is available for review by the parties and adjudicator consistent with the Commission's Rules.


Jonathan W. Emord
EMORD & ASSOCIATES, P.C.
11808 Wolf Run Lane
Clifton, VA 20124
Telephone: 202-466-6937
Facsimile: 202-466-6938
Email: jemord@emord.com

VERIFICATION

I, Robert Sinclair, declare as follows:

I have read to the foregoing document entitled **Respondent's Answers to Complaint Counsel's First Request for Admissions** and know its contents.

I am the President of ECM BioFilms, Inc., a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe that the matters stated herein are true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the United States of America and the State of Ohio.

Executed on December 11, 2013,

A handwritten signature in black ink, appearing to read 'R. Sinclair', is written over a horizontal line. The signature is stylized and cursive.

Robert Sinclair