

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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HENEP ISUM MANDINGO and DANIEL WEMP, :

Plaintiffs, :

- against - :

ADVANCE PUBLICATIONS, INC. and JARED
DIAMOND, :

Defendants. :

Index No. 105519/09

**STANDSTILL AND
TOLLING AGREEMENT**

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This Standstill and Tolling Agreement (the "Tolling Agreement"), dated as of June 15, 2010, is entered into by and on behalf of Plaintiffs Henep Isum Mandingo and Daniel Wemp (collectively "Plaintiffs"), on the one hand, and Advance Publications, Inc. and Jared Diamond (collectively, "Defendants"), on the other hand (collectively, the "Parties").

RECITALS

A. Plaintiffs filed a summons with notice dated April 20, 2010 with the Supreme Court of the State of New York, County of New York (the "Summons"), commencing an action against Defendants (the "Action").

B. Plaintiffs served a Complaint dated August 13, 2009 asserting certain claims against Defendants arising out of the publication of an article "Vengeance is Ours: What Can Tribal Societies Tell Us About Our Need to Get Even" by Jared Diamond and published by *The New Yorker*. Plaintiffs served an Amended Complaint dated September 15, 2010, asserting certain claims against Defendants (the "Claims").

C. On October 13, 2009, Defendants served an Answer, dated October 13, 2009, to the Amended Complaint responding to and denying Plaintiffs' Claims and asserting certain defenses to the Claims (the "Defenses.").

D. Defendants served a Motion to Dismiss the Complaint or, in the Alternative, for Summary Judgment dated November 23, 2009 (the "Motion") and set a return date on the Motion of February 8, 2010.

E. Plaintiffs filed a summons with notice dated November 30, 2009 with the Supreme Court of the State of New York, County of New York, naming Advance Magazine Publishers, Inc. as a defendant (the "AMPI Summons").

F. The AMPI Summons has never been served on the named defendants and the Parties have agreed to waive the 120 day rule for service.

G. Beginning on February 3, 2010, in a series of stipulations, Defendants agreed to adjourn the return date on the Motion from February 8, 2010 to July 14, 2010.

H. By an Order dated May 18, 2010, the Court "so-ordered" the last adjournment on the Motion to July 14, 2010, but also lifted the automatic stay of discovery in this Action, ordered document requests to be served by June 17, 2010 and set a conference for June 25, 2010.

I. On the terms set forth herein, the Parties wish to agree to a standstill of the Action and toll all statute of limitations to explore whether they might resolve the Claims on a consensual basis.

NOW THEREFORE, the Parties hereto, by and through their respective counsel, hereby agree as follows:

1. Tolling. Plaintiffs and Defendants hereby agree to toll the running of any applicable statute of limitations relating to the Claims for the period commencing on and after June 15, 2010 to October 29, 2010 (or such later date on which the Parties may hereafter agree in writing) (the "Tolling Period"). Defendants expressly agree not to plead or assert any otherwise applicable statutes of limitations, or other time bar, as a bar to any action, claim, counterclaim,

cross-claim or defense based on, arising out of, or in any manner relating to the Claims for the time period of the Tolling Period. Notwithstanding the previous sentence, Plaintiffs and Defendants also expressly agree that upon termination of this Tolling Agreement, each of them may assert the Claims or Defenses they asserted in this Action or could have asserted in defense of the AMPI Summons before entering into this Tolling Agreement, including those defenses set forth in the Motion, and that, for purposes of any statute of limitations or other defense that may be asserted upon termination of the Tolling Agreement, the Summons shall be deemed to have been filed on April 20, 2009, the Complaint shall be deemed to have been served on August 14, 2009, the Answer shall be deemed to have been served on October 13, 2009 and the Motion to Dismiss shall be deemed to have been served on November 23, 2009.

2. Voluntary Dismissal. Plaintiffs hereby agree to withdraw the Complaint on or before June 17, 2010. The withdrawal of the Complaint shall be without prejudice to Plaintiffs' rights to re-serve and re-file the Complaint upon the termination of this Tolling Agreement.

3. Termination of the Tolling Agreement. This Tolling Agreement shall terminate at 5:00 pm EDT on October 29, 2010 unless Plaintiffs and Defendants extend this Tolling Agreement in a writing signed by an authorized representative of each. Upon termination of this Tolling Agreement, Plaintiff shall have 30 days to re-file the Complaint with the Supreme Court of the State of New York, County of New York. If Plaintiff does re-file the Complaint within 30 days after termination of the Tolling Agreement, the Parties further agree that: (i) the Complaint shall be deemed to have been re-served on Defendants, (ii) the Answer shall be deemed to have been re-served on Plaintiffs, (iii) Defendants' Motion shall be deemed to have been re-served on Plaintiffs, (iv) Plaintiffs opposition (if any) to Defendants' Motion shall be served 30 days from the termination of the Tolling Agreement, (v) Defendants reply (if any) to Plaintiffs' Opposition

shall be served within 60 days from the termination of the Tolling Agreement, (vi) the return date on the motion shall be set for 65 days after termination of this Tolling Agreement, and (vii) the AMPI Summons shall be served within 30 days from the termination of the Tolling Agreement. Provided that Plaintiffs re-file the Complaint within 30 days of the termination of the Tolling Agreement, Defendants shall re-file the Answer and Motion with the Supreme Court of the State of New York, County of New York in a time-frame consistent with the above-listed submission schedule for the Motion.

4. No Revival. This Tolling Agreement shall not revive any claims or causes of action that may otherwise be barred by, or limit in any way the assertion of any defense based upon, any statute of limitations or other provision relating to the timing of the assertion of claims before June 15, 2010.

5. Remedies. Except as to the tolling of the statute of limitations agreed to herein, this Tolling Agreement is without prejudice to any party's assertion in the future of any claim or defense that was or could have been raised, and does not derogate the rights and powers otherwise available under any other agreement or applicable law to Plaintiffs or Defendants.

6. No Admission. Execution of the Tolling Agreement does not constitute an agreement or admission by Defendants that Plaintiffs have a valid claim against the Defendants.

7. Complete Integration. This Tolling Agreement constitutes the full and final agreement between the Parties with respect to the subject matter hereof, and this Tolling Agreement may not be modified or amended except by written instrument, signed by each of the Parties hereto, expressing such amendment or modification. The Parties warrant, promise, and represent that in executing this Tolling Agreement, each party is not relying upon any oral representation, promise or statement of the other party and that each party is not relying upon

any promise, statement or representation contained in any other written instrument of the other party.

8. Consultation with Legal Counsel. The Parties at all times material hereto, have had the opportunity to consult with legal counsel of their own choosing concerning the rights affected by this Tolling Agreement, the form and content of this Tolling Agreement and the advisability of executing it.

9. Counterparts/Facsimile Transmission. This Tolling Agreement may be signed in counterpart. Execution of this Tolling Agreement is effective if signature is received by facsimile or email transmission.

10. Successors and Assigns. This Tolling Agreement shall be binding upon and inure to the benefit of Parties hereto and their respective successors, assigns, heirs and personal representatives.

11. Authority. Any person signing this Tolling Agreement in a representative capacity (i) represents and warrants that he/she is authorized to sign this Tolling Agreement on behalf of the party he/she represents and that his/her signature upon this Tolling Agreement will bind the represented party to the terms of this Tolling Agreement, and (ii) acknowledges that the other party to this Tolling Agreement has relied upon such representation and warranty.

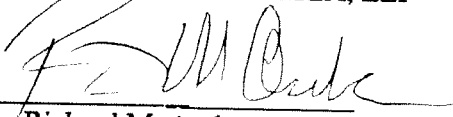
12. Governing Law. This Tolling Agreement shall be governed by and construed in accordance with the internal laws of the State of New York, without regard to any conflicts of law provision which would require the application of the law of any other jurisdiction. By its execution and delivery of this Tolling Agreement, each of the Parties hereto hereby irrevocably and unconditionally agrees for itself that any legal action, suit or proceeding against it with respect to this Tolling Agreement or for recognition or enforcement of any judgment rendered in

any such action, suit or proceeding, shall be brought in a state or federal court located in Manhattan in the City of New York, New York. By execution and delivery of this Agreement, each of the Parties hereto hereby irrevocably accepts and submits itself to the nonexclusive jurisdiction of such court, generally and unconditionally, with respect to any such action, suit or proceeding.

13. Severability. If any term of this Tolling Agreement shall be declared invalid, illegal or unenforceable by any court of competent jurisdiction, each of the remaining terms shall be unaffected thereby and shall continue to be in full force and effect.

LITMAN, ASCHE & GIOIELLA, LLP

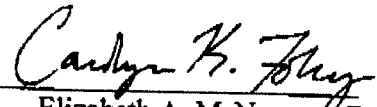
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