

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

WESTPAW FILMS INC., directly and
derivatively on behalf of the D&D Production,

Plaintiff,

-against-

JAMES SPRATTLE, MICHAEL ANDREW
PASCAL, and FANTASY GAME FILMS
LLC,

Defendants,

and

the D&D Production,

Nominal Defendant.

Index No. 505665/2014

**STIPULATION REQUESTING
REINSTATEMENT OF DEFENDANTS'
MOTION TO DISMISS**

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel that:

1. On or about August 6, 2014, defendants filed and served a motion to dismiss the Complaint (the "Motion," motion #002) in the above-captioned action.
2. Shortly thereafter, the parties entered into settlement negotiations and stipulated to adjourn the return date of the Motion until October 15, 2014, which the Court so ordered on September 9, 2014 (Order, Docket No. 50).
3. Settlement talks continued, and the parties again stipulated to adjourn the return date of the Motion until October 29, 2014, a copy of which stipulation was sent to the Court by facsimile by Mr. Dee, attorney for plaintiff, on September 29, 2014, and which is attached hereto as exhibit A.

4. The parties continued to negotiate terms for settlement, and stipulated to adjourn the return date of the Motion until December 17, 2014, a copy of which stipulation was sent to the Court by facsimile by Mr. Dee, attorney for plaintiff, on October 28, 2014 and which is attached hereto as exhibit B.

5. The parties continued to negotiate a settlement, and on December 16, 2014, believing progress was being made, stipulated to adjourn the Motion until January 28, 2014, to allow the parties time to conclude negotiations, taking into account the holiday season. Mr. Dee, attorney for plaintiff, sent a copy of this stipulation to the Court by facsimile, and also submitted it by electronic filing (Docket No. 52), on the morning of December 17, 2014; the docket shows that the electronic filing took place at 10:55 am.

6. Nonetheless, later that day (December 17, 2014) at 4:06 pm, the Court denied the Motion on the basis that the defendants failed to appear (Decision & Order on Motion, Docket No. 53).

7. The parties stipulate that it was their mutual intention to adjourn the motion to allow additional time to complete settlement negotiations, toward which they still are working diligently. Any delay in communicating their joint request to adjourn and in submitting the joint stipulation to the Court was inadvertent, and the parties, believed they were not required to appear in Court on December 17, 2014.


8. Therefore, defendants respectfully request that the Court reinstate the Motion to the calendar, and set a return date for January 28, 2014 (the stipulated adjourned date).

9. Plaintiff does not object to defendants' request.

10. This stipulation may be signed in counterparts. A facsimile or PDF copy of this Stipulation shall have the same force and effect as the original and a fully executed copy of the Stipulation may be filed with the Court without further notice.

Dated: New York, New York
December 22, 2014

Respectfully submitted,

<p>MAVRONICOLAS MUELLER & DEE LLP</p> <p>By: _____ Peter C. Dee 415 Madison Ave., 18th Floor New York, NY 10017 TEL: (646) 770-1256</p> <p><i>Attorneys for Plaintiff</i></p>	<p>WINSLETT STUDNICKY McCORMICK & BOMSER LLP</p> <p>By: _____  Joshua G. Graubart TEL: (646) 781-9321 Andrew G. McCormick TEL: (212) 229-2953 6 E. 39th Street, 6th Floor New York, NY 10016</p> <p><i>Attorneys for Defendants</i></p>
--	---