

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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 MARVEL WORLDWIDE, INC., :  
 MARVEL CHARACTERS, INC. and :  
 MVL RIGHTS, LLC, :  
 :  
 Plaintiffs, :  
 :  
 - against- :  
 :  
 LISA R. KIRBY, BARBARA J. KIRBY, :  
 NEAL L. KIRBY and SUSAN N. KIRBY, :  
 :  
 Defendants. :  
 -----X

Civil Action No. 10 Civ. 141 (CM) (KNF)

**DECLARATION OF JAMES W. QUINN IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

I, James W. Quinn, declare under penalty of perjury as follows:

1. I am a partner at the law firm Weil, Gotshal & Manges LLP and am duly admitted to practice in the State of New York and before this Court. Together with the law firm Paul, Hastings, Janofsky & Walker LLP, I serve as counsel for Marvel Worldwide, Inc., Marvel Characters, Inc. and MVL Rights, LLC (collectively, "Marvel") in this action.

2. The facts set forth herein are known to me of my own personal knowledge.

3. On January 19, 2010, this Court issued its Order Scheduling an Initial Pretrial Conference (Docket No. 3) ("Scheduling Order") that, among other things, directed the parties to meet and confer within thirty (30) days of the date of that Order to attempt to arrive at a mutually agreeable discovery schedule. The Order directed that "[t]he parties are free to set their own deadlines as long as the plan provides for completion of all discovery within six months."

(emphasis in original). The Scheduling Order set a date of April 16, 2010 for the initial pretrial

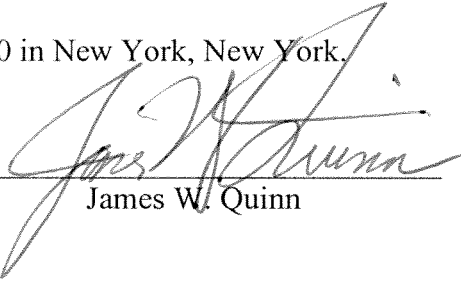
conference in this case, and stated that the need for the conference would be obviated if the parties could arrive at an agreed discovery schedule in advance of that date. However, the Scheduling Order made clear that if the parties were not able to agree to a discovery schedule, the initial pretrial conference would proceed as scheduled.

4. On the same day that the Court issued its Scheduling Order, I contacted Defendants' counsel to inform him of the initial conference. During that conversation, I also explained that Marvel was willing to exchange documents on an expedited basis, and that there are several witnesses of advanced age that are of critical importance to this case – including then 87-year-old Stan Lee, Jack Kirby's editor and principal collaborator – who Marvel wanted to depose in an expedited manner. Further, I explained to Defendants' counsel the Court's direction that discovery be completed within six months of the Scheduling Order, and that Marvel agreed that discovery could reasonably be concluded within the Court's timeframe. Later that day, I also sent Defendants' counsel a copy of the Scheduling Order.

5. From late January through mid-March 2010, the parties continued to confer on their respective proposed discovery schedules. Ultimately, the parties were unable to arrive at a mutually agreeable schedule.

6. On March 22, 2010, Magistrate Judge Fox held a telephonic conference to address the parties' dispute regarding the expedition of certain depositions. Magistrate Judge Fox granted Defendants' request for a limited stay of discovery until this Court holds its initial pretrial conference on April 16, 2010, at which time Magistrate Judge Fox found that this Court would offer its direction on how discovery should proceed in this action.

I declare under penalty of perjury that the foregoing facts are true and correct. This declaration was executed on the 26<sup>th</sup> day of March, 2010 in New York, New York.



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James W. Quinn