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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARVEL WORLDWIDE, INC.,
MARVEL CHARACTERS, INC. and
MVL RIGHTS, LLC,

Plaintiffs,

-against-

LISA R. KIRBY, BARBARA J. KIRBY,
NEAL L. KIRBY and SUSAN M. KIRBY,

Defendants.

Civil Action No. 10-141 (CM) (KF)

[Hon. Colleen McMahon]

[ECF Case]

**DECLARATION OF MARC TOBEROFF, ESQ. IN RESPONSE TO COURT'S
NOVEMBER 3, 2010 REQUEST FOR DOCUMENTS**

I, Marc Toberoff, hereby declare as follows:

1. I represent the defendants in this action. I am familiar with the facts set forth below and make this declaration in response to the Court's November 3, 2010 letter requesting a copy of an agreement between plaintiffs' predecessor-in-interest and Jack Kirby dated on or about October 31, 1986, as alleged in defendants' fourth claim for relief. The facts set forth herein are known to me of my own personal firsthand knowledge and, if called as a witness, I could and would testify competently thereto under oath.

2. Attached hereto as "Exhibit A" is a true and correct copy of a document entitled "Artwork Release" dated October 31, 1986.

3. To date, plaintiffs have not produced a fully executed copy of this alleged agreement. At this time, defendants do not have in their possession or control a final, fully executed agreement pertaining to the return of Jack Kirby's original artwork.

I declare under the penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Dated: November 4, 2010



Marc Toberoff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this Court.

Dated: November 4, 2010

TOBEROFF & ASSOCIATES, P.C.

By: s/Marc Toberoff

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