

1 DANIEL M. PETROCELLI (S.B. #97802)
dpetrocelli@omm.com
2 MATTHEW T. KLINE (S.B. #211640)
mkline@omm.com
3 MOLLY M. LENS (S.B. #283867)
mlens@omm.com
4 O'MELVENY & MYERS LLP
1999 Avenue of the Stars, 7th Floor
5 Los Angeles, California 90067-6035
Telephone: (310) 553-6700
6 Facsimile: (310) 246-6779

7 Attorneys for the Warner Parties

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 FOURTH AGE LTD., *et al*,
11 Plaintiffs,
12 v.

13 WARNER BROS. DIGITAL
14 DISTRIBUTION, *et al*,
15 Defendants.

Case No. 12-9912-AB (SHx)

**STIPULATION TO DISMISS
ENTIRE CASE WITH
PREJUDICE**

Judge: Hon. André Birotte, Jr.

16 WARNER BROS. DIGITAL
17 DISTRIBUTION INC., *et al*,
18 Counterclaim
Plaintiffs,

19 v.
20 FOURTH AGE LTD., *et al*,
21 Counterclaim
22 Defendants.

23
24
25
26
27
28

1 Plaintiffs and Counterclaim Defendants Fourth Age Limited, Priscilla Mary
2 Anne Reuel Tolkien, as Trustee of the Tolkien Trust, The J.R.R. Tolkien Estate
3 Ltd., Harper Collins Publishers, Ltd., Unwin Hyman Ltd. and George Allen &
4 Unwin (Publishers), Ltd. (collectively, the “Tolkien/HC Parties”) and Defendants
5 and Counterclaim Plaintiffs Warner Bros. Home Entertainment Inc., Warner Bros.
6 Entertainment Inc., Warner Bros. Consumer Products Inc. and New Line
7 Productions, Inc. (collectively, the “Warner Parties”) and The Saul Zaentz
8 Company (“Zaentz”), by and through their respective counsel of record, hereby
9 stipulate and agree as follows:

10 WHEREAS, the Tolkien/HC Parties filed their complaint (the “Complaint”)
11 in this action on November 19, 2012;

12 WHEREAS, the Warner Parties filed their answer as well as counterclaims
13 against the Tolkien/HC Parties (the “Warner Counterclaim”) on January 18, 2013;

14 WHEREAS, Zaentz also filed its answer as well as counterclaims against the
15 Tolkien/HC Parties (the “Zaentz Counterclaim”) on January 18, 2013;

16 WHEREAS, the Warner Parties and Zaentz each amended their
17 counterclaims on March 11, 2013 (the “Warner Amended Counterclaim” and the
18 “Zaentz Amended Counterclaim,” respectively);

19 WHEREAS, the Tolkien/HC Parties filed motions to dismiss and special
20 motions to strike pursuant to California Code of Civil Procedure Section 425.16
21 (the “anti-SLAPP” motions) with respect to both the Warner Amended
22 Counterclaim and the Zaentz Amended Counterclaim;

23 WHEREAS, this Court denied the motions to dismiss and the anti-SLAPP
24 motions on July 11, 2013;

25 WHEREAS, the Tolkien/HC Parties answered the Warner Amended
26 Counterclaim and the Zaentz Amended Counterclaim on July 25, 2013;

27
28

1 WHEREAS, with the pleadings fully joined, the Parties proceeded to litigate
2 this matter with this Court's supervision;

3 WHEREAS, the Parties have amicably resolved their differences and no
4 longer wish to pursue the claims pled in the Complaint, the Warner Amended
5 Counterclaim, and the Zaentz Amended Counterclaim;

6 WHEREAS, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and
7 (c), the Parties jointly request that the Complaint, the Warner Amended
8 Counterclaim, and the Zaentz Amended Counterclaim be dismissed with prejudice
9 in their entirety as to all parties thereto;

10 WHEREAS, the Parties have agreed that no fees or costs are to be awarded
11 by the Court;

12 IT IS THEREFORE STIPULATED AND AGREED AS FOLLOWS:

13 1. The Complaint, the Warner Amended Counterclaim, and the Zaentz
14 Amended Counterclaim are dismissed in their entirety with prejudice as to all
15 parties thereto; and

16 2. No Party is entitled to recover any fees or costs.

17
18
19 Dated: June 29, 2017

Respectfully Submitted,

20 O'MELVENY & MYERS LLP

21 By: /s/ Daniel M. Petrocelli

22 Daniel M. Petrocelli
23 Attorneys for Warner Defendants
24 and Counterclaim Plaintiffs
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

GREENBERG GLUSKER FIELDS
CLAMAN & MACHTINGER LLP

By: /s/ Bonnie Eskenazi
Bonnie Eskenazi
Attorneys for Plaintiffs and
Counterclaim Defendants

ARNOLD & PORTER KAYE
SCHOLER LLP

By: /s/ John C. Ulin
John C. Ulin
Attorneys for Zaentz Defendants and
Counterclaim Plaintiffs

Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer attests that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: June 29, 2017

O'MELVENY & MYERS LLP

By: /s/ Daniel M. Petrocelli
Daniel M. Petrocelli
Attorneys for Warner Defendants
and Counterclaim Plaintiffs