
TOLLING AND NONSUIT AGREEMENT

This Tolling and Nonsuit Agreement is entered into between Ronald E. Wells, Inc. ("Plaintiff"), and Johnson County, Texas ("Defendant").

WHEREAS, Plaintiff has brought suit against Defendants in a case styled Ronald Wells, Inc. v. AMS Company, Inc., et. al., No. DC-C201600483, in the District Court of Johnson County, Texas, 18th Judicial District("the Lawsuit"); and

WHEREAS, Plaintiff and Defendant wish to institute a tolling period that begins on the date the Lawsuit was originally filed and expires on October 1, 2018; and

WHEREAS, Plaintiff and Defendant have agreed that Plaintiff will nonsuit the claims against Defendant in the Lawsuit without prejudice in exchange for the promises herein and a tolling agreement whereby any limitation period on any claims in the Lawsuit will be tolled from the date the Lawsuit was originally filed until October 1, 2018.

NOW, THEREFORE, the undersigned parties agree as follows:


1. Plaintiff will nonsuit its claims in the Lawsuit against Defendant without prejudice to refiling in the form of the Notice of Nonsuit and Order of Nonsuit attached as Exhibit A. The Notice of Nonsuit and Order of Nonsuit without prejudice to refiling will be filed by Plaintiff within five (5) business days following the execution of this Agreement.
2. For the Tolling Period, as herein defined, any claims by Plaintiff related to the claims made the basis of the Lawsuit shall be tolled and will serve to suspend the running of the applicable statute of limitations, whether legal or equitable.

3. The Tolling Period shall begin the date the Lawsuit was originally filed and expire on October 1, 2018, unless otherwise extended by Plaintiff and Defendant in writing (the "Tolling Period"). The applicable statute of limitations shall resume running upon the expiration of the Tolling Period. This Agreement does not prevent the application of any statute of limitations or any other equitable, contractual, or statutory defense that may have existed to bar any claim as of the day of the original filing of the Lawsuit. Nor does this Agreement have any effect on reviving any claim or cause of action that was barred by such defenses as of the day of the original filing of the Lawsuit.
4. The undersigned Parties further agree that during the Tolling Period, Defendant agrees to cooperate with informal discovery requests by Plaintiff to the same extent it would if it remained a Party, and subject to any objections, privilege or other defenses Defendant would have to any requested discovery under Texas law. This Agreement may be executed in one or more counterparts, any one of which need not contain the signature of more than one party and all of which will be taken together.
5. The undersigned Parties warrant that they have the full authority to enter into this Agreement and to bind Plaintiff and Defendant to the terms of this Agreement.
6. The Parties agree that this Agreement is part of negotiations by and between the parties and that this Agreement shall not be used as evidence or referred to in any subsequent proceeding, hearing or deposition and shall be treated as if part of settlement negotiations under Rule 408 of the Texas Rules of Evidence.
7. The Parties agree that this Agreement shall only be admissible in the event litigation is required to enforce or interpret this Agreement.

Agreed as reflected by the signatures of the parties below.


Signed this ____ day of _____, 2017.

Plaintiff: Ronald Wells, Inc.

By: 

Ronald Wells, authorized
representative of Plaintiff

Defendant: Johnson County, Texas

By: 

Hon. Roger Harmon, County Judge