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PERUGIA CIVIL AND CRIMINAL COURT
MAGISTRATE OF PRELIMINARY INVESTIGATIONS OFFICE
INSTITUTION OF A CIVIL ACTION (art. 78 cpp)

in the criminal proceedings nr. 9066/2007 R.G. N.R. – 6671/2007 R.G. GIP

in charge of Knox Amanda Marie

The undersigned Mr. **Diya Lumumba**, alias Patrik, born at Kindu (Zaire) on 5.5.1969, resident in Perugia, at a16, Via Raffaello, chosen domicile at attorney Avv. Carlo Pacelli office, who represents and defends him by special power of attorney at the foot of the present deed, offended person in the proceedings indicated in title with reference to count F) as per the request of committal for trial formulated by the Prosecuting Attorneys (P.M.- Italian short form left in the following, *n.d.t.*), Dr. Manuela Comodi and Dr. Giuliano Mignini on the 11th of July 2008

DECLARES

to be plaintiff for damages, as he is actually, in the criminal proceedings as per the title, in charge of **KNOX AMANDA MARIE**, born in Seattle (State of Washington, U.S.A.) on 9.7.1987, chosen domicile in Perugia at her defender's office, attorney Avv. Luciano Ghirga, at the moment held in custody at district prison of Capanne, Perugia, accused in the criminal proceedings in title at count F) "*As per the crime as per artt. 81 cpv and 368, second sub-sect. and 61 nr. 2 cp, because, carrying out several actions of the same criminal plan, while she knew his innocence, by giving information in declaration rendered to the police (Squadra Mobile) and to Perugia attorney's office (Procura) on the 6th of November 2007, Ms Knox accused falsely Mr. Diya Lumumba, alias Patrik, personal particulars in deeds, for the crime of homicide in damage of the young lady, Ms Kercher Meredith, all that in order to obtain impunity for everyone and, in particular, for Mr Guede Rudi Hermann, colored as Lumumba too. In Perugia, night between the 5th and the 6th of November 2007*" in order to obtain compensation for all wealth and non wealth damages, suffered in consequence of the conduct attributed to her.

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First of all, the instituting civil party means to express its own deep feeling and sincere compassion towards the victim Ms Meredith Kercher and its own solidarity with her relatives for the relentlessly irreparable loss.

Moreover, the detriment suffered by Mr. Diya Lumumba, falsely charged by the accused – who knew his innocence – of the crime of homicide in damage of the unfortunate Meredith and, because of this, imprisoned, at the beginning with prohibition of talk even with his defenders, immediately indicated by world-wide mass media – (television and newspapers) - as the maker of the dreadful and brutal murder, marked by such an infamy and ignominy in the local, national and international imagination, prejudiced in his working activity – though incomparable with the detriment coming from the murder of a person dear to him, in any case it has a ruining moral, psychological and economical importance.

In fact, few words – (the information of homicide, literally “*I remember confusedly he killed her*”) – skilfully and perfidiously said by the shrewd Ms Amanda in the declaration rendered to the police (*Squadra Mobile*) and to Perugia attorney’s office (*Procura*) on the 6th of November 2007, succeeded in one moment in destroying the not guilty Mr. Diya Lumumba as husband, as father, as person, cancelling totally – by casting a blot – on the good opinion the community had of him; and without honour, reputation and dignity, there is no belonging to human society. With the accusation of such a slanderous crime there is only civil death.

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As support of the request proposed by the present deed, we advance following

REASONS

corresponding with the ones reported in the above mentioned count, which we resume as follows.

- After the Meredith Kercher lifeless body finding on 2.11.2007, the accused, Ms Amanda Knox was heard by enquirers several times as person informed about the facts on the days 2nd, 3rd and 4th of November 2007, without ever making no reference to Mr Diya Lumumba involvement in the homicide. With the investigations progresses, while the proceeding judicial authorities suspicions were materializing on a possible role played by Ms Knox on the homicide, she had been heard for brief information on the 6th of November 2007, at 1.45 a. m. at the police (*Squadra Mobile*) headquarters (*Questura*) of Perugia and declared “*As integration of what already told in previous declarations rendered at these headquarters, I want to explain I know other people I go*

round with and who often come to my home, even by chance, and who met Meredith too and of whom I will give the relevant cell phone numbers. One person of these is Patrik, a colored citizen, tall about 1,70-1,75 cm., with little plaits, the pub owner, "Le Chic", located in this Via Alessi, whom I know living in the area near the Porta Pesa roundabout, phone 393387195723, a pub where I work twice a week, on Mondays and on Thursdays, from 10.00 p.m. to 2.00 a.m. On Thursday 1st of November last, a day when I use to work, while I was at my boyfriend's, Raffaele, at about 8.30 p.m. I received a message on my cell phone from Patrik, who told that night the pub would have remained closed because there were no people and so, I shouldn't have had to go to work. Stated first the, during the afternoon, Raffaele and I had smoked a hashish cigarette and so I felt confused, as I neither use drugs nor heavy drugs frequently. I met Patrik just afterwards, at the basket place of Piazza Grimana and I went home with him. I do not remember if Meredith was there or if she came after. I have trouble remembering those moments but Patrik made sex with Meredith, with whom he was infatuated, but I can't remember well if Meredith had been threatened first. **I remember confusedly he killed her".**

Then, at 5,45 a.m. same day, the same place, but this time in front of the Assistant District Attorney (Sostituto Procuratore), investigations holder, Dr. Giuliano Mignini, as far as the decease of Meredith Kercher is concerned, while repeating the previous direct charge, the accused declared." I want to tell what happened spontaneously because this event upset me very much and I am very afraid of Patrik, the African boy, pub owner called "Le Chic" in this Via Alessi, where I work at intervals. I met him in the evening of the 1st of November, after having sent a message in answer to his, with the words "see you". We met just afterwards, round 9.00 p.m. at the little basket place in Piazza Grimana. We went to my home at once at 7, Via della Pergola. I do not remember exactly if my friend Meredith was already at home or if she came later, what I can say is that Patrik and Meredith withdrew into Meredith's bedroom, while, it seems to

me, I remained in the kitchen. I can't remember how long they remained together in the bedroom but I can say that, at a certain point, I heard cries of Meredith and I stopped my ears, frightened. Then I don't remember anything else, I have a great confusion in my head. I don't remember if Meredith was shouting and if I heard some thuds because I was beside myself, but I imagined what could have happened. I met Patrik this morning, in front of the University for Foreigners and he asked me some questions, exactly he wanted to know which questions the police asked me. I think he also asked me if I wanted to meet some journalists, maybe in order to understand if I knew something about Meredith's death. I'm not sure if there was Raffaele too that night, but I remember well I woke up at my boyfriend's, in his bed and that I came back to my home in the morning where I found the apartment's door open. When I woke up in the morning of November 2nd I was in bed with my boyfriend".

In the same day, the accused gave in to the police a handwritten by herself memorial through which, substantially, she confirmed again the false accusation of Mr. Lumumba previously rendered.

- Declarations above explained by the accused Amanda Knox, by which, of her own will, she accused Diya Lumumba of a terrible crime even known innocent, even in lack of any other control in charge of this latter, they were felt as the circumstantial basis on which

a – the P.M., at 8.40 a.m. of the same day, 6th of November 2007, ordered the holding in custody of today's plaintiff (together with the one of Ms. Amanda Knox and of Mr. Raffaele Sollecito) and his taking in the District Prison of Capanne, Perugia, having noticed the existence "*of heavy circumstances of the crimes as complicity in aggravated homicide as per art. 576 nr. 5 c.p. ..., in charge of Diya Lumumba, born at Kindu (Zaire) on 5.5.1969, of Knox Amanda Marie and of Sollecito Raffaele...*". In the decree's reason part one reads: "**At the end, in today's minutes, Ms. Knox confessed the crimes dynamics carried out in damage of Ms. Kercher.** In fact, first the investigated young lady told she met Mr. Diya, as per the message found in her own telephone memory by operating police, a message of 8,35 p.m., in answer to a message of the same Diya of 8.18 p.m., discovered thanks to the telephone activity analysis relevant to



Ms. Knox cell phone line... Then, in today's minutes, same Ms. Knox confessed that, once met Mr. Diya at Piazza Grimana basket place, she went together with Mr. Diya to Meredith's house, where, after having had a sexual relation with the victim, he killed her... Besides, one must add that, in spontaneous declarations always rendered today, Ms. Knox confirmed punctually to have contacted Mr. Diya, to have met him in the night between the 1st and the 2nd of November and to have gone together with him in the apartment where the victim lived. Then she said she had remained out of Meredith's bedroom, while Mr. Diya withdrew into with her and she added to have heard the girl's cries... Taken into consideration all described elements and all the converging results of the intense and detailed investigation activity carried out after the discovery of Ms. Kercher's corpse and reaching its height with the confession and summons as accomplice of same Diya, alias "Patrik", as well, by same Ms. Knox, heavy circumstances of the crimes on which we proceed must be believed fully existing, which permit the holding in custody, in consideration of the sentence limits..."

b – By order rendered on the 9th of November 2007, the magistrate for preliminary investigations (G.I.P. - Italian short form left in the following, *n.d.t.*) of this very honorable Court, Dr. Claudia Matteini ratified the holding in custody in charge of the three suspected of the crimes of homicide and, as approval of the request formulated by the P.M., charged them with the measure of the precautionary custody in prison for one year long.

c – Mr. Diya Lumumba, deprived of freedom, served two very weeks in precautionary custody in prison as innocent while the pub, the "Le Chic", where he carried out his own and only working activity, had been immediately put under attachment for over three months. That's not all: in the emphasis attributed by the national and international means of information to the "confession" rendered by the accused, Mr. Diya Lumumba's image was associated unavoidably to the one of the ferocious and unmerciful murder of the young girl and unfortunate student, Meredith Kercher.

- Vice versa, the investigations evolution led, on one side to the strengthening of the alibi given by Mr. Diya Lumumba at the moment of questioning and, above all, to establish there was no trace of his being there, in the house of Perugia, at 7, Via della Pergola, crime's place, on the other side, to the discovery and to the capture of Guede

Rudi Hermann – (he is a colored too, like today's plaintiff) – after the finding of the unmistakable traces of his being in that place and at a consistent time with the crime, and on the person of the poor victim as well.

In the light of a substantial change in the circumstantial framework, on 20.11.2007, the proceeding P.M. required and the G.I.P. ordered the repeal of the precautionary measure of custody in prison towards Mr. Diya Lumumba with his immediate release.

On the 14th of May 2008, having seen the proceedings nr. 9066/07 r.g.n.r. deeds, ***“having noticed that, from investigations carried out, the absolute groundlessness of information or summons as accomplice given by Knox Amanda on 6.11.07 emerged... having noticed that Ms. Knox knew not only Mr. Diya sufficiently, but Mr. Guede as well and the accusation to the former seems to have been finalized to the need of concealing the presence of Mr. Guede, as at the 6th of November, not yet emerged meaningfully from investigations and escaped in Germany some days after the crime; having noticed that, as consequence of the false accusation of Ms. Knox, Mr. Diya suffered the unjust loss of his personal freedom, repealed by this P.M., for the failing of the guilt heavy circumstances;... having noticed that, contemporaneously the offence as per art 368 2nd sub-sect. c.p. in charge of Knox Amanda, personal particulars in deeds and in damage of Diya Lumumba, personal particulars in deeds too, emerged in Perugia on 6.11.2007”***, the P.M. ordered the removal of Mr. Diya Lumumba position from the same proceedings deeds – with the creation of a separate file nr. 4920/08 r.g.n.r. – and the further registration of Ms. Knox, in the proceedings as in title, as accused for the offence as per art. 368 2nd sub-sect. c.p. committed in damage of today's plaintiff.

Following such a removal, on the 19th of May 2008, the P.M. presented the **request of dismissal** – in full – of the proceedings deeds relevant to the position of Mr. Diya Lumumba to the G.I.P. of the headed Court, noticing, among other things, *“that in charge of Mr. Diya, at the state, not even the least element emerged that could relate him to the crime somehow, though investigations carried out after his holding in custody and gone on even after the repeal of the precautionary measure: there is nothing in charge of Mr. Diya, nothing that might connect him to the crime scene, nothing that, somehow, might justify his involvement in the event which led to the tragical death of*

Kercher Meredith" and "that, in such conditions, the summons as accomplice by Ms. Knox must be believed absolutely false and tending to put on the wrong track investigations in order to conceal the presence of Mr. Guede in the apartment of 7, Via della Pergola and also of Ms. Knox "boyfriend", Sollecito Raffaele" and more "that Mr. Diya must be believed unrelated to the crimes one is proceeding for".

The Perugia Court G.I.P. approved the request by decree of 22.5.2008, not without noticing that "... **those sufficient elements to support the accusation in judgement have failed, so we must come to a dismissal of Diya Lumumba position for sure, with reference to the offences supposed to his charge as the accused had not committed the crime**".

On the 16th of July 2008, a notice of preliminary hearing fixation was delivered to Mr. Diya Lumumba as offended person by the felony as per lett. F) of count of indictment in charge of Knox Amanda Marie; in such a context, the petitioner learned that, against same Knox, also the accusation of poor Meredith Kercher aggravated homicide in complicity with Raffaele Sollecito and Rudi Hermann Guede had been formulated as well.

- So the very painful judiciary happening of Mr. Diya Lumumba came to conclusion. At the end, after more than eight months from the false accusation, no more suspected responsible of the terrible murder of Meredith, Mr. Diya changes its guise into the one of offended by slander person.

From what as above, it emerges that:

- the false and unscrupulous declarations spontaneously rendered of her own will by Ms. Knox to enquirers are the one and only cause to lead to Mr. Diya Lumumba accusation;
- such confirmed, repeated and never entirely retracted and/or, in any case, never completely denied by the maker declarations caused the start of a criminal trial in charge of Mr. Diya Lumumba on non-existent legal basis (*contra legem*);
- vice versa, investigations revealed Mr. Diya Lumumba had had no part in the crime supposed to his charge absolutely, until the proceeding Judiciary Authority removed and dismissed his position in the present proceedings;
- the accused lucidly slanderous conduct – willing to divert investigations about her and about other accused people for Meredith Kercher's murder, with harm and damage of

today's plaintiff – showing both its certain malicious significance and her full awareness of Mr. Diya innocence.

The power of slandering other people in order to save herself cannot be acknowledged to the accused, Ms. Amanda.

By the way, may you allow us to point out how Ms. Knox, unscrupulous in lying and in slandering, beautiful, intelligent and shrewd, has never showed any resipiscence and repentance towards whom, even known innocent, she accused, trying to "clean" herself and accomplices.

Of course, the hypocrite words used to veil the false accusation and to avoid her criminal responsibility cannot be useful to slanderer Ms. Amanda, but in fact, they show more wickedness.

- In front of slanderous charges directed to him by the accused, Mr. Diya Lumumba has always proclaimed his innocence, sure that Justice would have taken its course and, in the light of the now come dismissal of his position, - at the end -, such a trust has not been disappointed.

But the enormous moral and economic damages remain, caused by the knowingly and without scruples conduct perpetrated by the accused, from which the unjust detention of Mr. Diya Lumumba came – even known innocent by her – and his person identification with the believed maker of a brutal homicide in the local, national and international public opinion.

In other words, Ms. Knox criminal conduct suddenly and for a long period of time deprived Mr. Diya Lumumba, a honest, laws respectful, industrious, known man in the good opinion of the local community, of the most precious things an individual has at its disposal, namely, freedom, honor and reputation.

Besides, on the economic and asset side, the event damaged also Mr. Diya Lumumba working activity. In fact, before being investigated in the present criminal proceedings, he managed the pub Le Chic in Perugia, with a not bad profit, from which he obtained his sole income and maintenance source for his family and for himself. After the false accusation made by Ms. Knox – and all what came from it – the pub was put under attachment and remained closed for several months. The forced pub closing, together with the event that involved directly its manager and determined its fast decadence, so



that, Mr. Diya – even though he opened again the pub immediately, after having obtained its full availability and notwithstanding the diligence lavished in its management – at the end of July 2008 he had to proceed with the closing of the activity, against his will and to the giving back of the premises, for lack of customers and, consequently, of sufficient revenues to cover costs, so now he finds himself deprived of income sources and for the his maintenance.

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The facts explained determined to Mr. Diya Lumumba a great suffering, damages to his reputation and wealth damages: then, the reasons explained induce the plaintiff to require to Ms. Knox Amanda Marie, personal particulars in title, entire compensation as well as satisfaction for all wealth and non wealth suffered and suffering damages, following the issues as per the charge in the measure that will be checked and specified during the trial or, in any case, felt as fair; with judgement to be declared temporarily executive, by art. 540, sub-sect. 1 c.p.p., as justified reasons as per the narrative occur. However, in the second place, it requires that, as per art. 540, sub-sect. 2 c.p.p., the Judge may grant an adequate provisional sum of money on damages immediately executive in a not lower than € 350,000.00 (€ threehundredfiftythousand) measure.

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"Somebody had slandered Josef. K., because one morning, without having done anything bad, he was arrested" (F. Kafka, *The Trial*).

Unlike Josef K., Diya Lumumba knows, also from the trial point of view, to whom attribute the cause of suffered wrongs and afflictions and he can require the just relief.

Ethically speaking, today's institution of civil action is nothing but the wish of restoring violated Justice and of virtuous punishment of the guilty; love the Just and hate the Wicked.

Perugia, August 20th, 2008

(Signed by) DIYA LUMUMBA

(Signed by) AVV. CARLO PACELLI

SPECIAL POWER OF ATTORNEY

I the undersigned. Mr. Diya Lumumba, offended party in criminal trial nr. 9066/2007 R.G.N.R. of Prosecuting Attorney's office at Court of Perugia, I appoint, as my defender, attorney Avv. Carlo Pacelli, at whose office, in Perugia, Via Cacciatori delle Alpi nr. 8, I choose domicile, in order to be represented and defended, as plaintiff in the present procedure, by conferring all the largest power and faculty and, in particular, the power of bringing to an end, renouncing to plaintiff, compromising, reconciling, giving receipt, requiring criminal attachments, starting precautionary actions, in any case, accomplishing all acts and activities which, for expressed trial law orders, can and/or must be accomplished personally by the instituted plaintiff.

Moreover, the power of representing, defending, appointing substitutes, choosing domicile is conferred.

I specify the present procedure is conferred for all possible degrees of present trial as well, and, furthermore, through it, the power of impugning the judgement to be pronounced and/or any decree or order is expressly conferred to the here mentioned special attorney, Avv. Carlo Pacelli of the Court of Perugia

(Signed by) DIYA LUMUMBA

True is signature (Signed by) AVV. CARLO PACELLI

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