

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LESLIE S. KLINGER, an individual,

Plaintiff,

v.

CONAN DOYLE ESTATE, LTD, a business
entity organized under the laws of the United
Kingdom,

Defendant.

Case No.: 1:13-cv-01226

Judge: The Hon. Ruben Castillo

Magistrate Judge: The Hon. Sheila
Finnegan

**PLAINTIFF’S LOCAL RULE 56.1(a)(3) STATEMENT OF MATERIAL FACTS
IN SUPPORT OF HIS MOTION FOR SUMMARY JUDGMENT**

Plaintiff LESLIE S. KLINGER (“Plaintiff”), by and through its attorneys, Scott M. Gilbert and Kourtney A. Mulcahy of Hinshaw & Culbertson LLP, states the following as its statement of material facts as to which there is no genuine issue, made pursuant to Local Rule 56.1(a)(3).

I. PARTIES

1. Plaintiff Leslie S. Klinger (“Klinger”), a citizen of the United States residing in Malibu, California, is the author and editor of twenty-seven (27) books and dozens of articles on various topics relating to the mystery and thriller genre in literature, including two dozen books and numerous articles on the subject of the so-called Canon of Sherlock Holmes, a phrase that refers to the four (4) novels and fifty-six (56) stories by Sir Arthur Conan Doyle featuring the fictional character of Sherlock Holmes and other related characters and story elements (collectively, “the Canon”). By way of example, Klinger is the author of, among other works, the definitive three-volume collection of canonical Sherlock Holmes books and stores titled *The New Annotated Sherlock Holmes*, which was published by W. W. Norton in 2004 and 2005 and which won the Edgar® Award for Best Critical/Biographical Work. Klinger is widely recognized as one of the world’s leading authorities on the Canon and served as the technical advisor for Warner Bros.’ two recent Sherlock Holmes films and has consulted with many other authors on a number of scripts, books and comics. Klinger is also an attorney admitted to the practice of law in California and specializes in tax, estate and corporate matters. (Declaration of Leslie S.

Klinger (“Klinger Decl.”), ¶3, Exhibit D; Complaint in U.S.D.C. Case No. 1:13-cv-01226 (“Compl.”), Dkt. 1, ¶1.)

2. Klinger is the co-editor, with Laurie R. King (“King”), of a work titled *A Study in Sherlock*, published in 2011 by Random House and Poisoned Pen Press, which consists of a collection of new and original short stories by prominent contemporary authors, all of which were inspired by the Canon and feature various characters and other story elements from the Canon. (Klinger Decl., ¶3; Compl., ¶2.)
3. Klinger and King are also the co-editors of a sequel to *A Study in Sherlock*, currently titled *In the Company of Sherlock Holmes*, which is another collection of new and original short stories by contemporary authors, all of which were inspired by the Canon and feature various characters and story elements from the Canon. *In the Company of Sherlock Holmes* is currently being prepared by Klinger and King for publication by Pegasus Books and distribution by W. W. Norton but has not yet been published. (Klinger Decl., ¶3; Compl., ¶3.)
4. Defendant Conan Doyle Estate Ltd. (“Defendant”) is a company registered under the laws of the United Kingdom and owned by members of the Arthur Conan Doyle family, having a primary place of business at 9 London Road, Southampton, United Kingdom. (Klinger Decl., ¶5; Compl., ¶4.)
5. Defendant is actively engaged in offering to license, and licensing its purported rights in the Canon, including purported rights under copyright, to third parties in this District and throughout the United States by and through the Defendant’s exclusive authorized licensing agents in the United States, the firm of Hazelbaker & Lellenberg, and its principal, Jon Lellenberg (collectively, “Defendant’s Agent”), whose primary place of business is located at 1501 Hinman Avenue, No. 8B, Evanston, Illinois. (Klinger Decl., ¶6; Compl., ¶5.)

II. JURISDICTION AND VENUE

6. Plaintiff has raised claims arising under the Copyright Act, 17 U.S.C. §§ 101 et seq. and the Constitution of the United States. This Court has jurisdiction over such claims pursuant to 28 U.S.C. §1331 and 1338. (Compl., ¶3.)
7. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the principal place of business for the licensing agent who represents Defendant Conan Doyle Estate, Ltd. (“Defendant”) in the United States and several of the material alleged events giving rise to the Plaintiff’s complaint occurred within this judicial district, and because a substantial part of the harm threatened to Plaintiff is occurring in this District. (Klinger Decl., ¶5; Compl., ¶7, ¶8 and ; Compl., ¶35-¶37.)

III. STATEMENT OF FACTS

A. The Sherlock Holmes Canon.

8. The fictional characters of the detective Sherlock Holmes, his friend and colleague John H. Watson ("Dr. Watson"), and other characters and story elements relating to Sherlock Holmes first appeared in a story titled *A Study in Scarlet* by Sir Arthur Conan Doyle ("Conan Doyle"), which was first published in the *Beeton's Christmas Annual* in 1887 and first published in the United States in 1890. (Declaration of Peter Blau ("Blau Decl."), ¶6, Exhibit E; Declaration of Steven Rothman ("Rothman Decl."), ¶6, Exhibit F; Klinger Decl., ¶4; Compl., ¶9-¶12.)
9. Conan Doyle continued to write and publish a total of four (4) novels and fifty-six (56) stories featuring Sherlock Holmes, Dr. Watson and other story elements relating to Sherlock Holmes between 1887 and 1927. (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶15-¶16.)

B. The Sherlock Holmes Story Elements.

10. The various specific characters, character traits, dialogue, settings, artifacts, story lines and other story elements set forth in the attached Exhibit "A" (collectively "the Sherlock Holmes Story Elements"), which Exhibit "A" is incorporated by reference herein, were first introduced by Conan Doyle in the various specific novels and stories set forth in Exhibit "A." (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶11.)

C. Copyright Status of the Canon.

11. Of the various novels and stories that constitute the Canon, all of the novels and all but ten (10) of the stories were first published in the United States on various dates prior to January 1, 1923. (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶18-¶21.)
12. The ten (10) stories that were first published in the United States after January 1, 1923, and their respective dates of first publication in the United States, are set forth in the attached Exhibit "B," which is incorporated by reference herein (collectively "the Ten Stories"). (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶21.)
13. The forty-six (46) stories and four (4) novels that were first published in the United States prior to January 1, 1923 are set forth in the attached Exhibit C, which is incorporated by reference herein. (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶14-¶16.)
14. The forty-six (46) stories and four (4) novels set forth in the attached Exhibit C, and the contents thereof in their entirety, are now in the public domain in the United States by reason of the fact that each of them was first published in the United States prior to January 1, 1923. (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶21.)

15. Only the Ten Stories remain under copyright in the United States as of the date of this Rule 56.1(a)(3) Statement. (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶22-¶23.)

D. Copyright Status of the Sherlock Holmes Story Elements.

16. All of the Sherlock Holmes Story Elements first appeared in novels and stories that were first published in the United States prior to January 1, 1923, and for that reason, all of the Sherlock Holmes Story Elements are now in the public domain in the United States. (Blau Decl., ¶7; Rothman Decl., ¶7; Klinger Decl., ¶4; Compl., ¶11-¶18.)
17. None of the Sherlock Holmes Story Elements first appeared in any of the Ten Stories and, for that reason, none of the Sherlock Holmes Story Elements are subject to copyright protection by reason of the copyright status of the Ten Stories in the United States. (Blau Decl., ¶8; Rothman Decl., ¶8; Klinger Decl., ¶4; Compl., ¶20-¶23.)

A. Conan Doyle Estate, Ltd. and the Sherlock Holmes Canon.

18. Defendant holds itself out as the exclusive owner of all rights under copyright in the United States in and to the Canon. Specifically, Defendant takes the position that its permission is required to create and exploit any and all derivative works based on any element of the Canon, including not only the Ten Stories but also any of the Sherlock Holmes Story Elements, all of which first appeared in stories and novels that are now in the public domain. (Klinger Decl., ¶3; ; Compl., ¶5 and ¶17.)
19. Defendant is actively engaged in offering and granting licenses of its purported rights in the Canon and the Sherlock Holmes Story Elements to third parties through Defendant's Agent. (Klinger Decl., ¶3; Compl., ¶17.)
20. Defendant, by and through Defendant's Agent, threatens to interfere with the creation and/or exploitation of derivative works embodying any of the Sherlock Holmes Story Elements, including but not limited to derivative works in the nature of books and stories, unless the authors and/or publishers of such books and stories first obtain and pay for a license from Defendant. (Klinger Decl., ¶3 and Comp., ¶31.)
21. Defendant has expressly threatened to interfere with the publication of new and original stories in an anthology compiled and edited by Plaintiff and Plaintiff's co-editor, Laurie R. King, unless Plaintiff or his publisher first obtains and pays for a license from Defendant. (Klinger Decl., ¶3; Compl., ¶24-34.)
22. Contrary to its assertions, Defendant enjoys no right to control how the Sherlock Holmes Story Elements are used by Plaintiff or any other person in the United States by reason of the following facts:

(a) All of the novels and stories comprising the Canon, with the sole exception of the Ten Stories, are now in the public domain under copyright law in the United States. (Blau Decl., ¶6; Rothman Decl., ¶6; Klinger Decl., ¶4; Compl., ¶21 and ¶23.)

(b) Each and every one of the Sherlock Holmes Story Elements appeared for the first time in novels and stories that were published prior to January 1, 1923, and thus the Sherlock Holmes Story Elements, as well as the novels and stories in which they first appeared, are now in the public domain under copyright law in the United States. (Klinger Decl., ¶4; Compl., ¶21 - ¶23.)

(c) None of the Sherlock Holmes Story Elements appeared for the first time in the Ten Stories, and thus the copyright status of the Ten Stories does not extend copyright protection in the United States to any of the Sherlock Holmes Story Elements. (Klinger Decl., ¶4; Compl., ¶21-¶23.)

(d) For the reasons stated above, no license or other consent or permission of any kind whatsoever is required under U.S. copyright law for Plaintiff or any other person whatsoever to create and exploit derivative works, including but not limited to novels and stories, based on the Sherlock Holmes Story Elements and/or any other contents of the novels and stories set forth in the attached Exhibit C. (Klinger Decl., ¶4; Compl., ¶21-¶23.)

E. Actual Case and Controversy.

23. An actual case and controversy exists as between Plaintiff and Defendant in that Plaintiff asserts, and Defendant denies, the right of Plaintiff and any other person to create and exploit new derivative works based on the Sherlock Holmes Story Elements as embodied in the novels and stories in the Canon that are now in the public domain, and Defendant has actively attempted to prevent Plaintiff from doing so by interfering with its efforts to publish such new derivative works. (Klinger Decl., ¶3; Compl., ¶39-¶41.)

F. Plaintiff's Legal Fees and Costs.

24. Plaintiff has incurred actual legal fees and expenses in the total amount of \$17,272.25 through the date of signing of this Rule 56.1(a)(3) Statement and will incur additional expenses through the date of entry of final judgment on the merits, which Plaintiff will report to the Court. (Klinger Decl., ¶3.)

Scott M. Gilbert, ARDC No. 6282951
Kourtney A. Mulcahy, ARDC No. 6276695
HINSHAW & CULBERTSON LLP
222 N. LaSalle Street
Chicago, IL 60601
Phone No.: 312-704-3000
Fax No.: 312-704-3001

Respectfully Submitted,
LESLIE S. KLINGER, Plaintiff

By: /s/Scott M. Gilbert
One of Plaintiff's Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2013, I electronically filed the attached **PLAINTIFF'S LOCAL RULE 56.1(a)(3) STATEMENT OF MATERIAL FACTS IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT** with the Clerk of the Court using the CM/ECF system, and sent by U.S. Mail such filing(s) to the following:

Benjamin Allison
317 Paseo de Peralta
Santa Fe, NM 87501

Jon Lellenberg
Hazelbaker & Lellenberg
1501 Hinman Avenue #8B
Evanston, IL 60201

Conan Doyle Estate, Ltd.
9 London Road, Southampton, SO15
2AE United Kingdom

/s/Scott M. Gilbert
Scott M. Gilbert

EXHIBIT A SHERLOCK HOLMES STORY ELEMENTS

- Baker Street Irregulars: Street urchins used by Holmes as his “eyes and ears.” Mentioned only in *A Study in Scarlet*, *The Sign of Four*, and “The Crooked Man.”
- Older brother Mycroft Holmes: Mentioned only in “The Greek Interpreter,” “The Bruce-Partington Plans,” “The Final Problem,” and “The Empty House.”
- Inspector Lestrade: Appears in 13 cases; only “The Three Garridebs” is not in public domain. Regularly drops in on Holmes (“The Six Napoleons”), bulldog-like (*A Study in Scarlet*), tenacious, determined (“The Cardboard Box”), practical (“The Boscombe Valley Mystery”), appreciates Holmes (*The Hound of the Baskervilles*).
- Mrs. Hudson: Appears in no stories in the *Case-Book* except “The Mazarin Stone,” which was published in the United States prior to 1923 and thus in the public domain, and “The Three Garridebs.” That is, of her dozens of appearances, only one is in a copyrighted story. No story provides a physical description other than having “queenly tread” (“The Naval Treaty”). Longest description of the relationship is in “The Dying Detective.” She is an active figure in “The Empty House.”
- Irene Adler: “The” woman to Holmes, mentioned only in “A Scandal in Bohemia,” “A Case of Identity,” “The Five Orange Pips,” “The Blue Carbuncle,” and “His Last Bow” (all in the public domain).
- Wiggins: Head of the Baker Street Irregulars—appears in *A Study in Scarlet* and does not appear in any *Case-Book* story.
- Professor Moriarty: The Napoleon of Crime. Appears as an actual character only in “The Final Problem,” “The Empty House,” and *The Valley of Fear*. The longest description is in *The Valley of Fear*. He is mentioned briefly in “The Norwood Builder,” “The Missing Three-Quarter,” “His Last Bow,” and “The Illustrious Client,” (the latter being in copyright).
- Colonel Sebastian Moran (right-hand man of Professor Moriarty): Appears only “The Empty House.” He is mentioned in “The Illustrious Client” (in copyright) and “His Last Bow.” A complete physical description appears in “The Empty House,” as well as discussion of his history.
- Billy: the page boy at Baker Street appears in *The Valley of Fear*, “The Problem of Thor Bridge” and “The Mazarin Stone,” all of which are now in the public domain.

As to Holmes himself:

- Birthdate, though never specified, is based on description in “His Last Bow”
- Family background (“The Greek Interpreter”)
- Lodgings in Baker Street (virtually every story)
- Retirement (“His Last Bow,” in public domain, and “The Lion’s Mane,” and “The Second Stain”)
- Bohemian nature (“The Musgrave Ritual”)
- Erratic eating habits (“The Norwood Builder”)
- Schooling (“The ‘Gloria Scott’” and “The Musgrave Ritual”)
- Smoking (“The Devil’s Foot” and countless other stories)

- Patriotic (“His Last Bow,” “The Second Stain,” “The Naval Treaty”)
- Loner (“The ‘Gloria Scott’”)
- Drug use (many early stories; by the time of “The Missing Three-Quarter,” he is described as an addict whose habit “is not dead, but merely sleeping”)
- Fees (“Thor Bridge,” “The Priory School,” “The Final Problem,” “Black Peter”)
- Methods of reasoning—explained in many, many cases
- Aptitude for disguise (“Charles Augustus Milverton,” “The Man with the Twisted Lip,” “The Final Problem,” “The Empty House,” “A Scandal in Bohemia”)
- Favorite weapon: loaded hunting crop (“A Case of Identity,” “The Red-Headed League,” “The Speckled Band,” “The Six Napoleons”)
- Amateur boxing skills (“The ‘Gloria Scott,’” “The Yellow Face,” “The Solitary Cyclist,” *Sign of the Four*)
- Skill in baritsu (martial arts) (“The Empty House”)
- Skill in chemistry (numerous stories)
- Physical appearance (many different aspects mentioned in various stories): Tall, thin, over 6 ft. tall, grey eyes, thin lips, hawk-like nose (all set out in *A Study in Scarlet*)

As to Dr. Watson:

- Army career (*A Study in Scarlet*)
- Courtship and marriage (*The Sign of Four*)
- Wound(s) (*A Study in Scarlet*, *The Sign of Four*, other stories)
- Second wife (only mentioned in copyrighted stories “The Illustrious Client” and “The Blanched Soldier”)
- Schooling (“The Naval Treaty”)
- Strongly built, thick neck, small moustache (“Charles Augustus Milverton”)

EXHIBIT B

The following ten (10) stories have not yet entered the public domain in the United States of America. These stories will enter the public domain in various years leading up to 2023.

SHERLOCK HOLMES SHORT STORIES:

- The Case-Book of Sherlock Holmes
 - The Illustrious Client (1924)
 - The Blanched Soldier (1926)
 - The Three Gables (1926)
 - The Sussex Vampire (1924)
 - The Three Garridebs (1924)
 - The Creeping Man (1923)
 - The Lion's Mane (1926)
 - The Veiled Lodger (1927)
 - Shoscombe Old Place (1927)
 - The Retired Colourman (1926)

EXHIBIT C

Sherlock Holmes appeared in a total of 60 stories, written by Arthur Conan Doyle and published between 1887 and 1927. Of those stories, all four (4) novels featuring Sherlock Holmes are in the public domain in the United States of America. Forty-six (46) of the short stories following the adventures of Sherlock Holmes are also in the public domain in the United States of America.

SHERLOCK HOLMES NOVELS:

- A Study in Scarlet (1887)
- The Sign of Four (1890)
- The Hound of the Baskervilles (Serialized from 1901-1902)
- The Valley of Fear (Serialized in 1914-1915)

SHERLOCK HOLMES SHORT STORY COLLECTIONS:

- The Adventures of Sherlock Holmes
 - A Scandal in Bohemia (1891)
 - The Red-headed League (1891)
 - A Case of Identity (1891)
 - The Boscombe Valley Mystery (1891)
 - The Five Orange Pips (1891)
 - The Man with the Twisted Lip (1891)
 - The Blue Carbuncle (1892)
 - The Speckled Band (1892)
 - The Engineer's Thumb (1892)
 - The Noble Bachelor (1892)
 - The Beryl Coronet (1892)
 - The Copper Beeches (1892)
- The Memoirs of Sherlock Holmes
 - Silver Blaze (1892)
 - The Yellow Face (1893)
 - The Stock-broker's Clerk (1893)
 - The 'Gloria Scott' (1893)
 - The Musgrave Ritual (1893)
 - The Reigate Squires (1893)
 - The Crooked Man (1893)
 - The Resident Patient (1893)
 - The Greek Interpreter (1893)
 - The Naval Treaty (1893)
 - The Final Problem (1893)

- The Return of Sherlock Holmes
 - The Empty House (1903)
 - The Norwood Builder (1903)
 - The Dancing Men (1903)
 - The Solitary Cyclist (1903)
 - The Priory School (1904)
 - Black Peter (1904)
 - Charles Augustus Milverton (1904)
 - The Six Napoleons (1904)
 - The Three Students (1904)
 - The Golden Pince-Nez (1904)
 - The Missing Three-Quarter (1904)
 - The Abbey Grange (1904)
 - The Second Stain (1904)

- His Last Bow
 - Wisteria Lodge (1908)
 - The Cardboard Box (1893)
 - The Red Circle (1911)
 - The Bruce-Partington Plans (1908)
 - The Dying Detective (1913)
 - Lady Frances Carfax (1911)
 - The Devil's Foot (1910)
 - His Last Bow (1917)

- The Case Book of Sherlock Holmes
 - The Mazarin Stone, 1921
 - Thor Bridge, 1922

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LESLIE S. KLINGER, an individual,

Plaintiff,

v.

CONAN DOYLE ESTATE, LTD, a business
entity organized under the laws of the United
Kingdom,

Defendant.

Case No.: 1:13-cv-01226

Judge: The Hon. Ruben Castillo

DECLARATION OF LESLIE S. KLINGER

I, Leslie S. Klinger, declare as follows:

1. I am providing this declaration voluntarily. I have personal knowledge of the facts below, and if called as a witness, I would testify to the truth of the following statements:

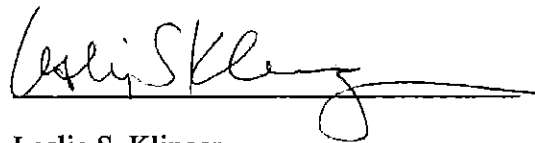
2. I have reviewed the document titled "Plaintiff's Local Rule 56.1(a)(3) Statement of Material Facts in Support of His Motion for Summary Judgment" ("Rule 56.1(a)(3) Statement") in U.S.D.C. Case No. 1:13-cv-01226, and I am personally familiar with its contents

3. The facts set forth in ¶¶1, 2, 3, 5, 18, 19, 20, 21, 23 and 24 of the Rule 56.1(a)(3) Statement are personally known by me to be true and correct.

4. Based on my experience and expertise in the Canon of Sherlock Holmes and the life and work of Sir Arthur Conan Doyle as set forth in detail in ¶¶ 1-4 of the Rule 56.1(a)(3) Statement, I hereby affirm that the facts stated in the following numbered paragraphs of the Rule 56.1(a)(3) Statement are personally known by me to be true and correct: ¶¶8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 22(a)-(d).

5. I am informed and believe, and upon that basis affirm, that the facts stated in the following numbered paragraphs of the Rule 56.1(a)(3) Statement are true and correct: ¶¶4, 6, and 7.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and this declaration was executed in Los Angeles, California, on July 24, 2013.



Leslie S. Klinger

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LESLIE S. KLINGER, an individual,
Plaintiff,

v.

CONAN DOYLE ESTATE, LTD, a business
entity organized under the laws of the United
Kingdom,
Defendant.

Case No.: 1:13-cv-01226

Judge: The Hon. Ruben Castillo

Magistrate: The Hon. Sheila
Finnegan

DECLARATION OF PETER BLAU

I, Peter Blau, declare as follows:

1. I am providing this declaration voluntarily. I have personal knowledge of the facts below, and if called as a witness, I would testify to the truth of the following statements:

2. I graduated from Amherst College (B.S.) in 1959 and from Oklahoma University (M.S.) in 1961.

3. I have acquired my expertise in the Canon of Sherlock Holmes and the life and work of Sir Arthur Conan Doyle through my long study of the subject. I first discovered the world of Sherlock Holmes and the Sherlockians, as students, scholars and devoted readers of the Canon are known, in 1948 through the *Baker Street Journal*, a periodical devoted to the study of the Canon of Sherlock Holmes. I attended my first annual dinner of the leading international Sherlockian society, the Baker Street Irregulars, in 1958, and became a member of the Baker Street Irregulars in 1959. I first contributed to the *Baker Street Journal* in 1968, and won the Morley-Montgomery Award for the best article in the *Baker Street Journal* in 1974. I have contributed to many other Sherlockian and Doylean periodicals and books, and have served as editor of the *Baker Street Journal*. I am currently an officer (secretary) of the Baker Street Irregulars. I have edited and published a Sherlockian and Doylean newsletter since 1971. I have an extensive collection of Sherlockian and Doylean books, periodicals, clippings, and correspondence, and I reviewed my collection in preparing this Declaration.

4. I have reviewed the document titled "Plaintiff's Local Rule 56.1(a)(3) Statement of Material Facts in Support of His Motion for Summary Judgment" ("Rule 56.1(a)(3) Statement") in U.S.D.C. Case No. 1:13-cv-01226, and I am personally familiar with its contents.

5. Based on my personal knowledge of the Canon, I hereby affirm the facts stated in the Rule 56.1(a)(3) Statement as specified below.

Case: 1:13-cv-01228 Document #: 13-5 Filed: 07/29/13 Page 2 of 2 PageID #: 63
6. The facts stated in the following numbered paragraphs of the Rule 56.1(a)(3) Statement are known personally by me to be true and correct: Paragraphs 8, 9, 10, 11, 12, 13, 14, 15 and 22(a).

7. The following portion of Paragraph 16 is known personally by me to be true and correct: "All of the Sherlock Holmes Story Elements first appeared in novels and stories that were first published in the United States prior to January 1, 1923...."

8. The following portion of Paragraph 17 is known personally by me to be true and correct: "None of the Sherlock Holmes Story Elements first appeared in any of the Ten Stories...."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and this declaration was executed in Bethesda, Maryland, on July 24, 2013.



Peter Blau

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LESLIE S. KLINGER, an individual,
Plaintiff,

v.

CONAN DOYLE ESTATE, LTD, a business
entity organized under the laws of the United
Kingdom,
Defendant.

Case No.: 1:13-cv-01226

Judge: The Hon. Ruben Castillo

DECLARATION OF STEVEN ROTHMAN

I, Steven Rothman, declare as follows:

1. I am providing this declaration voluntarily. I have personal knowledge of the facts below, and if called as a witness, I would testify to the truth of the following statements:

2. My professional resume is attached to my Declaration as Exhibit "A" and incorporated by reference in this Declaration.

3. To summarize the information on my professional resume, I have devoted many years to the reading and study of the novels and stories featuring Sherlock Holmes and the life of their author, Sir Arthur Conan Doyle. Since 2000, I have served as editor of the *Baker Street Journal*, the official publication of the Baker Street Irregulars and the premier journal of scholarship in the field of Sherlock Holmes. In that capacity, I have read (and in many cases edited) every single important work of Sherlockian scholarship and every important work of Sherlockian fiction written during my tenure.

4. I have reviewed the document titled "Plaintiff's Local Rule 56.1(a)(3) Statement of Material Facts in Support of His Motion for Summary Judgment" in U.S.D.C. Case No. 1:13-cv-01226 ("Rule 56.1(a)(3) Statement"), and I am personally familiar with its contents.

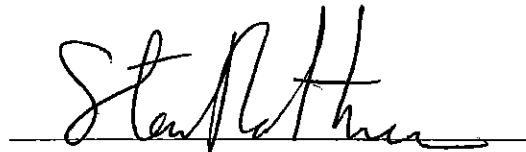
5. Based on my personal knowledge of the Canon, I hereby affirm the facts stated in the Rule 56.1(a)(3) Statement as specified below.

6. The facts stated in the following numbered paragraphs of the Rule 56.1(a)(3) Statement are known personally by me to be true and correct: Paragraphs 8, 9, 10, 11, 12, 13, 14, 15 and 22(a).

7. The following portion of Paragraph 16 is known personally by me to be true and correct: "All of the Sherlock Holmes Story Elements first appeared in novels and stories that were first published in the United States prior to January 1, 1923...."

8. The following portion of Paragraph 17 is known personally by me to be true and correct: "None of the Sherlock Holmes Story Elements first appeared in any of the Ten Stories...."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and this declaration was executed in Philadelphia, Pennsylvania, on July 23, 2013.

A handwritten signature in black ink, appearing to read "Steven Rothman", written over a horizontal line.

Steven Rothman

Steven Rothman

220 West Rittenhouse Square, No. 15-D
Philadelphia, PA 19103
Phone: 215-735-1214
Mobile: 267-322-1193
E-mail: steven.rothman@gmail.com

Employment History

Cataloguer for George S. MacManus Co., Rosemont, Pennsylvania, from 2006 to present. Catalogue rare books, both literature and Americana; deal with customer inquiries. Use Word and Bookease software.

From March 1975 through March 2002 I was an employee and later owner and president of Rothman Equipment Company, a Philadelphia firm specializing in the sale of mechanical and electrical power transmission equipment.

Bibliophilic Activities

Collecting books for over 45 years; formed, sold, donated several large collections.

Guest on Philadelphia public radio (WHYY), talking about Morley and about book collecting, *Radio Times* hosted by Marty Moss-Coane 1990 and 2001.

Participant, "A Sense of Place: Creating a Collective Vision for the Cultural Heritage Resources of the Philadelphia Region," cultural symposium, sponsored by the William Penn Foundation, Philadelphia, 11–13 November 1999.

President since 1998 of the Philobiblon Club, a Philadelphia club for those with book-related interests. Primary responsibility is to introduce speakers.

Board member, Friends of the Library, Bryn Mawr College, Bryn Mawr, Pennsylvania, 1984 to present. Judge the Seymour Adelman Book Collecting prize since 1996.

Member of Council, Friends of the Library, University of Pennsylvania, Philadelphia, 1982 to present.

Board member, Library Associates, Haverford College, Haverford, Pennsylvania, 1980 to 2003 (when disbanded). Served as president, 1995–1996.

Reader for master's thesis, "The City Streets of Christopher Morley: Christopher Morley and Philadelphia Writing," University of Pennsylvania, 2004.

Publications

"Kit and Kitty: From Haverford to Frankford," *Horizons* (Haverford College alumni magazine), Summer 1985. Based on a talk delivered at Haverford College, January 1985.

"The Adventure of the Sherlockian Necktie," *Baker Street Journal*, Vol. 37, No. 1 (March 1987), pp. 23–26.

"The Secret Life of Mycroft Holmes," *Baker Street Journal*, Vol. 38, No. 1 (March 1988), pp. 37–40. Collected in *The Grand Game: A Celebration of Sherlockian Scholarship*, Vol. 2, 1960–2010, edited by Laurie R. King and Leslie S. Klinger. (New York: The Baker Street Irregulars, 2012), pp. 222–225.

"Herman Beerman," *Baker Street Journal*, Vol. 39, No. 1 (March 1989), p. 41. Obituary.

"Christopher Morley and the Baker Street Irregulars: The Gospel According to Kit," *Baker Street Journal*, Vol. 40, No. 1 (March 1990), pp. 9–20.

"Helen Hare Cain," *Baker Street Journal*, Vol. 40, No. 3 (September 1990), p. 174. Obituary.

"The Irregular Upbringing and Tastes of Christopher Morley," in *Irregular Memories of the 'Thirties*, edited by Jon L. Lellenberg (New York: The Baker Street Irregulars, 1990), pp. 20–28.

The Standard Doyle Company: Christopher Morley on Sherlock Holmes (New York: Fordham University Press, 1990). Edited, with an introduction.

"The Standard Doyle Company—Christopher Morley on Sherlock Holmes," *The Reichenbach Journal*, No. 5 (Spring–Summer 1993), pp. 9–12. Text in German.

Introduction to George R. Allen, *History of William H. Allen, Bookseller 1918–1997* (Bethlehem, PA: Special Collections, Lehigh University Information Resources, 1997), pp. 5–7.

"Ben Wolf," *Baker Street Journal*, Vol. 47, No. 2 (June 1997), p. 54. Obituary.

"Christopher Morley—Fifty Years On," *Friends of the Sherlock Holmes Collections Newsletter*, Vol. 11, No. 4 (December 2007), pp. 3, 7.

"Introduction," *The Baker Street Journal 1946–2000*, CD-ROM (New York: The Baker Street Irregulars, 2001), Disc 1.

Introduction to Arthur Conan Doyle, *His Last Bow*, The Sherlock Holmes Reference Library edited by Leslie S. Klinger (Indianapolis, IN: Gasogene Books, 2006), pp. xi–xv.

To Keep the Memory Green: Reflections on the Life of Richard Lancelyn Green 1953–2004. (London and New York: The Quartering Press, 2007), co-edited with Nicholas Utechin. Introduction, pp. 15–19; "With Richard in Philadelphia," pp. 169–172; "A Great Garret . . . Stuffed with Books': A Bibliographical Checklist of the Writings of Richard Lancelyn Green," pp. 191–220.

"A Remarkable Mixture": Award-Winning Articles from The Baker Street Journal (New York: The Baker Street Irregulars, 2008). Edited with introductions.

Life in Boxes: Comic Art & Artifacts. (Philadelphia: University of Pennsylvania Rare Books and Manuscripts Library, 2008). Exhibition catalogue.

Tincture of Conan Doyle: Christopher Morley on Sherlock Holmes [The Cameron Hollyer Memorial Lecture Series]. (Toronto: The Friends of the Arthur Conan Doyle Collection, Toronto Public Library, 2010).

"Christopher Morley: Reading, Reviewing, and Reichenbach" in *Papers at an Exhibition. Arthur Conan Doyle: A Sesquicentennial Assessment*, edited by Peter X. Accardo, John Bergquist, and Dan Posnansky (New York: The Baker Street Irregulars in cooperation with Houghton Library, 2010), pp. 201–220.

From Piff-Pouff to Backnecke: The Full Story. Ronald Knox and 100 Years of "Studies in the Literature of Sherlock Holmes" (New York: The Baker Street Irregulars, 2012). Edited; "Foreword," pp. 1–2; "Letters from Ronald Knox to Harold W. Bell," pp. 99–105.

Introduction to Nicholas Utechin, *"Occasionally to Embellish": Some Writings on Sherlock Holmes* (Indianapolis, IN: Gasogene Books, 2012), pp. xiii–xiv.

"Introduction," *The e-Baker Street Journal Version 2. 1946–2011*, DVD. (New York: The Baker Street Irregulars, 2012).

Editor of *The Baker Street Journal* (www.bakerstreetjournal.com), the quarterly 72-page publication of the Baker Street Irregulars, from 2000 to the present. I contribute editorials, book reviews, and a column every issue. In addition, I edit the journal's *Christmas Annual*, a monograph.

Talks

Philobiblon Club, Philadelphia, 18 March 1980
"Collecting Christopher Morley"

Library Associates, Haverford College, 23 January 1983
"Kit and Kitty: From Haverford to Frankford"

Franklin Inn Club, Philadelphia, 20 May 1983
"CM and GC: Christopher Morley and Geoffrey Chaucer"

Clients of Sherlock Holmes [Sherlockian society], Philadelphia, 1 December 1984
"Conan Doyle and the Professors"

Friends of the Library Book-Collecting Colloquium, University of Pennsylvania,
16 October 1985
"Collecting Christopher Morley"

Baker Street Irregulars, New York, January 1987
"The BSI Tie"

Sherlock Holmes Seminar, Stanford University, 20 August 1987
"Christopher Morley and Sherlock Holmes: A Study in Enthusiasm"

The Manuscript Society, Haverford, PA, June 1988
"Christopher Morley Manuscripts at Haverford College"

Rosenbach Museum and Library, Philadelphia, May 1990
"Christopher Morley and Dr. R"

Library Associates, Haverford College, 6 May 1990
"Christopher Morley and Haverford College"

Philobiblon Club and Associates of the Stanford University Libraries, Philadelphia, 2
October 1990
"Christopher Morley's Centenary"

The Baker Street Irregulars, New York, January 1992
"His Master's Voice" on a recently discovered recording of Christopher Morley
speaking about Sherlock Holmes

The Clients of Sherlock Holmes [Sherlockian society], Philadelphia, 4 April 1992
"Christopher Morley and Sherlock Holmes"

The Fourth Annual Edwin Wolf 2nd Memorial Lecture, Philobiblon Club, Philadelphia,
with James N. Green, 17 February 1995
"The Wolf Years: Oral History from the Edwin Wolf Memorial Project"

Re-dedication of the Rare Book Room, Free Library of Philadelphia, 9 October 1996
"Books Do Furnish a Room: William M. Elkins as Citizen/Collector"

Fellowship of the American Bibliophilic Societies, *What's Hot & What's Not:
Changing Trends in Book Collecting* symposium, Philadelphia, 10 May 1998
"That's My Guy': A View to Author Collecting"

Penn Humanities Forum, Van Pelt Library, University of Pennsylvania, 26 March
1999
"Collecting Philadelphia Writers"

The Old Book Table [club of antiquarian booksellers], Philadelphia, April 2000
"What I Collect"

Friends of the Sherlock Holmes Collections, University of Minnesota, July 2001
"So Much Written by So Many: Rantings on the Writing on the Writings"

Free Library of Philadelphia, Philadelphia City Institute Branch, March 2002
"An Introduction to Sherlock Holmes"

Mycroft's League [Sherlockian society], Magill Library, Haverford College, 10 May 2003
"From the Main Line to Baker Street: Christopher Morley, the First Irregular"

Panel discussion participant, Bryn Mawr College, 30 October 2004
"The Basics of Book Collecting"

Union League of Philadelphia, 9 June 2004
"Travels in Philadelphia" [Christopher Morley's relationship with Philadelphia]

Sisters in Crime, Austin, TX, 12 March 2006
"On Sherlock Homes"

English-Speaking Union, New Orleans, October 21, 2006
"Creating a Cult: Christopher Morley and Sherlock Holmes"

The Baker Street Irregulars, New York, 11 January 2007
"To an Old Irregular: Christopher Morley"

Magill Library, Haverford College, 15 April 2007
"Christopher Morley: The Haverford Edition"

The Leon Sterndale Invited Address, The Cornish Horrors of Providence, RI [Sherlockian society], 3 November 2007
"*A Study in Scarlet* and *The Sign of the Four*: The Correspondence of Vincent Starrett and Christopher Morley"

Van Pelt Library, University of Pennsylvania, 27 October 2008
Introductory remarks, Opening exhibition "Life in Boxes: Comic Art & Artifacts"

Cameron Hollyer Memorial Lecture 2008, The Friends of the Arthur Conan Doyle Collection Toronto Public Library, 15 November 2008
"Tincture of Conan Doyle: Christopher Morley on Sherlock Holmes"

The Baker Street Irregulars, Cedarmere, Roslyn, New York, 11 January 2009
"At Home: Christopher Morley on Long Island"

Sir Arthur Conan Doyle: A Sesquicentennial Assessment, Houghton Library, Harvard University, 9 May 2009
"Reading towards Baker Street: Christopher Morley Canonicity"

The Spirits of Sherlock Holmes, Elmer L. Andersen Library, University of Minnesota, 6 August 2010
"Stranded on the Shelves: A Leaf through *The Saturday Review*"

Book Collecting Tea, Bryn Mawr College, 31 January 2012
Participant in panel speaking to undergraduates

The Quadrangle, Haverford, PA, 10 May 2012
"It Is Always 1895: Introducing Sherlock Holmes"

The Baker Street Irregulars, New York, 11 January 2013
"Gasogenesis: Christopher Morley's Sherlockian Beginnings"

Exhibitions

Co-curator with Connie King, "Some of Our Best Friends: Books Selected from Collections of Members of the Philobiblon Club," Rosenbach Museum and Library, 12 February–9 May 1993

Curator, "Philadelphia Writers," Van Pelt Library, University of Pennsylvania, March–May 1999

Curator, "Christopher Morley and Sherlock Holmes," Magill Library, Haverford College, 10 May 2003

Curator, Selections from the college's Christopher Morley collection, Christopher Morley Alcove, Magill Library, Haverford College, May 2003–March 2007

Curator, "Thinking about Haverford and Christopher Morley," Magill Library, Haverford College, March–September 2007

Curator, "Life in Boxes: Comic Art & Artifacts," Van Pelt Library, University of Pennsylvania, 27 October 2008–22 March 2009

Education

B.A. (American Civilization), University of Pennsylvania, May 1975

Andrew W. Mellon Foundation Research Fellow, Harry Ransom Center, University of Texas at Austin, 2005–2006. Studied the papers and library of Christopher Morley