

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

LESLIE S. KLINGER, an individual,)	
)	
Plaintiff,)	Case No.: 1:13-cv-01226
)	
v.)	Judge: The Hon. Ruben Castillo
)	
CONAN DOYLE ESTATE, LTD, a business)	Magistrate Judge: The Hon. Sheila
entity organized under the laws of the United)	Finnegan
Kingdom,)	
)	
Defendant.)	

SUPPLEMENTAL 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) Response to Defendant’s Statement of Additional Material Facts” in U.S.D.C. Case No. 1:13-cv-01226, and I am personally familiar with its contents. I am providing my Supplemental Declaration in support of the foregoing document.

3. The characters of Sherlock Holmes and Dr. Watson were fully delineated in the four novels and 46 stories that were written and published by Sir Arthur Conan Doyle prior to 1923. Indeed, the essential characteristics were established in the first story, published in 1887, and the rest of Sherlock Holmes Story Elements were fully delineated in the first 24 stories, all of which had been published by December 1893. Nothing that appears for the first time in the Ten Stories is necessary to further delineate or “complete” the essential characters of Sherlock Holmes and Dr. Watson.

4. “The Blanched Soldier” and “The Lion’s Mane” were set later in Holmes’s career than all but one story written by Sir Arthur Conan Doyle (“His Last Bow”) and earlier than that story, that is, they were set temporally between the other 57 stories and “His Last Bow.”

5. Nothing that appears for the first time in the Ten Stories is at issue in the represent case, which addresses only the public domain status of the Sherlock Holmes Story Elements, all of which first appeared in the novels and stories that were published prior to 1923. As a general matter, the various specific items of content that did appear in the Ten Stories consists of events

rather than characteristics of Sherlock Holmes and Dr. Watson and do not figure at all in the Sherlock Holmes Story Elements that are at issue in the present case.

6. By way of example, Dr. Watson's "departure from the Baker Street flat," which Defendants mentions in Statement No. 6(j), and Watson's playing Rugby in his younger pre-Holmes days (mentioned indirectly in Statement No. 6(k)) are events in the fictional lives of Holmes and Watson, not essential elements of their characters. Moreover, Defendant is wrong in asserting that Watson's departure is first described in post-1923 stories; in fact, Watson's departure from Baker Street is first mentioned in "His Last Bow," which is set in 1914 and was published in 1917. As for Defendant's assertion in Statement No. 6(j) that Dr. Watson entered into a second marriage, this does not even rise to the dignity of a fact; scholars who have studied the Canon agree that Dr. Watson's marriage is first mentioned in many of the pre-1923 stories but they do not agree that a second marriage took place at all.

7. By way of further example only, if Defendant asserts that Sherlock Holmes as he appears in the pre-1923 novels and stories is someone who "cares little for dogs," and Sherlock Holmes as he appears in the Ten Stories is someone with a "great interest in them" — and if the slight change in the temperature of his affection for dogs is itself copyrightable — then I suppose that an argument can be made that a depiction of Sherlock Holmes as one who is indifferent to dogs is permissible and the depiction of Sherlock Holmes as an admirer of dogs is not permissible. But this would not represent any essential change or "completion" of the character of Sherlock Holmes as established in the Sherlock Holmes Story Elements.

8. When Claiborne Hancock, the owner of Pegasus Books, and I were in discussions regarding publishing the new short-story collection tentatively titled *In the Company of Sherlock Holmes*, Defendant apparently learned of the negotiations through Michael Dirda (see paragraph 9 below). Defendant contacted Hancock directly and insisted that a paid license must be obtained for the use of any material from the Canon (and not merely the copyright-protected elements of the Ten Stories), including any material from the pre-1923 works in their entirety, all of which are now in the public domain. This threat ultimately led Pegasus Books to refuse to sign the contract we had negotiated in relation to *In the Company of Sherlock Holmes*. A true and accurate copy of the text of a January 4, 2013 e-mail from Claiborne Hancock asserting the unwillingness of Pegasus Books to move forward with the project is attached hereto as Exhibit A.

9. In my communications with Michael Dirda, one of the prospective contributors to the new short-story collection, I advised Dirda that in order to accept a story based on Langdale Pike, a character who appears only in one of the Ten Stories, it would be necessary for Dirda to seek and obtain permission to use the character from Defendant.

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 September 30, 2013.


Leslie S. Klinger

EXHIBIT A

From: Claiborne Hancock [mailto:claiborne@pegasusbooks.us]
Sent: Friday, January 04, 2013 5:26 PM
To: Leslie Klinger
Cc: dmaass@maassagency.com; Jessica Case
Subject: Re: checking in/Happy New Year

Leslie/Don:

Sadly, I don't think I am going to be able to sign the contract at this juncture. The axiom "When in doubt, don't" is one that I try to keep in mind when doing business. A close publishing friend of mine had to deal with a lawsuit a few years ago that nearly caused him a nervous breakdown, and I don't want to walk down that path.

If you wish to go back to the under-bidder on the project, I understand. At Pegasus is bankrolled solely by me, I simply cannot take on this kind of risk. The publishing model is a tough one even on a good day, and this just poses too many emotional and financial challenges for Pegasus at this stage. I am happy to discuss on the phone or in person with Don, of course, as I imagine this email will cause some consternation.

All my best,

Claiborne