

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
J.D. SALINGER, individually, and as :
TRUSTEE OF THE J.D. SALINGER :
LITERARY TRUST, : 09 Civ. 05095 (DAB)
 :
Plaintiff, :
 :
-against- : **DECLARATION OF**
 : **LUKAS ORTIZ**
 :
JOHN DOE, writing under the name JOHN :
DAVID CALIFORNIA; WINDUPBIRD :
PUBLISHING LTD.; NICOTEXT A.B.; and :
ABP, INC/ d/b/a SCB DISTRIBUTORS, INC., :
 :
Defendants. :
-----X

I, Lukas Ortiz, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am the literary manager of domestic and foreign rights for the Philip Spitzer G. Literary Agency, Inc., where I have worked since 2000. Our agency represents a wide variety of award winning authors, including Andre Dubus III, James Lee Burke and Michael Connelly, and various genres including literary fiction, narrative nonfiction, and biography.
2. I have over eight 1/2 years of experience related to the publishing industry. I have solicited publishing deals. I have reviewed and negotiated hundreds of publishing agreements. I also have substantial experience editing books for our clients. Much of my expertise lies in identifying the right market and audience for a particular book.
3. I have read *The Catcher in the Rye* (“Catcher”) by J.D. Salinger numerous times. I am also well-acquainted with *Catcher*’s significance in both American literature and culture.
4. I also have read *60 Years Later: Coming Through the Rye* (“60 Years”), written under the pseudonym, “J.D. California.”

5. It is my opinion that *60 Years* is not and will not be perceived by the public as a sequel to *Catcher*. A sequel is a continuation of the original story. It is essentially designed to satisfy a reader's desire for "more" of the original work, featuring the same characters, tone, narrative style, and defining elements, albeit in different circumstances. By contrast, a critical examination of *Catcher* or the relationship between *Catcher*'s protagonist Holden Caulfield and his creator, Mr. Salinger. As such, it will have no appeal to a reader seeking only to learn what happened next in young Caulfield's life. Because commentary satisfies a desire distinct from that satisfied by a sequel, *60 Years* will have no economic impact on the market for a sequel to *Catcher*.

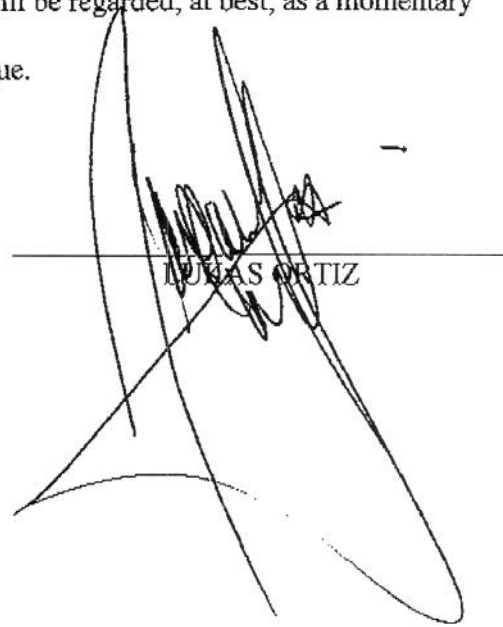
6. Moreover, *60 Years* appeals to a much narrower audience than would a sequel to *Catcher*. *Catcher* offers timeless themes of adolescent angst and rebellion that appeal to a wide spectrum of readers, as evidenced by its enormous commercial success. By contrast, a book such as *60 Years* provides a critical literary analysis typically addressed to a more educated and mature audience. Again, because of the distinct audiences, it is unlikely that there would be any financial impact whatsoever of *60 Years* upon a sequel of *Catcher* (if one were ever written).

7. Indeed, far from hurting sales of *Catcher* and any future sequels, *60 Years* will undoubtedly renew interest in the novel, which was first published nearly 60 years ago, as well as in Mr. Salinger himself. Having read *60 Years* more recently, I myself was inspired to re-read *Catcher* in order to capture the subtleties of *60 Years*' commentary. Similarly, *60 Years*' fictionalized account of Mr. Salinger whetted my appetite to learn more about the real author and his other literary works.

8. Finally, delaying the publication of *60 Years* will cause significant and irreparable harm to Defendants. In the publishing industry, time is of the essence. Publicity such as that generated by *60 Years* is the result of months of a carefully-planned marketing campaign.

Should its publication be delayed even briefly, the narrow window of public interest and receptiveness will be missed, and instead, the book will be regarded, at best, as a momentary news sensation, rather than as a serious literary critique.

Dated: New York, New York
June 14, 2009



LUCAS ORTIZ