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 SEÁN SWEENEY AND THE ESTATE OF JAMES  
 JOYCE  
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10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
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13 **CAROL LOEB SHLOSS,**

14 **Plaintiff,**

15 **v.**

16 **SEÁN SWEENEY, in his capacity as**  
**trustee of the Estate of James Joyce, and**  
 17 **THE ESTATE OF JAMES JOYCE,**

18 **Defendants.**

**Case No. CV 06-3718 JW HRLx**

**DECLARATION OF ANTIONETTE  
 D. DOZIER IN SUPPORT OF  
 DEFENDANTS' REPLY TO  
 PLAINTIFF'S OPPOSITION TO  
 DEFENDANTS' MOTION TO  
 DISMISS, OR IN THE  
 ALTERNATIVE, TO STRIKE,  
 CAROL LOEB SHLOSS'S  
 AMENDED COMPLAINT**

**Date: January 22, 2007**

**Time: 9:00 a.m.**

**Judge: The Honorable James Ware**

1 I, Antionette D. Dozier, hereby declare that:

2 1. I am an attorney at the law firm of Jones Day, counsel for Defendants Seán  
3 Sweeney and the Estate of James Joyce (hereinafter “Defendants”), and I have personal  
4 knowledge of the facts stated herein.

5 2. Attached hereto as Exhibit A are true and correct copies of pages from the  
6 websites of journals devoted to James Joyce scholarship. I located information on these journals  
7 on January 8, 2007. I found information on *The James Joyce Broadsheet* at  
8 <http://www.leeds.ac.uk/english/staff/pages/staffindex.php?file=jjbroad>; *The James Joyce Literary*  
9 *Supplement* at <http://www.as.miami.edu/english/jjls/>; *European Joyce Studies* at  
10 <http://www.rodopi.nl/senj.asp?SerieId=JOYCE>; *James Joyce Quarterly* at  
11 <http://www.utulsa.edu/jjq/>; *Joyce Studies Annual* at  
12 <http://www.utexas.edu/utpress/journals/jjsa.html>; *Genetic Joyce Studies* at  
13 <http://www.antwerpjamesjoycecenter.com/GJS/>; and *Hypermedia Joyce Studies* at  
14 <http://hjs.ff.cuni.cz/main/hjs.php?page=about>. The journal *A “Finnegans Wake” Circular* did not  
15 have a website, but it is a publication that is successor to *A Wake Newslitter* and mentioned on  
16 many websites, including <http://www.joycefoundation.ch/>.

17 3. Attached hereto as Exhibit B is a list of over 300 works published about James  
18 Joyce and/or his writings in 2004-2006.

19 4. Attached hereto as Exhibit C is a true and correct copy of book reviews on Carol  
20 Loeb Shloss’s book *Lucia Joyce: To Dance in the Wake*. I located these reviews on January 4,  
21 2007. I found “*Private dancer. James Joyce's troubled daughter spent much of her life in*  
22 *institutions. Carol Loeb Schloss brings Lucia Joyce back from the margins with a new*  
23 *biography;*” “*The Bratty Bystander. Lucia Joyce was a Failed Writer, Dancer, and Artist—so*  
24 *Why Does a New Biography Make Her Out to be a Genius?;*” “*A Mania For Insects;*” and the  
25 following Letters to the Editor: *Lucia Joyce and Finnegans Wake, Carol Loeb Shloss, Roland*  
26 *Littlewood* at <http://www.arlindo-correia.com/140504.html>, “*Lucia Joyce. To Dance in the Wake.*  
27 *Tragic Muse and Wild Beauty: The Story of James Joyce’s Only Daughte*”r at  
28 <http://www.cercles.com/review/r22/schloss.htm>. I found the following newspaper reviews:

1 "Lucia Joyce: To Dance in the Wake. Lucia Joyce: Girl, Interrupted Reexamining The Life of a  
2 Troubled Artist" in THE BOSTON GLOBE, "Tell him I'm a Crossword Puzzle James Joyce's  
3 Daughter Lucia was a Racy 1920s Dancer, But Her Life Ended Sadly and Madly" in THE  
4 FINANCIAL TIMES (London England), "A Hundred Not Out" in THE TIMES (London),  
5 "Private Dancer: James Joyce's Troubled Daughter, Lucia, Spent Much of Her Life in  
6 Institutions. A New Biography Brings Her Back From the Margins" in THE OBSERVER,  
7 "Inside a Family Affair" in THE WEEKEND AUSTRALIAN, "Portrait of a Daughter as a Lost  
8 Cause" in THE LOS ANGELES TIMES, "The Bratty Bystander" in SLATE MAGAZINE.

9 5. Attached hereto as Exhibit D is a true and correct copy of the Stanford Law School  
10 website. I located this blog on January 8, 2007 at [http://cyberlaw.stanford.edu/case/shloss-v-](http://cyberlaw.stanford.edu/case/shloss-v-estate-of-joyce)  
11 [estate-of-joyce](http://cyberlaw.stanford.edu/case/shloss-v-estate-of-joyce).

12 6. Attached hereto as Exhibit E is a true and correct copy of the decision of *Epsom &*  
13 *St. Helier University Hospitals NHS Trust* (Case ref: FS50071069) issued by United Kingdom's  
14 Information Commissioner's Office on October 23, 2006. I located the decision on January 7,  
15 2007 at [http://www.ico.gov.uk/tools\\_and\\_resources/decision\\_notices/2006\\_10.aspx](http://www.ico.gov.uk/tools_and_resources/decision_notices/2006_10.aspx). In *Epsom*, a  
16 mother asked the Commissioner to review *Epsom & St. Helier University Hospital's* ("Epsom")  
17 denial of her request, made under the Freedom of Information Act ("the FOIA"), for her  
18 daughter's medical records. *Epsom* argued the records were exempt from disclosure under  
19 Section 41 of the FOIA. Section 41 of the Act applies to information obtained from third parties  
20 whose disclosure would constitute an actionable breach of trust. The Information Commissioner  
21 considered whether the duty of confidence owed by doctor to patient can survive the death of the  
22 individual to whom the duty is owed.

23 7. The Commissioner assessed two legal arguments in favor of finding the duty of  
24 confidence owed to patients survive the death of the individual to whom the duty is owed and  
25 thus, the deceased person's medical records are exempt from production under the FOIA. The  
26 first argument was that medical records are exempt from production under Section 41 of the Act  
27 on "principle." The "principle" argument is that a breach of confidence would affect the  
28 conscience of the person disclosing the information. *Epsom* argued that where the disclosure

1 could be said to be unconscionable, it may be restrained by the Court even where it would not  
2 damage the confider. The Commissioner found this argument to be reasonable, particularly so  
3 because disclosure under the FOIA is to the world at large. The second argument was that there  
4 is no legal "authority" that would support a ruling that medical records are not exempt from  
5 disclosure under Section 41 of the FOIA. The Commissioner found no binding authority against  
6 finding that a deceased person's medical records are exempt from production under Section 41 of  
7 the FOIA. Consequently, the Commissioner concluded that the duty of confidence attaching to  
8 medical records survives the death of the person to whom the records relate. Accordingly,  
9 medical records are exempt from production under the Section 41 of the FOIA, and any breach of  
10 the deceased's confidence would be actionable by the deceased's estate. Moreover, the  
11 Commissioner specifically noted that a duty of confidence is created by the very nature of the  
12 doctor/patient relationship, which is supported by the oath that doctors take guaranteeing to  
13 protect doctor/patient confidentiality.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on this  
8th day of January 2007 at Los Angeles, California.

Dated: January 8, 2007

JONES DAY

By: Antionette D. Dozier  
Antionette D. Dozier

Counsel for Defendants  
SEÁN SWEENEY AND THE ESTATE OF  
JAMES JOYCE