

1 Maria K. Nelson (State Bar No. 155,608)  
mknelson@jonesday.com  
2 Anna E. Raimer (State Bar No. 234,794)  
aeraimer@jonesday.com  
3 Antionette D. Dozier (State Bar No. 244,437)  
adozier@jonesday.com  
4 JONES DAY  
555 South Flower Street  
5 Fiftieth Floor  
Los Angeles, CA 90071-2300  
6 Telephone: (213) 489-3939  
Facsimile: (213) 243-2539  
7

8 Attorneys for Defendants  
SEÁN SWEENEY AND THE ESTATE OF JAMES  
JOYCE  
9

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 **CAROL LOEB SHLOSS,**

14 **Plaintiff,**

15 **v.**

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

18 **Defendants.**

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

**DEFENDANTS' EVIDENTIARY**  
**OBJECTIONS TO EXHIBITS A, B, J,**  
**AND Q TO THE DECLARATION OF**  
**DAVID S. OLSON**

**Date: June 4, 2007**  
**Time: 9:00 a.m.**  
**Judge: Hon. James Ware**

1 Pursuant to Civil Local Rule 7-5, Rule 56 of the Federal Rules of Civil Procedure and  
2 Rules 401, 402, 403, 408, 602, and 802 of the Federal Rules of Evidence, Defendants hereby  
3 object to the following exhibits to the Declaration of David Olson filed in Support of Plaintiff's  
4 Motion For Award of Attorneys' Fees and Costs ("Olson Declaration"): Exhibit A (the  
5 Declaration of Carol Loeb Shloss filed in Support of Plaintiff's Opposition to Defendants' Motion  
6 to Dismiss), Exhibit B (an article from "The New Yorker"), Exhibit J (and article from "The Irish  
7 Times"), and Exhibit Q (the Declaration of David Olson filed in Support of Plaintiff's Opposition  
8 to Defendants' Motion to Dismiss).

9 Defendants object to the aforementioned exhibits pursuant to Civil Local Rule 7-5(b),  
10 which provides "[a]n affidavit or declarations may contain only facts, must conform as much as  
11 possible to the requirements of [Federal Rule of Civil Procedure] 56(e), and must avoid  
12 conclusions and argument." Federal Rule of Civil Procedure 56(e) requires opposing affidavits to  
13 be made on personal knowledge, set forth specific facts that would be admissible in evidence, and  
14 show that the affiant is competent to testify to the matters stated therein. Fed. R. Civ. Proc. 56(e);  
15 *see also Columbia Pictures Indus. Inc. v. Prof'l Real Estate Investors, Inc.*, 944 F. 2d 1525, 1529  
16 (9th Cir. 1991) (finding the affidavit did not satisfy the requirements of Fed. R. Civ. P. 56(e)  
17 because it was not based on personal knowledge). A declaration not in compliance with Civil  
18 Local Rule 7-5(b), including the requirements of Federal Rule Civil Procedure 56(e), may be  
19 stricken in whole or in part. Civil L.R. 7-5(b); *see also Block v. City of Los Angeles*, 253 F.3d  
20 410, 418-419 (9th Cir. 2001) (holding district court abused its discretion in admitting affidavit  
21 that was not based on the personal knowledge of the affiant when it was clear the affiant was not  
22 personally involved in the facts alleged); *Davenport v. M/V New Horizon*, 2002 U.S. Dist. LEXIS  
23 26811, at \*7-8 (N.D. Cal. 2002) (striking portions of the declaration which were not based on the  
24 declarant's personal knowledge). Defendants object to the following specific portions of the  
25 Olson Declaration:

26 1. Defendants object to portions of Exhibit A for the same reasons explained in  
27 "Defendants' Substitute Evidentiary Objections to the Declaration of Carol Loeb Shloss the  
28 Declaration of David S. Olson, Exhibits A, P, R and T to the Declaration of Carol Loeb Shloss,

