

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

MOTION TO SUBSTITUTE PARTIES

Pursuant to Fed. R. Civ. P. 25(a)(1), Plaintiff The J.D. Salinger Literary Trust (the “Trust”), joined by Colleen M. Salinger (“Colleen Salinger”) and Matthew R. Salinger (“Matt Salinger,” collectively with Colleen Salinger, the “Trustees”), request that the Court substitute “COLLEEN M. SALINGER AND MATTHEW R. SALINGER AS TRUSTEES OF THE J.D. SALINGER LITERARY TRUST” for “J.D. SALINGER, individually, and as TRUSTEE OF THE J.D. SALINGER LITERARY TRUST” as Plaintiffs in this action. In support of this motion, the Trustees state that:

1. Until January 27, 2010, J.D. Salinger was the sole trustee of the J.D. Salinger Literary Trust, an entity created on July 24, 2008 that has owned all intellectual property and other rights in the works of J.D. Salinger since that time. One of the works whose rights are owned by the Trust is *The Catcher in the Rye* (“Catcher”).
2. Mr. Salinger brought the present action, on behalf of himself and the Trust, alleging infringement of the copyright in *Catcher* and unfair competition.
3. On January 27, 2010, J.D. Salinger died. The Trust survived his death.

4. Upon J.D. Salinger's death, Colleen Salinger and Matt Salinger immediately became co-trustees of the Trust.

5. The rights sought to be enforced by the present action survived J.D. Salinger's death and are owned by the Trust.

6. Colleen Salinger and Matt Salinger, as co-trustees of the Trust, wish to continue the present action.

7. Defendants' counsel does not object to this motion.

WHEREFORE, for the foregoing reasons, Colleen Salinger and Matt Salinger request that the Court substitute "Colleen M. Salinger and Matthew R. Salinger, as Trustees of the J.D. Salinger Literary Trust" as the plaintiffs in this action.

Dated: New York, New York
February 9, 2010

DAVIS WRIGHT TREMAINE LLP

By: 

Marcia B. Paul (MBP 8427)
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*Attorneys for Former Plaintiff J.D. Salinger
Attorneys for The J.D. Salinger Literary Trust
Attorneys for Substituted Plaintiffs Colleen M.
Salinger and Matthew R. Salinger, as Trustees
of the J.D. Salinger Literary Trust*

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 :
Defendants. :
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**DECLARATION OF KEVAN CHOSET IN SUPPORT OF
MOTION TO SUBSTITUTE PARTIES**

KEVAN CHOSET, declares, under penalty of perjury, as follows:

1. I am an associate of the law firm of Davis Wright Tremaine, counsel to former plaintiff J.D. Salinger, plaintiff The J.D. Salinger Literary Trust (the "Trust") and substituted plaintiffs Colleen M. Salinger ("Colleen Salinger") and Matthew R. Salinger ("Matt Salinger"), as Trustees of the J.D. Salinger Literary Trust. Unless stated otherwise, I have personal knowledge of the facts stated herein or base my declaration on my investigation and documents I have reviewed.

2. Until January 27, 2010, J.D. Salinger was the sole trustee of the J.D. Salinger Literary Trust, an entity created on July 24, 2008 that has owned all intellectual property and other rights in the works of J.D. Salinger since that time. One of the works whose rights are owned by the Trust is *The Catcher in the Rye* ("Catcher").

3. Mr. Salinger brought the present action, on behalf of himself and the Trust, alleging infringement of the copyright in *Catcher* and unfair competition.

4. On January 27, 2010, J.D. Salinger died. The Trust survived his death.

5. Upon J.D. Salinger's death, Colleen Salinger and Matt Salinger immediately became co-trustees of the Trust.

6. The rights sought to be enforced by the present action survived J.D. Salinger's death and are owned by the Trust.

7. Colleen Salinger and Matt Salinger, as co-trustees of the Trust, wish to continue the present action.

8. I have spoken with counsel for all defendants in this action. Defendants' counsel does not object to the accompanying motion to substitute parties.

Dated: New York, New York
February 9, 2010


Kevan Choset

CERTIFICATE OF SERVICE

I, Kevan Choset, an attorney admitted to practice in the State of New York, hereby certify that on this 9th day of February, 2010, I electronically filed the foregoing MOTION TO SUBSTITUTE PARTIES and DECLARATION OF KEVAN CHOSET with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to counsel for the parties in the case, identified below:

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KEVAN CHOSET