

EXHIBIT 5

Singer, Randi

From: nwilliamson@ipwla.com
Sent: Thursday, March 17, 2011 2:52 AM
To: Singer, Randi; david.fleischer@haynesboone.com
Cc: nwilliamson@ipwla.com; kgadams@ipwla.com
Subject: Marvel v. Kirby 10-CV-141
Attachments: Marvel v.Kirby.Witness.Exhibit.List.3.16.11.Final.pdf

Randi:

Please see the attached witness and exhibit list from defendants.

Regards,

Nicholas C. Williamson
Toberoff & Associates, P.C.
2049 Century Park East, Suite 2720
Los Angeles , CA 90067
Telephone: (310) 246-3333
Facsimile: (310) 246-3101
Email: nwilliamson@ipwla.com

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Marvel Worldwide, Inc., et al. v. Kirby et al. 10-CV-141 (CM) (KNF)

DEFENDANTS' WITNESS LIST

1. Mark Evanier
2. John Morrow
3. Neal Kirby
4. Susan Kirby¹
5. Lisa Kirby
6. Larry Lieber
7. Stan Lee
8. John Romita, Sr.
9. Joe Sinnott
10. Dick Ayers
11. Stan Goldberg
12. Neal Adams
13. Gene Colan
14. Joe Simon

DEFENDANTS' EXHIBITS

1. 45 Notices of Termination (“Termination”) served by the Kirbys on September 16, 2009
2. Assignment between Jack Kirby and Magazine Management Co., Inc. fully executed on June 5, 1972
3. Copyright Registrations for works listed in Terminations
4. Marvel Characters First Appearances and Copyright Registrations (MARVEL6456-6461)
5. Mark Evanier’s expert report submitted to plaintiffs on November 4, 2010
6. *Kirby: King of Comics* by Mark Evanier (2008) (K143-376)
7. “Jack Kirby’s Gods” portfolio (ME 955-60)
8. *Kirby Unleashed* by Steve Sherman and Mark Evanier (1971)
9. Jack Kirby presentation pieces (ME965-969)

¹ Due to Susan’s ongoing health issues, defendants reserve the right to designate her deposition transcript if the need arises.

10. John Morrow's expert report submitted to plaintiffs on November 4, 2010
11. *Fantastic Four-The Lost Adventure* No. 1
12. Plaintiffs' Response to Defendants' First Set of Requests for Admission served on December 20, 2010
13. Plaintiffs' Response to Defendants' Second Set of Requests for Admission served on December 27, 2010
14. Plaintiffs' Response to Defendants' First Set of Interrogatories served on October 28, 2010
15. Plaintiffs' Response to Defendants' Second Set of Interrogatories served on December 20, 2010
16. Six large pencil drawings by Jack Kirby for *The Hulk* that were in the possession of Larry Lieber and produced at his January 7, 2011 deposition in response to defendants' subpoena
17. Article entitled "Kirby's Gamma Rays: Alpha to Omega!- An Ultra-Rare Find from 1962" from *The Jack Kirby Collector* No. 41 (Fall 2004) (Exhibit 6 at January 7, 2011 deposition of Larry Lieber)
18. Agreement between Marvel Characters, Inc. and Lisa R. Kirby, as administrator of the estate of Jack Kirby, dated July 7, 2006 (K1477)
19. Agreement between Marvel Characters, Inc. and Lisa R. Kirby, as administrator of the estate of Jack Kirby, dated December 23, 2008 (K1502-1512)
20. Agreement between Marvel Characters, Inc. and Lisa R. Kirby, as administrator of the estate of Jack Kirby, dated November 3, 2008 (K1485-1492).
21. Article entitled "Fantastic Four #108: Jack's Way" from *The Collected Jack Kirby Collector*, Volume 1 (K805-809)

22. Don Heck notebooks (K1926-1971)
23. Don Heck Release Transfer and Assignment for Artwork or Manuscript (K1789-90)
24. *Five Fabulous Decades of the World's Greatest Comics: Marvel* by Les Daniels (1991) which was exhibit 38 at the December 8, 2010 deposition of Stan Lee
25. The book *Jack Kirby Checklist Gold Edition* (2008) (JM 309-440)
26. The book *The Art of Jack Kirby* by Roy Wyman (1992) (MARVEL18249-18419)
27. *The Jack Kirby Chronology 1950-1959; 1960-1964.*
28. *Stan's Soapbox*, February 1970 (JM115)
29. Article entitled "They Were Aces" from *The Jack Kirby Collector* No. 25 (JM221-22)
30. Article entitled "Kirby Gets Cracked" from *The Collected Jack Kirby Collector*, Volume 5
31. Article entitled "The Highs and Lows of Henry Pym" from *The Collected Jack Kirby Collector*, Volume 4 (K1295-97)
32. Jack Kirby Interview from *The Jack Kirby Collector*, No. 22 (K1407 1412)
33. Jack Kirby Interview from *The Collected Jack Kirby Collector*, Volume 4
34. Jack Kirby Interview from *The Collected Jack Kirby Collector*, Volume 5
35. Jack Kirby Interview from *The Collected Jack Kirby Collector*, Volume 6
36. Jack Kirby at the San Diego Comic Con 1975 (K1458-66)
37. Article entitled "The Monster of Moraggia" from *The Collected Jack Kirby Collector*, Volume 3
38. Monster story drawings by Jack Kirby (ME950-54; 970-976)
39. Checks issued in 1974 and 1975 to freelance artist Dick Ayers by plaintiffs' predecessors (MARVEL14596-14620)

40. Checks purportedly issued to Jack Kirby in 1986 (Marvel 13791, 18773)
41. 1987 checks issued to Jack Kirby, Steve Ditko, and Ernie Colon
(MARVEL14553-55)
42. Article entitled "Would You Like to See My Etchings?" from the *The Collected Jack Kirby Collector*, Volume 2 (K857-861)
43. Agreement dated November 5, 1969 between Joe Simon and Magazine Management Co., Inc.
44. Agreement between John Romita and Marvel Comics Group dated May 19, 1978 (MARVEL8187)
45. Agreement between Roy Thomas and Marvel Comics Group dated June 1, 1978 (MARVEL8220)
46. Artwork Release between Jack Kirby and Marvel Comics Group (ME563)
47. Agreement between Jack Kirby and Marvel Comics Group regarding return of Artwork (MARVEL13635-44)
48. *Origins of Marvel Comics* by Stan Lee (1974)
49. *Son of Origins of Marvel Comics* by Stan Lee (1975)
50. *Superhero Women* by Stan Lee (1977)
51. Reprint anthology called *The Fantastic Four*, by Stan Lee (1979).
52. *Challengers of the Unknown* comic book, No.1
53. IGN interview with Stan Lee (June 26-30, 2000) (Exhibit 43 at 12/8/10 Stan Lee Deposition)
54. Alter Ego No. 74, December 2007 (Exhibit 33 at 12/8/10 Stan Lee Deposition)
55. *The Incredible Hulk* by Stan Lee (1978)
56. Transcript of Stan Lee and Jack Kirby Interview on WBAI radio on March 3, 1967 (Exhibit 36 at 12/8/10 Stan Lee Deposition)
57. Transcript of August 12, 1968 Stan Lee Interview on WBAI Radio

58. *Comic Book Marketplace* No. 61, July 1998 (Exhibit 37 at 12/8/10 Stan Lee Deposition)
59. Article entitled “Stan Lee: It’s a Marvelous Life” (Exhibit 39 at 12/8/10 Stan Lee Deposition)
60. *David Anthony Kraft’s Comics Interview* No. 5 , July 1983 (Exhibit 40 at 12/8/10 Stan Lee Deposition)
61. *The Fantastic Four* by Stan Lee (1979) (Exhibit 41 at 12/8/10 Stan Lee Deposition)
62. *David Anthony Kraft’s Comics Interview*, No. 85 (Exhibit 44 at 12/8/10 Stan Lee Deposition)
63. Court opinion dated November 6, 2000 for Case No. 97-638-RRM (Exhibit 46 at 12/8/10 Stan Lee Deposition)
64. *Stan Lee Conversations*, Edited by Jeff McLaughlin (2007)
65. *Excelsior!: The Amazing Life of Stan Lee* (2002) (Exhibit 48 at 12/8/10 Stan Lee Deposition)
66. *The Collected Jack Kirby Collector*, Volume 1
67. *The Collected Jack Kirby Collector*, Volume 2
68. *The Collected Jack Kirby Collector*, Volume 3
69. *The Collected Jack Kirby Collector*, Volume 4
70. *The Collected Jack Kirby Collector*, Volume 5
71. *The Collected Jack Kirby Collector*, Volume 6
72. *The Collected Jack Kirby Collector*, Volume 7
73. Article entitled “Jack Kirby, 76; Created Comic Book Superheroes” from *The New York Times*, dated February 8, 1994
74. Article entitled “Jack Kirby: The Abandoned Hero” from *The Los Angeles Times*, dated September 25, 2009

75. Article entitled "Marvel vs. Jack Kirby" from *The Los Angeles Times* dated January 8, 2010
76. The book entitled *The Comics Journal Library: Jack Kirby* edited by Milo George (2002)
77. The book entitled *Kirby Five-Oh!*, edited by John Morrow (2008)
78. The book entitled *Maximum Fantastic Four*, edited by Ruwan Jayatilleke (2005)
79. *The Comics Journal* No. 134, February 1990
80. Article entitled "...And Now Spiderman and the Marvel Comics Group" by Mike Baron from *Creem Magazine* (April 1973) (THOM3202-3209)
81. Article entitled "Jack Kirby" from *Comics Interview* (K1432-1445)
82. Declaration of Donald S. Engel dated November 12, 1980 (ME839-847; 867)
83. Declaration of Stephen Gerber dated December 24, 1980 (ME709-728)
84. Article entitled "Frank Miller Interview" from *The Collected Jack Kirby Collector*, Volume 4 (K1218-23)
85. Article entitled "Neal Adams Interview" from *The Collected Jack Kirby Collector*, Volume 4 (K1274; 1281)
86. Jack Kirby artwork (K10-13, 61, 63-65, 68-69, 72)
87. Last Will and Testament of Jack Kirby (K1589-1601)
88. Living Trust of Rosalind Kirby (K1602-1711)
89. *The Comics Journal* No. 167 (K1739-1759)
90. Newsletter entitled "The Merry Marvel Messenger" (K1767-70)
91. Pamphlet for "The Jack Kirby Surprise Party" (1775-1784)
92. Artwork Release (unsigned draft) (ME154-163)
93. Artwork Release signed by John Romita (MARVEL18212)
94. Article entitled "...the Artist waives any claim the Artist may have..."

(ME169)

95. Document entitled “Steranko on Kirby: Remembering the King” (ME187-192)

96. Document entitled “Jack Kirby: A Celebration” (ME233-34)

97. July 13, 1995 letter and script re: Stan Lee Biography television program (ME695-706)

98. October 19, 1995 letter from Marvel to Mark Evanier (ME649-51)

99. April 6, 1995 letter from DC Comics to Mark Evanier (ME641)

100. Jack Kirby notes (ME628-631)

101. Agreement dated January 19, 1972 between Stan Lee and Cadence Industries Corporation (MARVEL14654-57)

102. Stan Lee Employment Agreement dated as of November 1, 1998

(MARVEL7134-7144)

103. Memorandum re: Stan Lee compensation (MARVEL12179)

104. Settlement Agreement dated April 20, 2005 between Stan Lee and Marvel Enterprises, Inc. (MARVEL18176-79)

105. Affidavit of Stan Lee dated June 11, 2007 (MARVEL16126-16140)

106. Agreement dated as of May 2, 2008 between Marvel Entertainment, Inc. and Stan Lee (MARVEL16141-42)

107. Settlement Agreement between Stan Lee and Marvel Enterprises dated April 20, 2005 (MARVEL18176-79)

108. Agreement dated March 20, 2006 between POW Entertainment and Silver Creek Pictures, Inc. (LEE409-411)

109. Fourth Amendment to POW Agreement dated as of December 18, 2009 (LEE201-212)

110. Fifth Amendment to POW Agreement dated as of December 18, 2009 (LEE201-212)

111. Stock Purchase Agreement dated December 31, 2009 (LEE174-83)
112. Article entitled "POW! Entertainment Expands Ties with Disney"
(LEE0169-70)
113. Agreement dated June 11, 2007 between Marvel Entertainment Inc. and Stan Lee (MARVEL16161-64)
114. Letter agreement dated January 14, 2010 between Stan Lee and Marvel Entertainment, Inc. (MARVEL8901)
115. Agreement dated February 3, 2009 between Marvel Entertainment Inc. and Stan Lee (MARVEL16157-16160)
116. Agreement dated May 2, 2008 between Marvel Entertainment, Inc. and Stan Lee (MARVEL16141-42)
117. Agreement dated November 14, 2001 between John Romita, Sr. and Marvel Enterprises, Inc., (MARVEL9488-9494)
118. Agreement dated March 1, 1996 between John Romita and Marvel Entertainment Group (MARVEL9506-9512)
119. Agreement dated January 1, 1994 between John Romita and Marvel Entertainment Group (MARVEL9501-9505)
120. Book entitled *Alter Ego Presents: John Romita...and All that Jazz!* (2007) by Roy Thomas and Jim Amash (ROM362-555).
121. *Comic Book Artists Collection*, Volume 2 (Excerpts) 140-144
122. *Comic Book Artist* No. 6 article - "John Romita Sr.: Spidey's Man, Yakkin' with Marvel's (de facto) 70s Art Director"
123. The book entitled *The Art of John Romita* (1996) (Exhibit 8 of 10/21/10 Deposition of John Romita, Sr.)
124. Agreement dated October 29, 2011 between Roy Thomas and Marvel Enterprises (MARVEL8967-8973)

125. Deposition Transcript of Roy Thomas (Exhibit 16 of 10/26/10 Roy Thomas Deposition)
126. *Comic Book Artist Collection* Volume 1 (Exhibit 19 of 10/26/10 Roy Thomas Deposition)
127. Letter dated August 18, 1974 from Roy Thomas to Jerry Bails (Exhibit 20 of 10/26/10 Roy Thomas Deposition)
128. *Comics Journal* No. 56, May 1980 (Exhibit 21 of 10/26/10 Roy Thomas Deposition)
129. *Comics Journal* No. 61, Winter 1981 (Exhibit 22 of 10/26/10 Roy Thomas Deposition)
130. Article entitled "Comic Book Marketplace" (Exhibit 24 of 10/26/10 Roy Thomas Deposition)
131. *Dr. Strange* Comic Excerpts (THOM2623-2627)
132. Declaration of Roy William Thomas, Jr. dated 7/22/98 (Exhibit 26 of 10/27/10 Roy Thomas Deposition) (THOM2646-2647)
133. Declaration of Roy Thomas dated 7/31/98 (Exhibit 26 of 10/27/10 Roy Thomas Deposition) (MARVEL16495-97)
134. Agreement dated February 1, 2007 between Marvel Entertainment Inc. and Florence Steinberg (MARVEL16556-62)
135. Agreement dated February 1, 2008 between Marvel Entertainment Inc. and Florence Steinberg (MARVEL16563-69)
136. Transcript of conversation with Sales Tax Department, New York State (ME530-535)
137. April 17, 1986 letter from Neal Adams to Marvel (MARVEL18746-47)
138. Article entitled "Art vs. Commerce" by John Morrow from *The Collected Jack Kirby Collector*, Volume 6

139. Document entitled "Statement of Jack Kirby" (K1560)
140. Letter dated November 19, 1985 from DC Comics to *The Comics Journal* (MARVEL18764)
141. Article entitled "Hour Twenty-Five" from *The Collected Jack Kirby Collector*, Volume 4
142. Article entitled "The Never Ending Question: Lee or Kirby" from *The Collected Jack Kirby Collector*, Volume 4
143. Article entitled "Jack Kirby Interview" from *The Collected Jack Kirby Collector*, Volume 1
144. Article entitled "Wow-What an Interview" from *The Collected Jack Kirby Collector*, Volume 2
145. Article entitled "Jack Kirby Interview" from *The Collected Jack Kirby Collector*, Volume 6
146. Article entitled "Jack Kirby – The Master of Comic Book Art" from *The Collected Jack Kirby Collector*, Volume 1
147. Article entitled "A Talk with Artist-Writer-Editor Jack Kirby" from *The Collected Jack Kirby Collector*, Volume 4
148. Article entitled "A Failure to Communicate: Part Two" from *The Collected Jack Kirby Collector*, Volume 5
149. Artwork release by Stan Lee dated January 24, 1979 (MARVEL13830)
150. Artwork release by Jack Kirby dated January 24, 1979 (MARVEL13831)
151. Artwork chart (MARVEL18507-591)
152. Document entitled "Introduction by John Morrow" (Exhibit 24 of 1/10/11 John Morrow Deposition)
153. Jack Kirby Collector No. 54
154. The Masters of the Comic Book Art-youtube.com/watch?v=M5OMjdsh_iw

155. Hour 25 Interview with Jack Kirby Parts 1-7

youtube.com/watch?v=g646YOWKVag; youtube.com/watch?v=Typ4w1moaXo&NR=1;

youtube.com/watch?v=u5RFwvGXlw&feature=related;

youtube.com/watch?v=6brVdKs3sk&feature=related;

youtube.com/watch?v=4sur_bod7Oo&feature=related;

youtube.com/watch?v=rbTrubHCsb4&feature=related;

youtube.com/watch?v=hIAidJLoyf4&feature=related