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Attorneys for Defendants Lisa R. Kirby, Barbara J. Kirby, Neal L. Kirby and Susan M. Kirby

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MARVEL WORLDWIDE, INC.,  
MARVEL CHARACTERS, INC. and  
MVL RIGHTS, LLC,

Plaintiffs,

-against-

LISA R. KIRBY, BARBARA J. KIRBY,  
NEAL L. KIRBY and SUSAN M. KIRBY,

Defendants.

Civil Action No. 10-141 (CM) (KF)

**DECLARATION OF MARK  
EVANIER IN SUPPORT OF  
DEFENDANTS' MEMORANDUM  
OF LAW IN OPPOSITION TO  
PLAINTIFFS' MOTION TO  
EXCLUDE THE EXPERT REPORT  
AND TESTIMONY OF MARK  
EVANIER**

[Hon. Colleen McMahon]

[ECF Case]

LISA R. KIRBY, BARBARA J. KIRBY,  
NEAL L. KIRBY and SUSAN M. KIRBY,

Counterclaimants,

-against-

MARVEL ENTERTAINMENT, INC.,  
MARVEL WORLDWIDE, INC.,  
MARVEL CHARACTERS, INC., MVL  
RIGHTS, LLC, THE WALT DISNEY  
COMPANY and DOES 1 through 10,

Counterclaim-Defendants.

## DECLARATION OF MARK EVANIER

I, Mark Evanier, declare as follows:

1. I am familiar with the facts set forth below and make this declaration in support of defendants' Memorandum of Law in opposition to Plaintiffs' Motion to Exclude the Expert Report and Testimony of Mark Evanier. The facts set forth herein are known to me of my own personal firsthand knowledge and, if called as a witness, I could and would testify competently thereto under oath.

2. I have been called upon to write numerous forewords and introductory material for books about comics, including many reprint volumes published by DC Comics and Marvel. These include commentary for Marvel's Maximum Fantastic Four, an analysis of the first issue of the Fantastic Four comic book, Marvel Masterworks: Rawhide Kid Volume 2 (2006), Fantastic Four Omnibus Vol. 2 (2007), Marvel Masterworks: The Mighty Thor No. 6 (2007) and, most recently, Marvel Masterworks: The Inhumans Volume 1 (2009). For DC, I have written introductions and/or forewords for many of their books including the Justice League of America Archives, Vol. 6 (2000), The Blackhawk Archives Vol. 1 (2001), Jack Kirby's Fourth World Omnibus Vol. 1 (2007), Vol. 2 Vol. 2 (2007), Vol. 3 (2007) and Vol. 4 (2008).

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Dated March 25, 2011



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Mark Evanier

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this court.

Dated: March 25, 2011

TOBEROFF & ASSOCIATES, P.C.

By: s/Marc Toberoff  
Marc Toberoff (MT 4862)

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