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Defendant's request for permission to
submit both copies of the works at
issue - "Willy the Wizard" and "Goblet
of Fire" is hereby granted.

Facsimile:
(212) 446-4900

SO ORDERED.

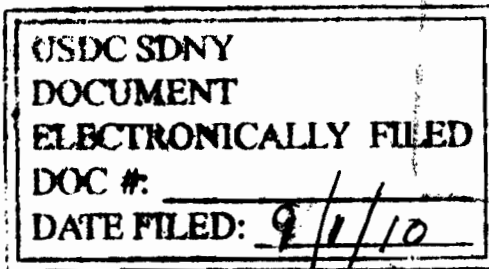
Date: 8/31/10.

[Signature]
Shira A. Scheindlin
USDS

August 31, 2010

BY FACSIMILE

Honorable Shira A. Scheindlin
United States District Court
Southern District of New York
500 Pearl Street, Room 1620
New York, New York 10007



Aug 31, 2010

Re: *Paul Gregory Allen, Trustee of the Estate of Adrian Jacobs v. Scholastic Inc., 10-CV-5335 (SAS)*

Dear Judge Scheindlin:

We represent Defendant Scholastic Inc. in the above-referenced matter. We write to inform you that Defendant plans to move to dismiss Plaintiff Paul Gregory Allen/Trustee of the Estate of Adrian Jacobs' claim of copyright infringement, and thus this case in its entirety, pursuant to Federal Rule of Civil Procedure 12(b)(6) on September 16, 2010. We also write to request permission to deviate from Your Honor's Individual Rules and Procedures so that Defendant may submit the core works at issue in this case, which were referenced in Plaintiff's Complaint, as exhibits to Defendant's motion to dismiss.

Defendant's motion to dismiss will be based on the grounds that no reasonable juror could find that there is substantial similarity between Plaintiff's book, *The Adventures of Willy the Wizard -- No T Livid Land* ("Willy the Wizard"), and Defendant's allegedly infringing work, *Harry Potter and the Goblet of Fire* ("Goblet of Fire"). Those similarities, if any, that do exist between the works pertain only to ideas, which are not protected by copyright law. Pursuant to Your Honor's rules, Defendant has informed Plaintiff of its plans to file such a motion.

In order to demonstrate that no substantial similarity exists between the works in this case, Defendant requests permission to deviate from Your Honor's rule that any exhibits submitted by the parties be limited to fifteen pages so that Defendant may submit actual copies of the works. Defendant would like to submit Plaintiff's work, *Willy the Wizard*, which is 32 pages long (16 pages of text and 16 pages of illustrations), as well as the work Plaintiff claims infringes Defendant's work -- *Goblet of Fire*, which is 734 pages long. Plaintiff has consented to Defendant's submission of these works in connection with its motion to dismiss.

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In deciding a motion to dismiss, “while courts generally may not consider matters outside the pleadings . . . documents attached to the pleadings, documents referenced in the pleadings, and documents integral to the pleadings may be considered.” *Tabachnik v. Dorsey*, No. 04 Civ. 9865, 2005 WL 1668542, *2 (S.D.N.Y. July 15, 2005). Here, Plaintiff explicitly references both *Willy the Wizard* and *Goblet of Fire* in its Complaint. In addition, such works are integral to the Complaint as they form the basis of Plaintiff’s allegation of copyright infringement. Thus, the Court may consider such works in connection with Defendant’s motion to dismiss.

We thank the Court for its consideration.

Respectfully submitted,



Dale M. Cendali

cc: Joseph A. Patella, Esq. (by facsimile)
Thomas R. Kline, Esq. (by facsimile)
Michele P. Schwartz (by facsimile)