

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
WARNER BROS. ENTERTAINMENT INC. and
J.K. ROWLING,

Plaintiffs,

-against-

RDR BOOKS and DOES 1-10,

Defendants.
----- X

Case No. 07-CV-9667 (RPP)

**SUPPLEMENTAL DECLARATION OF CHERYL KLEIN IN
SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Cheryl Klein, declare and state as follows:

1. I am a Senior Editor at Scholastic Inc. ("Scholastic"), the publisher of the *Harry Potter* books in the United States. Except for the facts stated on information and belief, all of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.

2. I have reviewed the Declaration of Steven Vander Ark submitted with RDR Books' Opposition to Plaintiffs' Motion for Preliminary Injunction, including his discussion of a note that I sent to him, and wish to clarify the context in which I sent that note.

3. It is my practice to foster good relations with the *Harry Potter* fan community. I have attended events and participated in conferences, all of which allow me to meet and interact with fans and encourage the fan community to flourish. It was in this vein that that I wrote the note to Mr. Vander Ark and his volunteer staff as a friendly gesture of good will. (Vander Ark

Decl. ¶ 39, Exhibit 1). At no time did I ever say anything to Mr. Vander Ark to suggest that it would be acceptable for him to publish a *Harry Potter* encyclopedia.

4. To the contrary, in my communications with him, Mr. Vander Ark has made clear his understanding, which in my view was widespread in the fan community, that Ms. Rowling had reserved to herself the right to do a *Harry Potter* encyclopedia. For example, in an email to me dated August 3, 2006, in which Mr. Vander Ark was apologizing to me for a comment he made at a fan event, he added a post-script that showed his understanding that "Jo" (a.k.a. Joanne Kathleen Rowling, or J.K. Rowling) had reserved the right to create her own encyclopedia. In fact, he also said that one of the purposes of the Lexicon was to dissuade other people from writing a *Harry Potter* encyclopedia in light of Ms. Rowling's intentions. Mr. Vander Ark wrote:

"PS It might interest you to know that George Beahm [a third party author] commented that he had originally intended to write an encyclopedia of Harry Potter (which Jo has specifically reserved for herself, I understand) but seeing the Lexicon convinced him not to bother. I want you to know that one of the express purposes of the Lexicon is to dissuade people from that sort of thing, so I was particularly happy to hear him say that."

A true and correct copy of the email chain between Mr. Vander Ark and myself from early August 2006 is attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 26, 2008, at New York, N.Y.

Respectfully submitted,

By: Cheryl Klein
Cheryl Klein

EXHIBIT A

From: Steve Vander Ark [svderark@i2k.com]
Sent: Thursday, August 03, 2006 12:11 AM
To: Klein, Cheryl
Subject: RE: Lumos followup

Hi, Cheryl,

I was quite honestly thrilled to meet you at Lumos. I have been eager to have that chance for quite some time, and I always hoped that a good, useful relationship between Scholastic and the Lexicon would result. You can imagine, then, how remorseful I feel now. I am so sorry that my careless joke ruined what could have been the start of our good relationship. I offer no explanations or excuses, just my sincere apologies. I should have known that this would have been a sensitive issue for you and my comment was boorish and wrong.

I am grateful to read that you still enjoyed my presentations and that you haven't given up on the Lexicon. The site is a marvelous one, dedicated to promoting and supporting Jo's work—and yours. The fact that the Lexicon's webmaster can be a fool at times shouldn't be a reflection on the dedicated people who work very hard on it. Thank you for being willing to look past my mistake and see the Lexicon in a good light.

If there is any way that I can be of help, please let me know. I would welcome a chance to sit and chat at some point. In any case, please accept this apology as heartfelt and sincere.

Steve

Steve Vander Ark
The Harry Potter Lexicon

PS It might interest you to know that George Beahm commented that he had originally intended to write an encyclopedia of Harry Potter (which Jo has specifically reserved for herself, I understand) but seeing the Lexicon convinced him not to bother. I want you to know that one of the express purposes of the Lexicon is to dissuade people from that sort of thing, so I was particularly happy to hear him say that. The fact that he copies a lot of the material for his books directly from the Lexicon, however, still rankles.

From: Klein, Cheryl [mailto:CKlein@Scholastic.com]
Sent: Tuesday, August 01, 2006 3:23 PM
To: svderark@i2k.com
Subject: Lumos followup

Personal and confidential

Dear Steve,

It was nice to meet you at the Lumos 2006 convention this last weekend – I trust you had a good time? As I said Saturday evening, I very much enjoyed your "Neither Here Nor There" presentation Saturday afternoon; it made me sorry to have missed your earlier sessions, and I hope I might catch those at future conferences.

But I also wanted to say I was a little taken aback by our encounter in the staffroom before the LeakyMug on

Saturday – specifically your remark that I had "screwed up and left three sentences in Dumbledore's death scene in Book 6." You may have noticed that I did not say anything in response to this. Partly this was because there was nothing to say: The American editorial team did make a mistake there; we do very much regret it (and trust me, you have no idea how much I personally have regretted it); but we have now corrected it, in both hardcover and paperback editions, and while it remains regrettable, it is done.

But I also did not respond to the attack because, quite frankly, it was unprovoked, unnecessary, and rude, especially in front of a group of our mutual friends and acquaintances. If you wanted to discuss the mistake and the circumstances in which it occurred, you could easily have taken me aside at any point in the weekend and asked me about it. You did not need to embarrass me before the rest of the room, and indeed discomfit the rest of the room as well, in order to make your point. I do not mean to demand special treatment here, as I as much as anyone deserve to be called on the carpet for that mistake; I regret only the lack of common courtesy I'm sure you extend to most people you know as little as you know me.

I'm sorry that interaction happened, as I remain a firm admirer of the Lexicon and your work on Harry Potter; and I hope that the next time we meet, our conversation will be more cordial, as I imagine we could have much to profitably and enjoyably discuss. In the meantime,

All best wishes,

Cheryl Klein

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