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14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA - EASTERN DIVISION**

17 JOANNE SIEGEL and LAURA
SIEGEL LARSON,

18 Plaintiffs,

19 vs.

20 TIME WARNER INC.; WARNER
COMMUNICATIONS INC.;
21 WARNER BROS. ENTERTAINMENT
INC.; WARNER BROS. TELEVISION
PRODUCTION INC.; DC COMICS;
22 and DOES 1-10,

23 Defendants.

Case No.: CV 04-8400 SGL (RZx)

Hon. Stephen G. Larson, U.S.D.J.
Hon. Ralph Zarefsky, U.S.M.J.

**DECLARATION OF PAUL LEVITZ
IN SUPPORT OF DEFENDANTS'
BRIEF ON ADDITIONAL ISSUES**

Time: 3:00 p.m.
Date: August 11, 2008
Courtroom: 1
Judge Stephen G. Larson

24
25 AND RELATED COUNTERCLAIMS
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1 I, PAUL LEVITZ, declare:

2 1. I am the President & Publisher of DC Comics ("DC"), a defendant
3 and counter-claimant in this action. My business address is 1700 Broadway, New
4 York, New York 10019. The facts set forth in this Declaration are within my
5 personal knowledge. If called as a witness I could and would testify competently
6 as to the facts contained in this Declaration.

7 2. As I have advised the Court in prior declarations, I first started
8 working for DC over 30 years ago, initially as a free-lancer while I was still in high
9 school. Since then I have held a number of positions at the company, rising from
10 Assistant Editor to Vice President, to my current position as President & Publisher.
11 I have been in charge of developing the vision that has guided DC's growth over
12 the past five years, and for the previous two decades was one of the two principal
13 executives with that responsibility. In my current position, I oversee the daily
14 operations of DC and also delegate authority to DC executives and employees to
15 supervise those daily operations.

16 3. Since April 16, 1999, DC has been actively engaged in the creation,
17 publication and licensing of literary works, films, live action and animated
18 television programs, and merchandise relating to Superman. These works include,
19 but are not limited to, hundreds of Superman comic books and graphic novels; the
20 *Smallville* television series of which in excess of 150 episodes have been produced;
21 and the 2006 motion picture *Superman Returns* – all of which feature varying
22 amounts of new Superman story elements. These also include a myriad of
23 ensemble works and products that include and feature DC superhero characters in
24 addition to Superman – such as Batman and Wonder Woman – marketed under the
25 titles, *inter alia*, of *Justice League*, *Legion of Superheroes* and *Infinite Crisis*.

26 4. Additionally, DC has licensed the production and sale of literally
27 thousands of consumer products – including toys, games, apparel, accessories,
28 housewares, etc. – that include not only Superman imagery, but also to a large

1 extent, as labeling, DC's Superman-related trademarks, such as the S-shield, the
2 familiar telescoping SUPERMAN logo, and other names such as KRYPTONITE,
3 and THE DAILY PLANET.

4 5. DC Comics has also authorized the re-release in DVD of a number of
5 licensed motion pictures and television shows created prior to April 16, 1999. For
6 example, between 1993 and 1997, the television series entitled "Lois & Clark: The
7 New Adventures of Superman" was created and broadcast under license from DC
8 Comics. Beginning in June 2005, DC Comics' licensee began releasing the
9 program on DVD. Each DVD set bundled all of the episodes from a given season
10 (unchanged from their appearance on television), along with additional content,
11 such as interviews, commentary, and the like.

12 6. With respect to films re-released on DVD, in some cases, the film was
13 essentially transferred to the new medium and distributed with no changes to
14 versions previously created. For example, in the case of the 2006 Blu-Ray video
15 release of the film *Superman: The Movie*, the film was simply converted to high
16 definition format, and a longer version of the film completed in 1978 and including
17 material previously broadcast on television (as opposed to the shorter version
18 shown in theaters) was included on the DVD, along with some additional content
19 as explained above.

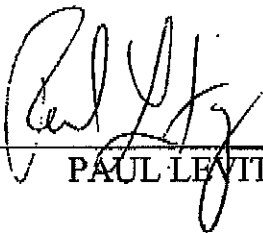
20 7. A different situation pertains with respect to the 1980 film *Superman*
21 *II*. This film was substantially shot in 1977 and 1978 at the same time as
22 *Superman: The Movie*, by director Richard Donner. Following the release of
23 *Superman: The Movie* in late 1978, Donner was replaced as director by Richard
24 Lester. Under Lester, changes were made to the *Superman II* shooting script,
25 various scenes were re-shot and other incomplete scenes were finished, with Lester
26 ultimately receiving credit for directing the film upon its release. In 2006, a
27 "Donner Cut" of *Superman II* was released based on the original 1978 shooting
28 script. The "Donner Cut" utilized much of the footage that Donner had shot for

1 *Superman II* prior to being replaced (some of which had later appeared in extended
2 television versions of the film), but which was not used in the Lester version
3 released in 1980.

4 I declare under penalty of perjury of the laws of the United States of
5 America that the foregoing is true and correct.

6 Dated this 21st of July, 2008 at New York, New York.

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PAUL LEVITZ