### No. 2014-1128

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Leslie S. Klinger,

Plaintiff - Appellee,

v.

Conan Doyle Estate, Ltd.

Defendant – Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division Case No. 13-cv-01226 The Honorable Judge Ruben Castillo

# FEE PETITION OF THE PLAINTIFF-APPELLEE, LESLIE S. KLINGER

Jonathan Kirsch California Bar No. 71502 1880 Century Park East, Suite 515 Los Angeles, CA 90067 (310) 785-1200

POLSINELLI PC Scott M. Gilbert John A. Leja 161 North Clark Street, Suite 4200 Chicago, Illinois 60601 (312) 819-1900

Attorneys for the Appellee

### **FEE PETITION**

Plaintiff Leslie S. Klinger, by and through his attorneys, Jonathan Kirsch of the Law Firm of Jonathan Kirsch, P.C. and John A. Leja and Scott M. Gilbert of Polsinelli, PC, makes this petition for attorneys' fees pursuant to 17 U.S.C. §505 and Rule 38 of the Federal Rules of Appellate Procedure, and in support states as follows:

### **BACKGROUND**

- I. <u>Klinger's Sherlock Holmes Collections</u>
- 1. Klinger is an author who has written extensively about Sir Arthur Conan Doyle's fictional character Sherlock Holmes. The Canon of Sherlock Holmes consists of four novels and fifty-six stories written by Conan Doyle between 1887 and 1927 ("Canon"). All of the novels and stories, including their respective essential Sherlock Holmes Story Elements characters, character descriptions, character traits, dialogue, settings, artifacts, story lines, *etc.* published in the United States prior to 1923 are no longer entitled to copyright protection under the laws of the United States.
- 2. In December 2010, Klinger entered into a contract with Random House to publish A Study in Sherlock, a collection of new and original stories inspired by the pre-1923 portion of the Canon. In July 2011, the Estate, which holds itself out to the world as the sole and exclusive owner of Conan Doyle's copyrights, asserted that the publication of A Study in Sherlock would infringe its copyright interests. Although Klinger disputed the legal or factual merits of the Estate's position, Random House, for the avoidance of litigation, entered into a licensing agreement with the Estate.
- 3. Klinger is now preparing to publish a sequel to A Study in Sherlock under the working title In the Company of Sherlock Holmes, which will again consist of new and original stories inspired by the pre-1923 portion of the Canon (the "Collection"). In late 2011, Klinger negotiated a publishing agreement with Pegasus Books for publication of the Collection. Prior to the execution of that agreement, however, the Estate contacted Pegasus Books, asserted its purported rights in pre-1923 Canon and Story Elements, and threatened litigation.

4. Klinger and Pegasus Books refused to take a license from the Estate, and the Estate threatened to file suit and to interfere with the sale and distribution of the Collection if it was published. Pegasus Books, as a result of the Estate's demands, declined to enter into a publishing agreement so long as the threat of a copyright infringement action was present. Pegasus Books expressed willingness, however, to publish the Collection if Klinger successfully adjudicated the public domain status of the Sherlock Holmes Story Elements.

### II. Klinger's Declaratory Judgment Action

- 5. On February 14, 2013, Klinger filed a declaratory judgment action seeking a judicial determination that the pre-1923 Canon and Sherlock Holmes Story Elements are in the public domain in the United States. The Complaint affirmatively asserted, however, that Klinger was "not seeking a declaratory judgment as to the copyright status of any story elements that appeared for the first time in any of the ten stories in The Case-Book of Sherlock Holmes that remain under copyright in the United States," referred to throughout this litigation as "The Ten Stories."
- 6. The Estate waived service but declined to answer or otherwise respond to Klinger's complaint. In June 2013, this Court entered a default against the Estate and set a schedule for Klinger to move for entry of judgment. After Klinger filed a summary judgment motion, the Estate appeared for purposes of opposing it.
- 7. In support of his Motion for Summary Judgment, Klinger asserted that the specific characters, character traits, dialogue, settings, artifacts, story lines and other story elements (referred to collectively as "Story Elements") were first introduced within specific novels and stories identified within that exhibit. The Estate admitted this. Klinger asserted that only The Ten Stories were still subject to copyright protection. The Estate agreed. Finally, Klinger asserted that the remaining 46 stories and 4 novels constituting the remainder of the Canon had entered the public domain. The Estate also accepted this assertion. Klinger's Motion for Summary Judgment sought to make it clear that anyone can use the Story Elements "without infringing any rights under copyright that may be owned by Defendant."
  - 8. In December 2013, the District Court entered judgment granting Klinger's motion in

relation to the Story Elements. In fact, on that point, the court held that the law was "clear," and that evidence presented on the issue was "so one-sided that Klinger must prevail as a matter of law."

### III. The Estate's Appeal

- 9. On January 21, 2014, the Estate filed a Notice of Appeal with the United States Court of Appeals for the Seventh Circuit. The Estate's appeal was subsequently briefed and argued by the parties before the Seventh Circuit, and on June 16, 2014, and this Court entered an order affirming this the District Court's summary judgment opinion, with costs. (Dkt. 30).
- 10. In the accompanying opinion, this Court recognized that the Estate's argument that copyright protection should be extended to those stories that had entered the public domain lacked "any ground known to American law." With respect to the Estate's appeal itself, this Court went on to assert that "[w]ith the net effect on creativity of extending the copyright protection of literary characters to the extraordinary lengths urged by the estate so uncertain, and no legal grounds suggested for extending copyright protection beyond the limits fixed by Congress, the Estate's appeal borders on the quixotic." (Opinion, Dkt. 29, p. 9, 14-15).

### IV. Fees at Issue

11. Klinger was forced to incur additional legal fees and costs in responding to the Estate's appeal. Klinger seeks an award of \$30,679.93 from the Estate, which is the amount equal to the fees incurred responding to the appeal as itemized in Exhibit A<sup>1</sup>.

### **ARGUMENT**

12. The Copyright Act authorizes the award of reasonable attorney's fees to the prevailing party in a suit brought under 17 U.S.C. §505. Assessment Technologies of WI, LLC v. Wiredata, Inc., 31 F.3d 434, 436 (7th Cir. 2004). While an award of fees is not required under the Act, the Seventh Circuit has held that the prevailing party should have a presumptive entitlement to an award of attorneys' fees in copyright cases where the stakes are small. *Id.* at 437.

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<sup>&</sup>lt;sup>1</sup> Billing entries unrelated to work performed in relation to the Estate's appeal have been redacted.

13. Furthermore, fees are a necessary and important to protecting the rights under copyright law. In *Assessment Technologies*, the Seventh Circuit described the underlying case as being "about the attempt of a copyright owner to use copyright law to block access to data that not only are neither copyrightable nor copyrighted, but were not created or obtained by the copyright owner." *Id.* at 435. In that regard, the court recognized that the public interest in access to information in the public domain "is as great as the public interest in the enforcement of copyright," and that "once work enters the public domain it cannot be appropriated as private (intellectual) property." *Id.* at 436.

- 14. Consequently, the court recognized that without the prospect of attorneys' fees, a party could be "deterred altogether from exercising his rights." *Id.* at 437. Without the availability of such fees, the court continued, a party possessing a meritorious defense might be unwilling "to press it to a successful conclusion rather than surrender it because of the cost of vindication exceeds the private benefit to the party." *Id.* The court went on to assert that "for a copyright owner to use an infringement suit to obtain property protection...that copyright law clearly does not confer, hoping to force a settlement or even achieve an outright victory over an opponent that may lack the resources or the legal sophistication to resist effectively,' could be a form of copyright misuse." *Id.* While the court did not determine whether copyright misuse occurred, it found that the conduct was close and merited an award of attorney's fees. *Id.*
- 15. Additionally, Klinger is presumptively entitled to recover the attorneys' fees incurred in relation to the Estate's appeal. *Garbie v. DaimlerChrysler Corp.*, 211 F.3d 407, 411 (7th Cir. 2000). As the court recognized in *Garbie*, "[t]he rationale of fee-shifting rules is that the victor should be made whole should be as well off as if the opponent had respected his legal rights in the first place. This cannot be accomplished if the victor must pay for the appeal out of his own pocket." *Id.*
- 16. The concerns noted by the Seventh Circuit in Assessment Technologies are precisely what was at issue in this litigation. Here, Klinger sought to publish a collection of new and original short stories featuring the Story Elements. An agent acting on behalf of the Estate contacted

Klinger's publisher and insisted that a license be obtained. When Klinger asserted that no such license was required for stories using characters and elements in the public domain, the Estate informed the publisher that it works with major retailers to "weed out" unlicensed uses of Sherlock Holmes and would "not hesitate to do so" in relation to Klinger's new book.

- 17. Throughout the appeal, the Estate continued to argue that using the characters of Holmes and Watson in any capacity required a license, regardless of whether the use was limited to elements that are in the public domain. Moreover, it used its influence in the industry and the threat of litigation to browbeat Klinger's publisher into refusing to publish the Collection. As a result, other than surrendering his rights in the public domain and paying an unwarranted licensing fee, Klinger was left with no option but this action.
- 18. Just as in Assessment Technologies, the Estate sought to enforce a claim that had no legitimate legal basis. Attempting, as the Estate did, to use the threat of an infringement suit "to obtain property protection...that copyright law clearly does not confer" was improper. Assessment Technologies, 31 F.3d at 437. Consequently, as in Assessment Technologies, an award of attorneys' fees is particularly appropriate in this instance.
- 19. In addition, this Court may enter an award of fees pursuant to Rule 38 of the Federal Rules of Appellate Procedure. Rule 38 serves to compensate parties that were victorious in the district court for defending meritless arguments on appeal, as well as to deter meritless arguments that sap this Court's limited resources. *See Ross-Berger Cos. v. Equitable Life Assur. Soc. of the United States*, 872 F.2d 1331, 1341 (7th Cir. 1989). An award of Klinger's fees in defending the Estate's appeal would serve both of these purposes.
- 20. Throughout these proceedings, in both the District Court and on appeal, the Estate's opposition to the relief Klinger sought was legally tenuous. Ultimately, the Estate persisted in maintaining a position that this Court acknowledged lacked "any ground known to American law," and which bordered on "the quixotic." (Dkt. 29, p. 9, 14-15). Therefore, an award of attorneys' fees is also proper under Rule 38 of the Federal Rules of Appellate Procedure.
  - 21. Finally, the reimbursement sought by Klinger is reasonable in light of the work

performed on appeal because it reflects the number of hours reasonably expended by his counsel

multiplied by the appropriate hourly rate for each biller, i.e., the lodestar methodology. This

methodology is regularly used to determine the reasonableness of attorneys' fees. See Harman v.

Lypmhomed, Inc., 945 F.2d 969, 973 (7th Cir. 1991). The rates used in this calculation are the rates

normally charged by these attorneys for comparable work, or in some instances reflect a discount

against such normal rates, and are presumptively appropriate to use as a market rate as they

constitute the rates that were actually billed in this matter. See Connolly v. Nat'l Sch. Bus Serv., 177 F.3d

593, 596 (7th Cir. 1999). Therefore, the award sought is reasonable as it is equal to the sums billed

to Klinger to defend this appeal.

**CONCLUSION** 

22. Klinger's position in this litigation has been held to be consistent with well-

established copyright law. Conversely, the Estate's position, from the time it sought to extract a

licensing fee from Klinger through the conclusion of this Court's ruling on appeal has been found to

lack any basis within the law. As a result, Klinger deserves to be placed in the position he would

have been had the Estate respected his rights in the first place, which includes an award of the

reasonable attorneys' fees he incurred in responding to the Estate's appeal.

WHEREFORE, Plaintiff Leslie S. Klinger, respectfully requests that this Honorable Court

grant his Fee Petition and, pursuant to 17 U.S.C. § 505 and Rule 38 of the Federal Rules of

Appellate Procedure, enter an order awarding him \$30,679.93 in attorneys' fees.

Date: July 1, 2014.

By: <u>/s/ Scott M. Gilbert</u>

One of the Attorneys for Plaintiff John A. Leja (ARDC # 6282951)

POLSINELLI, PC

161 North Clark Street, Suite 4200

Chicago, Illinois 60601

(312) 819-1900

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### **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the appellate CM/ECF system on June 30, 2014.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

By: /s/ Scott M. Gilbert
One of the Attorneys for Plaintiff
John A. Leja (ARDC # 6282951)
POLSINELLI, PC
161 North Clark Street, Suite 4200
Chicago, Illinois 60601
(312) 819-1900

**EXHIBIT A** 

**Invoices** 

### LAW OFFICES OF JONATHAN KIRSCH

A Professional Corporation 1880 Century Park East, Suite 515 Los Angeles, CA 90067 (310) 785-1200

February 03, 2014

Leslie S. Klinger Laurie R. King C/o Kopple & Klinger 10866 Wilshire Blvd., Suite 1500 Los Angeles CA 90024

In Reference To: LESLIE KLINGER AND LAURIE KING

### **Professional Services**

				<u>Hours</u>	Amount
1/21/2014	JK	Review email from Les Klinger re filing of appeal; Telephone Les		0.50	197.50
1/22/2014	JK	Klinger; Telephone Scott Gilbert; Prepare notes to file Prepare email to Scott Gilbert; Review and reply to email from		0.25	98.75
1/24/2014	JK	Scott Gilbert Prepare email to Scott Gilbert re appellate and procedural issues; Review email from Scott Gilbert; Prepare draft of web item and		1.00	395.00
1/27/2014	JK	prepare for transmittal; Review emails from Les Klinger Review and reply to emails re web news item			NO CHARGE
	SUBT	OTAL:	[	1.75	691.25]
	For p	rofessional services rendered		1.75	\$691.25
	Balan	ce due			\$691.25
Nome		Attorney Summary	urs	Rate	Amount
<u>Name</u> JK			.75	395.00	\$691.25

# LAW OFFICES OF JONATHAN KIRSCH

A Professional Corporation 1880 Century Park East, Suite 515 Los Angeles, CA 90067 (310) 785-1200

February 28, 2014

Leslie S. Klinger Laurie R. King C/o Kopple & Klinger 10866 Wilshire Blvd., Suite 1500 Los Angeles CA 90024

In Reference To: LESLIE KLINGER AND LAURIE KING

### **Professional Services**

		Hours	Amount
2/3/2014			NO CHARGE
2/4/2014	Klinger re appellate issues  JK Prepare application for admission to 7th Circuit and prepare for transmittal to Scott Gilbert		NO CHARGE
	JK Review email and attachment re Pegasus contract; Review file re notes, correspondence and documents; Review new draft of	0.50	197.50
2/17/2014	Pegasus contract; Prepare email to Les Klinger  HH Research requirements for admittance to 7th Cir. Court of Appeals  Telephone Scott Gilbert and prepare notes to file; Review and	0.50	75.00 NO CHARGE
	reply to various emails from Scott Gilbert and Les Klinger  Telephone Scott Gilbert and Les Klinger re settlement; Prepare		NO CHARGE
2/19/2014	notes to file  Review file re notes, correspondence and documents; Participate in telephonic mediation by conference call; Prepare notes to file; Review and reply to various emails from Les Klinger and Scott Gilbert; Commence research re briefing issues		NO CHARGE
2/20/2014		1.00	150.00
2/21/2014	i i i i i i i i i i i i i i i i i i i	1.00	
2/24/2014			NO CHARGE
2/25/2014			NO CHARGE
	SUBTOTAL:	[ 3.00	817.50]
	For professional services rendered	3.00	\$817.50

eslie S. Klinge	ur .			Page	2
	Additional Charges :				
	•			Amount	
2/4/2014	Federal Express			31.43	
	SUBTOTAL:		[	31.43]	
	Total costs			\$31.43	
	Total amount of this bill			\$848.93	
	Previous balance			\$691.25	
2/26/2014	Payment - thank you. Check No. 11170			(\$691.25)	
	Total payments and adjustments			(\$691.25)	
	Balance due			\$848.93	
Name	Attorney Summary	Hours _	Rate _	Amount	
HH JK		1.50 1.50	150.00 395.00	\$225.00 \$592.50	

# LAW OFFICES OF JONATHAN KIRSCH

A Professional Corporation 1880 Century Park East, Suite 515 Los Angeles, CA 90067 (310) 785-1200

April 02, 2014

Leslie S. Klinger Laurie R. King C/o Kopple & Klinger 10866 Wilshire Blvd., Suite 1500 Los Angeles CA 90024

In Reference To: LESLIE KLINGER AND LAURIE KING

### **Professional Services**

		Hours	Amount
2/27/2014 JK	Review Case History; including Memorandum and Order granting Klinger's Motion for Summary Judgment; Make notes for additional	1.00	395.00
2/28/2014 HH 3/1/2014 HH	research Research cases that cite Silverman v. CBS favorably Research, draft and update sections on the standard of review for a grant of summary judgment and for a case of first impression	3.00 1.50	450.00 225.00
3/7/2014 JK 3/11/2014 JK	Review and reply to email from Scott Gilbert re pleadings Review and reply to various emails and attachments from Scott Gilbert re fee petition; Revise and redline fee petition and prepare for transmittal; Telephone George Jackson and prepare notes to file re appellate issues; Prepare email to Les Klinger; Review and		NO CHARGE NO CHARGE
3/13/2014 JK	reply to various emails from Les Klinger Review and reply to various emails from Scott Gilbert and Les		NO CHARGE
3/19/2014 JK	Klinger Review Appellant's Opening Brief and prepare notes to file; Prepare email to Lou Petrich (N/C); Review and reply to emails	2.00	790.00
3/20/2014 JK	from Les Klinger and Scott Gilbert (N/C) Review various cases cited in Appellant's Opening Brief and	1.00	395.00
НН	prepare notes to file Review cases cited by Appellate Brief; Research and Download 50+ Cases, Statutes, and Treatises	2.00	300.00
3/22/2014 HH	Review case and note comments; Research cases to determine accuracy of statements; Draft memo to Mr. Kirsch with legal	4.00	600.00
3/23/2014 HH	findings Review case and note comments; Research cases to determine accuracy of statements; Draft memo to Mr. Kirsch with legal	4.00	600.00
нн	findings Research <i>Flat v. Round Characters</i> ; Draft memo with findings to	2.00	300.00
нн .	Mr. Kirsch Review Nimmer's statement on characters that are split between copyright and public domain; Download cases and note findings	0.50	75.00

Leslie S. Klinger		Page
· -	Hours	Amount
3/25/2014 HH Research additional case law, and secondary material as requested by Mr. Kirsch; Outline section re Appellant misquoting and misinterpreting the controlling law; draft sections relating to (1) Protection of Literary Characters vs. Protection of Characters with Distinct Physical Qualities; (2) Metro-Goldwyn-Mayer, Inc. v. American Honda Motor Co. is inapplicable to the case; (3) Appellant's misinterpretation of Stewart v. Abend; and (4)	6.50	975.00
distinguishing facts of <i>Filmvideo</i> 3/26/2014 HH Continue to research and draft section on misquoting and	0.50	75.00
misinterpreting law  HH Research and send <i>Pannonia Farms</i> cases; Review Dr. Seuss	0.25	37.50
quote and format proper citation  HH Research case law regarding Stare Decisis; Draft memo to Mr.  Kirsch	1.25	187.50
HH Review first draft of Appellee's response to Appellant's Opening Brief; Draft memo of findings for Mr. Kirsch	1.25	187.50
3/27/2014 JK  Review file re notes, correspondence and documents re Appellant's Opening Brief; Conduct legal research; Review results of legal research conducted by Hayley Hughes; Review various pleadings in case file; Review various emails from Les Klinger, Scott Gilbert, et al.; Prepare, review, revise and redline various drafts of Appellee's Reply Brief and circulate various drafts for comment; Review emails and attachments re comments on Reply Brief; Revise and finalize Reply Brief and prepare for transmittal to Les Klinger, Scott Gilbert, et al. (Accumulated time through 3-27-14)	9.75	3,851.25
HH Draft section relating to FilmVideo  3/28/2014 JK Review emails and mark-up of Reply Brief from Betsy Rosenberg; Review, revise, redline and finalize Reply Brief and prepare for transmittal (Various drafts); Review various cases re additional revisions to brief; Review and reply to emails from Scott Gilbert, Les Klinger, et al.	1.00 2.00	150.00 790.00
HH Research Appellate history of <i>Silverman</i> HH Research Goldstein and Patry on Copyright; Additional notes on Filmvideo; Locate Record; Research and insert missing citations	0.25 2.75	37.50 412.50
HH Review brief, including grammar and citations 3/29/2014 JK Review file re notes, correspondence and documents; Review various comments and changes from legal team; Review, revise, redline and finalize Reply Brief and prepare for transmittal	3.50 4.00	525.00 1,580.00
3/30/2014 JK Review additional comments and changes from legal team; Reply and review to email; Revise, redline and finalize Reply Brief and	1.00	395.00
prepare for transmittal 3/31/2014 JK Review email from Les Klinger re typo's; Revise, redline and finalize Reply Brief and prepare for transmittal		NO CHARGE
For professional services rendered	55.00	\$13,333.75
Previous balance		\$848.93
Balance due		\$14,182.68

### LAW OFFICES OF JONATHAN KIRSCH

A Professional Corporation 1880 Century Park East, Suite 515 Los Angeles, CA 90067 (310) 785-1200

May 01, 2014

Leslie S. Klinger Laurie R. King C/o Kopple & Klinger 10866 Wilshire Blvd., Suite 1500 Los Angeles CA 90024

In Reference To: LESLIE KLINGER AND LAURIE KING

### **Professional Services**

		Hours	Amount
4/1/2014	JK Review and revise draft of Reply Brief and prepare for transmittal to Scott Gilbert; Telephone Scott Gilbert re filing issues; Prepare email to Scott Gilbert		NO CHARGE
4/2/2014	HH Final Review of Response Document		NO CHARGE NO CHARGE
4/18/2014 4/24/2014	JK Review and reply to email from Mr. Klinger Reply Brief		NO CHARGE NO CHARGE
4/25/2014 4/28/2014	JK Review and reply to emails from Les Klinger re Posner issue		NO CHARGE NO CHARGE
	For professional services rendered	0.00	\$0.00
	Previous balance		\$14,182.68
	Balance due		\$14,182.68

### LAW OFFICES OF JONATHAN KIRSCH

A Professional Corporation 1880 Century Park East, Suite 515 Los Angeles, CA 90067 (310) 785-1200

June 02, 2014

Leslie S. Klinger Laurie R. King C/o Kopple & Klinger 10866 Wilshire Blvd., Suite 1500 Los Angeles CA 90024

In Reference To: LESLIE KLINGER AND LAURIE KING

### **Professional Services**

		_	Hours	Amount
5/12/2014 JK	Review email and attachment from Court of Appeal; Prepare email to Scott Gilbert and Les Klinger; Review emails from Scott Gilbert and Les Klinger			NO CHARGE
5/14/2014 JK 5/15/2014 JK	Review and reply to email and attachment from Scott Gilbert Review and reply to various emails from Scott Gilbert; Review and reply to email from 7th Circuit re confirmation of appearance			NO CHARGE NO CHARGE
5/19/2014 JK	Review and forward email from 7th Circuit; Review and reply to emails from Scott Gilbert; Prepare email to Les Klinger and Scott Gilbert			NO CHARGE
5/20/2014 JK	Prepare various emails to Scott Gilbert; Review and reply to emails from Scott Gilbert; Review file re notes, correspondence and documents; Prepare notes for oral argument; Review various cases and statutes re preparation for oral argument			NO CHARGE
5/21/2014 JK 5/22/2014 JK	Travel to Chicago; Review file in preparation for hearing Confer with local counsel and review documents; Attend hearing; Telephone Les Klinger; Prepare various emails to Les Klinger			NO CHARGE NO CHARGE
5/26/2014 JK	Travel from Chicago to L.A.			NO CHARGE
SUB	TOTAL:	[		0.00]
For	professional services rendered		0.00	\$0.00
Prev	ious balance			\$14,182.68
Bala	nce due			\$14,182.68



161 N. Clark Street, Suite 4200 Chicago, IL 60601 | Phone: (312) 819-1900 www.polsinelli.com

This invoice reflects services performed and expenses incurred on your behalf. Your prompt attention is appreciated. Please contact us immediately to discuss any questions you may have. Thank you for this opportunity to serve you.

Klinger, Leslie S. Leslie S. Klinger Kopple & Klinger 10866 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90024 **February 21, 2014** Invoice No: 1043152 File No: 076548-465774

Re: Klinger v. Conan Doyle Estate

### **Invoice Summary**

Current Professional Services \$5,754.50

Current Disbursements 191.00

Total Current Invoice - Due by March 24, 2014 \$5,945.50

### Total Amount Due by March 24, 2014

*\$5,945.50* 

Questions regarding payments or accounts, please call **1-877-577-7455** or **AccountingBilling@polsinelli.com.** 

For other inquiries, please contact **Scott M. Gilbert at (312) 819-1900** or **sgilbert@polsinelli.com.** 

Please make checks payable to

Polsinelli PC

P.O. Box 878681

Kansas City, MO 64187-8681

Wire Instructions:

US Bank

Acct: **Polsinelli PC** Acct #: 4343953230 ABA #: 101000187

SWIFT Code - USBKUS44IMT Please reference Invoice No.



Re: Klinger v. Conan Doyle Estate

Case: 14-1128 Document: 31

Pages: 30 Filed: 07/01/2014

# **Invoice Detail**

For Professional Services Through 1/31/14 File No. 076548-465774

Page 2 February 21, 2014

Invoice No: 1043152

# **Professional Services Tmkpr Description Date** Hours **Amount**



14-1128 Document: 31

Filed: 07/01/2014

Pages: 30

### **Invoice Detail**

For Professional Services Through 1/31/14 File No. 076548-465774

Re: Klinger v. Conan Doyle Estate

Page 3 February 21, 2014 Invoice No: 1043152

1/21/14	Phone call with Scott Gilbert to discuss initial appellate procedural issues in Conan Doyle's appeal to Seventh Circuit (.3)	СОНЕВ	0.30	112.50
1/21/14	Receive and review appellate filing; conference with S. Gilbert.	JALEJ	0.10	46.00
1/21/14	Communicate with client regarding the appeal.	SMGIL	0.90	337.50
1/24/14	Communicate with client regarding appellate deadlines and analyze rules related to the same.	SMGIL	2.10	787.50
1/27/14	Communicate with client regarding appellate process.	SMGIL	0.40	150.00
1/29/14	Outline timeline of events in relation to appeal.	SMGIL	0.60	225.00
	<b>Total Professional Services</b>			\$5,754.50

#### **Timekeeper Summary** Timekeeper **Title** Hours Rate **Amount** J.A. Leja Shareholder 0.20 460.00 \$92.00 J.A. Leja Shareholder 0.10 460.00 No Charge S. M. Gilbert 375.00 4,125.00 Shareholder 11.00 S. M. Gilbert Shareholder No Charge 1.10 375.00 B.L. Cohen Of Counsel 0.30 375.00 112.50 Associate M.T. Deming 5.00 275.00 1,375.00 C. S. Walter Associate 0.20 250.00 50.00 **Total Professional Charges** 17.90 \$5,754.50

	Disbursements	
Date	Description	Amount
01/31/14	Court Costs United States Court Clerk Fee for application to be admitted to 7th	\$191.00
	Circuit Courts for SMG for Johnathan Kirsch	
	Total Disbursements	\$191.00



### Document: 31

Filed: 07/01/2014 Pages: 30

# **Invoice Detail**

For Professional Services Through 1/31/14 File No. 076548-465774

Re: Klinger v. Conan Doyle Estate

Page 4 February 21, 2014 Invoice No: 1043152

Total Disbursements 191.00

Total Current Charges Due \$5,945.50



161 N. Clark Street, Suite 4200 Chicago, IL 60601 | Phone: (312) 819-1900 www.polsinelli.com

This invoice reflects services performed and expenses incurred on your behalf. Your prompt attention is appreciated. Please contact us immediately to discuss any questions you may have. Thank you for this opportunity to serve you.

Klinger, Leslie S. Leslie S. Klinger Kopple & Klinger 10866 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90024 February 21, 2014 Invoice No.: 1043152 File No.: 076548-465774

### **Re:** Klinger v. Conan Doyle Estate

1900 or sgilbert@polsinelli.com.

### **Invoice Summary**

Current Professional Services \$5,754.50

Current Disbursements 191.00

Total Current Invoice - Due by March 24, 2014 \$5,945.50

Total Amount Due by March 24, 2014

\_\_\_\_

\$5,945.50

Questions regarding payments or accounts, please call **1-877-577-7455** or <u>AccountingBilling@polsinelli.com</u>. For other inquiries, please contact **Scott M. Gilbert at (312) 819-**

Please make checks payable to Polsinelli PC P.O. Box 878681 Kansas City, MO 64187-8681 Wire Instructions: US Bank

Acct: **Polsinelli PC** Acct #: 4343953230 ABA #: 101000187

SWIFT Code - USBKUS44IMT Please reference Invoice No.



161 N. Clark Street, Suite 4200 Chicago, IL 60601 | Phone: (312) 819-1900 www.polsinelli.com

This invoice reflects services performed and expenses incurred on your behalf. Your prompt attention is appreciated. Please contact us immediately to discuss any questions you may have. Thank you for this opportunity to serve you.

Klinger, Leslie S. Leslie S. Klinger Kopple & Klinger 10866 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90024 March 14, 2014 Invoice No: 1047882 File No: 076548-465774

Re: Klinger v. Conan Doyle Estate

### **Invoice Summary**

Current Professional Services\$8,036.00Less Discount Applied(450.00)Total Professional Services\$7,586.00

Current Disbursements 0.00

### Total Current Invoice - Due by April 14, 2014

\$7,586.00

Previous Unpaid Invoices (PLEASE DISREGARD IF ALREADY PAID) 5,945.50
Payments Received 0.00

### Total Amount (Any Unpaid Previous Balances are Due Immediately)

\$13,531.50

Questions regarding payments or accounts, please call **1-877-577-7455** or **AccountingBilling@polsinelli.com**.

For other inquiries, please contact **Scott M. Gilbert at (312) 819-1900** or **sgilbert@polsinelli.com.** 

Please make checks payable to **Polsinelli PC** 

P.O. Box 878681

Kansas City, MO 64187-8681

Wire Instructions:

US Bank

Acct: **Polsinelli PC** Acct #: 4343953230 ABA #: 101000187

SWIFT Code - USBKUS44IMT Please reference Invoice No.



-1128 Document: 31

Filed: 07/01/2014 Pages: 30

# **Invoice Detail**

For Professional Services Through 2/28/14 File No. 076548-465774

Re: Klinger v. Conan Doyle Estate

Page 2 March 14, 2014 Invoice No: 1047882

	Professional Services				
Date	Description	Tmkpr	Hours	Amount	
2/3/14	Review filings in 7th circuit.	JALEJ	0.10	\$46.00	
2/3/14	Analyze order setting briefing schedule, analyze letter scheduling settlement conference, communication with client regarding status of litigation, teleconference with counsel for CDE regarding status of fee petition and briefing schedule on appeal.	SMGIL	1.10	412.50	
2/5/14	Review 7th circuit activity; conference with S. Gilbert regarding same.	JALEJ	0.20	92.00	
2/17/14	Prepare for settlement conference.	SMGIL	0.70	262.50	
2/18/14	Communicate with client and Circuit Clerk regarding settlement conference; Prepare outline for the same.	SMGIL	0.60	225.00	
2/19/14	Settlement conference.	SMGIL	3.70	1,387.50	
2/20/14	Begin preparing motion to expedited briefing schedule.	SMGIL	0.70	NO CHARGE	
2/20/14	Assess merits of motion to expedite appellate briefing and consideration. Identify Seventh Circuit summer recess schedule in light of anticipated briefing schedule. Begin draft of motion to expedite.	MTDEM	1.70	467.50	
2/22/14	Continue draft of motion to expedite appeal.	MTDEM	0.50	137.50	
2/24/14	Finish draft of motion to expedite. Draft disclosure statement for S. Gilbert.	MTDEM	1.30	357.50	



### 4-1128 Document: 31 Filed: 07/01/2014

# 1/2014 Pages: 30 Invoice Detail

For Professional Services Through 2/28/14

File No. 076548-465774

Re: Klinger v. Conan Doyle Estate

Page 3

March 14, 2014

Rivoice No: 1047882

2/25/14	Review motion to expedite; conference with S. Gilbert regarding same.	JALEJ	0.50	230.00
2/25/14	Review and revise motion to expedite briefing schedule.	SMGIL	2.10	787.50
2/25/14	Draft disclosure statement for J. Kirsch and J. Leja. Finalize motion to expedite appeal. File motion to expedite and disclosure statements for J. Leja and S. Gilbert. Analyze the Estate's motion to extend briefing schedule.	MTDEM	1.70	467.50
2/26/14	Review 7th circuit filings regarding scheduling and extensions.	JALEJ	0.30	138.00
2/26/14	Analyze Estate's motion to extend briefing schedule.	SMGIL	0.90	337.50

2/26/14 Draft reply in support of motion to expedite. Revise draft per MTDEM 2.00 550.00 comments from S. Gilbert. Finalize and file same.

**Total Professional Services** 

\$7,586.00

# Timekeeper Summary

Timekeeper	Title	Hours	Rate	Amount
J.A. Leja	Shareholder	1.10	460.00	\$506.00
S. M. Gilbert	Shareholder	13.60	375.00	5,100.00
S. M. Gilbert	Shareholder	1.20	375.00	No Charge
M.T. Deming	Associate	7.20	275.00	1,980.00
<b>Total Professional Charges</b>		23.10		\$7,586.00

Total Current Charges Due \$7,586.00



Case: 14-1128 Document: 31 Filed: 07/01/2014 Pages: 30

# **Invoice Detail**

Page 4 March 14, 2014 Invoice No: 1047882

For Professional Services Through 2/28/14 File No. 076548-465774

Re: Klinger v. Conan Doyle Estate



Filed: 07/01/2014

**Invoice Detail** 

Pages: 30

For Professional Services Through 2/28/14 File No. 076548-465774

Re: Klinger v. Conan Doyle Estate

Page 5 March 14, 2014 Invoice No: 1047882

# **Statement of Outstanding Invoices**

Date	Inv#	Amount	Credit	Payments	Balance*
02/21/14	1043152	\$5,945.50	\$0.00	\$0.00	\$5,945.50
Total of	Prior Balance Due				\$5,945.50

<sup>\*</sup>If a payment has already been made, thank you.



161 N. Clark Street, Suite 4200 Chicago, IL 60601 | Phone: (312) 819-1900 www.polsinelli.com

This invoice reflects services performed and expenses incurred on your behalf. Your prompt attention is appreciated. Please contact us immediately to discuss any questions you may have. Thank you for this opportunity to serve you.

Klinger, Leslie S. Leslie S. Klinger Kopple & Klinger 10866 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90024 March 14, 2014 Invoice No.: 1047882 File No.: 076548-465774

### **Re:** Klinger v. Conan Doyle Estate

### **Invoice Summary**

Current Professional Services Less Discount Applied	\$8,036.00 (450.00)
Total Professional Services	\$7,586.00
Current Disbursements	0.00
Total Current Invoice - Due by April 14, 2014	\$7,586.00
Previous Unpaid Invoices (PLEASE DISREGARD IF ALREADY PAID) Payments Received	5,945.50 0.00

Questions regarding payments or accounts, please call 1-877-577-7455 or <u>AccountingBilling@polsinelli.com</u>. For other inquiries, please contact <u>Scott M. Gilbert at (312) 819-1900</u> or <u>sgilbert@polsinelli.com</u>.

Total Amount (Any Unpaid Previous Balances are Due Immediately)

Please make checks payable to **Polsinelli PC**P.O. Box 878681
Kansas City, MO 64187-8681

\$13,531.50

Wire Instructions: US Bank

Acct: **Polsinelli PC**Acct #: 4343953230
ABA #: 101000187

SWIFT Code - USBKUS44IMT Please reference Invoice No.

Filed: 07/01/2014





161 N. Clark Street, Suite 4200 Chicago, IL 60601 | Phone: (312) 819-1900 www.polsinelli.com

This invoice reflects services performed and expenses incurred on your behalf. Your prompt attention is appreciated. Please contact us immediately to discuss any questions you may have. Thank you for this opportunity to serve you.

Klinger, Leslie S. Leslie S. Klinger Kopple & Klinger 10866 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90024 June 24, 2014 Invoice No: \*\*\*\*\*

File No: 076548-465774

Re: Klinger v. Conan Doyle Estate

Invoice Summar	y
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Current Professional Services

\$12,336.50

Current Disbursements

0.00

Total Current Invoice - Due by July 25, 2014

\$12,336.50

Previous Unpaid Invoices (PLEASE DISREGARD IF ALREADY PAID)

13,531.50

Payments Received

0.00

Total Amount (Any Unpaid Previous Balances are Due Immediately)

\$25.868.00

Questions regarding payments or accounts, please call **1-877-577-7455** or **Accounting Billing@polsinelli.com**.

For other inquiries, please contact Scott M. Gilbert at (312) 819-1900 or sgilbert@polsinelli.com.

Please make checks payable to **Polsinelli PC** 

P.O. Box 878681

Kansas City, MO 64187-8681

Wire Instructions:

US Bank

Acct: **Polsinelli PC** Acct #: 4343953230 ABA #: 101000187

SWIFT Code - USBKUS44IMT Please reference Invoice No.



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# **Invoice Detail**

For Professional Services Through 6/24/14 File No. 076548-465774

Re: Klinger v. Conan Doyle Estate

Page 2 June 24, 2014 Invoice No: \*\*\*\*\*

Professional Services				
Date	Description	Tmkpr	Hours	Amount
3/4/14	Review 7th circuit filing.	JALEJ	0.10	46.00
3/11/14	Respond to questions regarding 7th circuit.	JALEJ	0.10	46.00
3/19/14	Communicate with co-counsel regarding appellate briefing status, Review appellate brief and communicate with client regarding the same.	SMGIL	0.60	225.00
3/20/14	Analyze Estate's appellate brief and communicate with client regarding the same.	SMGIL	0.50	187.50
3/25/14	Evaluate CDE's assertion of the standard of review on appeal.	SMGIL	0.10	37.50
3/26/14	Revise appellate brief.	SMGIL	0.30	112.50

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Filed: 07/01/2014 Pages: 30

# **Invoice Detail**

File No. 07	sional Services Through 6/24/14 76548-465774 er v. Conan Doyle Estate			Page 3 ne 24, 2014 No: *****
3/26/14	Analyze appellant's statement regarding standard of review. Draft response to statement regarding standard of review.	MTDEM	2.70	742.50
3/27/14	Review standard on appeal and communicate with client regarding the same; Revise appellate brief.	SMGIL	3.70	1,387.50
3/27/14	Review record on appeal to determine what materials appellant is purporting to cite in principal brief.	MTDEM	0.40	110.00
3/28/14	Communicate with client regarding revisions to appellate brief.	SMGIL	0.20	75.00
3/28/14	Revise appellee's principal brief to conform to format and other requirements of Seventh Circuit.	MTDEM	1.30	357.50
3/31/14	Communicate with J. Kirsch regarding revisions to appellate brief.	SMGIL	0.60	225.00
3/31/14	Explain whether certification is necessary if principal brief is less than 30 pages.	MTDEM	0.30	82.50
4/1/14	Revise appellate brief.	SMGIL	2.10	787.50
4/2/14	Finalize brief.	SMGIL	1.10	412.50
4/3/14	Review order from 7th Circuit and prepare brief to be printed.	SMGIL	0.20	75.00
4/29/14	Telephone conference and email exchanges with S. Gilbert regarding Jurisdictional Statement; review Jurisdictional Statements of parties.	GJACK	0.50	220.00
5/14/14	Correspond with S. Gilbert and M. Deming regarding required registration in preparation for oral argument.	GJACK	0.30	132.00
5/22/14	Prepare for and attend oral argument before 7th Circuit.	SMGIL	5.60	2,100.00
6/17/14	Research procedures after favorable appellate decision	KWEIS	4.00	560.00
6/19/14	Research on attorney fees incurred in appellate court procedural issues	KWEIS	1.00	140.00
	Total Professional Services			\$12,336.50