

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

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 J.D. SALINGER, individually and as TRUSTEE  
 OF THE J.D. SALINGER LITERARY TRUST,  
  
                   Plaintiff,  
  
                   -against-  
  
 JOHN DOE, writing under the name JOHN  
 DAVID CALIFORNIA; WINDUPBIRD  
 PUBLISHING LTD; NICOTEXT A.B.; and  
 ABP, INC. d/b/a SCB DISTRIBUTORS, INC.,  
  
                   Defendants.  
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09 Civ. 05095 (DAB)

**DECLARATION OF FREDRIK COLTING**

I, Fredrik Colting, declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am a citizen and resident of Sweden.
2. I am the author of *60 Years Later: Coming Through the Rye* (“60 Years”),

which I wrote under the pseudonym “J.D. California.” I also am the co-owner of Windupbird Publishing Ltd., a UK company which is the publisher of *60 Years*. My book has been published in the United Kingdom and is scheduled to be published in the United States later this summer.

3. I began working in the publishing industry six years ago with the launch of my publishing company Nicotext AB (“Nicotext”) based in Sweden.<sup>1</sup> Nicotext publishes humour and pop-culture books, many of which I have written or helped create.

<sup>1</sup> Nicotext had absolutely nothing to do with the writing, publication or distribution of *60 Years*.

4. *60 Years* is my first novel to be published. However, fiction writing has long been a large part of my life and, like most authors, I have many finished and unfinished manuscripts that I have worked on over the years.

5. I submit this declaration in opposition to the motion by plaintiff J.D. Salinger, individually and as Trustee of the J.D. Salinger Literary Trust (“Plaintiff” or “Salinger”) for a preliminary injunction to stop the publication of my book.

**My Purpose in Writing *60 Years***

6. I am not a pirate. Plaintiff’s accusations to the contrary, I did not slavishly copy from *The Catcher in the Rye* (“*Catcher*”) nor did I write *60 Years* as a cheap rip-off of one of the most famous works of modern fiction. Instead, I wrote *60 Years* as a critical exploration of such themes as the relationship between J.D. Salinger, the famously reclusive author, and Holden Caulfield, his brash and ageless fictional creation.

7. Like many people, I have long been fascinated by Salinger and his relationship to Holden Caulfield. I am intrigued by the fact that, after creating Holden and other characters, Salinger has not published a new work in nearly half a century and is almost never seen in public. It seems to me that Salinger has become as famous for wanting not to be famous as he has for his writings. He has stayed in the public eye by claiming to have withdrawn from it. Salinger also has exercised iron-clad control over his intellectual property, refusing to allow others to adapt any of his characters or stories in other media. He has come out of his seclusion only (and, again, famously) in a series of lawsuits intended to prevent what he considers to be illegal use of his works or characters.

8. I also am intrigued by Holden Caulfield. We all know him as the hero of *Catcher* – a person to be admired because he is able to smoke out the phonies. He seems

completely independent, free from societal norm and family demands. He is even honest about his own propensity to lie. Caulfield's youth (he is sixteen) also apparently allows him to be this "authentic" person not yet tainted by life and not having "sold out" the way all the grown-ups in his life have done. My creation in *60 Years*, "Mr. C," exposes the flaws in Holden's character by showing how shallow Holden would be if he had remained the same person for all of his years. Mr. C shows us that the qualities that appealed to so many in a sixteen-year-old boy are not so admirable in a 76-year-old man and, in fact, have prevented Mr. C from leading a happy life with healthy relationships with others. We now see that the very qualities that made this iconic character dear to so many readers have worked against him and betrayed him in the end, making him lead a lonely and miserable life.

9. The more I thought about Holden, the more I began to wonder about his creator. And the more I learned about Salinger, and how he shut himself off from the rest of society, the more I wondered about how Salinger now feels about his famous character. I know that Salinger has admitted that Holden is highly autobiographical, and I began to wonder how he feels about the fact that, while he has aged, his character remains frozen. In short, *60 Years* scrutinizes and criticizes the iconic stature of both Salinger and his most famous character by transforming the precocious and authentic Holden into a 76-year-old man fraught with indecision and insecurity.

10. In my estimation, Salinger (the actual man, and plaintiff in this case) has created a character in Holden Caulfield who, as a result of the public's extraordinary reaction to him over the last 60 years, lives beyond the realm of *Catcher*. Salinger, like my character based on him, has created a character that has become so culturally resonant that he has lost control of him and cannot kill him off.

### The Plot of *60 Years* Reflects My Purpose

11. In order to serve my purpose of critically examining the flaws in Holden's outlook on the world, and in Salinger's outright rejection of the world in general, my book imagines the interaction between two narrator/protagonists: "Mr. Salinger," a bitter and angry reclusive author, and Mr. C, the fictional character created by "Mr. Salinger." Throughout the book, the first-person voice of "Mr. Salinger" is presented in italics, while the first-person voice of the character Mr. C is presented in regular type face.<sup>2</sup>

12. In my book, "Mr. Salinger" looks back at the character he created, a character that has become more famous than he could ever have imagined. The author also has become famous, so famous that he worries that everything else he may publish will fall short. This is why the author starts to hate his character. As "Mr. Salinger" himself ages and grows closer to the end of his life, the author decides, once and for all, to rid himself of his character. He decides to awaken his creation from decades of slumber in order to take control of him again. Thus, in *60 Years*, a reference to the timeframe of the book being sixty years after the publication of *Catcher*, "Mr. Salinger" re-animates his Holden Caulfield character as Mr. C in order to kill him off and gain back his own unfinished individuality and the life that his character has taken from him.<sup>3</sup>

13. It is clear from my book that character and creator live for a moment in the same world. Throughout the book, Mr. C hears tapping (of typewriter keys) either in his

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<sup>2</sup> Plaintiffs argue that "Mr. Salinger" is a minor part of the story in *60 Years*. This is simply not true. "Mr. Salinger" is the protagonist of my book and appears in Chapters 2, 4, 6, 7, 8, 9, 10, 11, 14, 16, 17, 18, 20, 21, 22, and 23.

<sup>3</sup> This has some basis in reality. Salinger is reported to have had difficulty drawing distinction between himself and Holden Caulfield, speaking of Holden as an actual person. For example, he has admitted that *Catcher* was autobiographical and that his boyhood "was very much the same as the boy in the book."

dreams or in the background of his thoughts. At pages 225 and 233, “Mr. Salinger” is portrayed as working at a typewriter or with his hands caressing the typewriter keys. Mr. C does not know that he is a fictional character being created in real-time, tap by tap, only as quickly as “Mr. Salinger” can type.

14. Nor does Mr. C know that “Mr. Salinger” is trying to control what happens to him. Sometimes the story abruptly stops and starts again, rewritten with a different outcome – all because “Mr. Salinger” has decided to take a different tack. For example, in Chapter 8 of *60 Years*, there are three different versions of the same story, Mr. C’s near collision with a large speeding truck as he prepares to cross the street. Each version of Mr. C’s close call starts with the words, “I’m sitting in a café not far from the bus station” and ends with Mr. C barely avoiding a deadly accident. Chapter 9 starts with the same words, “I’m sitting in a café not far from the bus station,” but there is no close call with a truck and Mr. C proceeds to walk in New York.

15. At times, “Mr. Salinger” seems to be in complete control of the destiny of the character and, at other times, the character seems to have taken on a life of his own. We know this because “Mr. Salinger” complains about it in the book. For example, at page 140, “Mr. Salinger” says “*Who is she, the one who seems to know [Mr. C] so well? Where did she come from?*” “Mr. Salinger” is complaining about Charlie an important character in *60 Years* who does not appear in *Catcher* and was not created by “Mr. Salinger.”

16. In order to regain control over his own life, which is drawing to a close, “Mr. Salinger” tries repeatedly to kill off Mr. C by various means: a runaway truck; falling construction debris; a lunatic woman with a knife; suicide by drowning and suicide by pills. In one critical scene in *60 Years*, at pages 228-29, Mr. C journeys to

“Mr. Salinger’s” house in New Hampshire where “Mr. Salinger” tries again to kill him -- this time with a heavy cast-iron dog statue.

17. My book thus examines the thesis that Holden Caulfield has become just as real as Salinger, and Salinger just as fictional as Holden. Because he has ventured out into public so little, Salinger is simply a fictive character living in our minds. *60 Years* is a dance between these two dimensions, the HERE that we perceive as reality (in which “Mr. Salinger” lives), and the THERE that we perceive as a made up world contained inside the covers of a book (where Holden Caulfield resides). With *60 Years*, I have taken on the task to seek out the real meaning of these “realities.”

18. I also use my character Mr. C and the way he is depicted in *60 Years* as a basis for critically examining the character Holden, and his presentation in *Catcher* as an authentic and admirable (maybe even heroic) figure. When we realize that the miserable unconnected 76-year-old Mr. C (with no control over his own life) has some of the same attributes and, at times, responds to people and circumstances in a similar way as Holden did in *Catcher*, we question whether Holden Caulfield was the hero we thought he was.

19. For example, in *Catcher*, Holden’s closest relationship appears to be with his ten-year-old sister, Phoebe, whom he endows with wisdom beyond her years. Indeed, Phoebe seems to be the only person with whom Holden feels any connection. She is his touchstone, the only person who listens to him, the only authentic person in a world of phonies.<sup>4</sup> In fact, the reader comes to admire and love Holden because of the relationship he has with Phoebe, because of what he sees in her.

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<sup>4</sup> At page 165 of *Catcher*, Holden says “if you don’t think she’s smart, you’re mad.” At page 167-68, he says “she sounds like a goddam schoolteacher sometimes” and “she always listens when you tell her something. And the funny part is she knows, half the time what you are talking about, what the hell you are talking about. She really does.”

20. In *60 Years*, the relationship with Phoebe is examined much more critically. At 76, having failed to forge new relationships, to make meaningful connections with others, Mr. C finds himself alone, and again turns to Phoebe as his touchstone. He travels to Philadelphia to find her and to “connect” with her again. But Phoebe is suffering from dementia. At page 251 of *60 Years*, it becomes clear that Phoebe lives completely in the past, still thinking that she is a schoolgirl and that Mom and Dad still “worry” about Mr. C “being kicked out of school and all.”

21. Yet Mr. C still tries desperately to connect with her, because he realizes that she is all that he has. Absurdly, he responds to her in the same way that he did when she was ten -- he plays along with her delusion and pretends that they are still kids, even taking her back to the carousel (the scene of their reconciliation in *Catcher*) for a ride. By reducing Holden’s elevated relationship with Phoebe to the ridiculous and desperate attempt of an old man to connect with someone who essentially is not there, I hoped to illustrate the fallacy of Holden’s exaltation of Phoebe in *Catcher*. After all, she was just a ten-year-old kid, not a sage prophet, and perhaps Holden should not be admired for being so perceptive if he could not see that truth in front of him.

22. But ultimately, I show sympathy for Mr. C’s (and Holden’s) shortcomings. At the end of Chapter 20, the angry “Mr. Salinger,” who has spent much of my book trying to kill Mr. C off, sees Mr. C taking Phoebe for the carousel ride and relents. In his last entry in the book, “Mr. Salinger” realizes that he doesn’t know how “to fix what needs to be fixed,” leaving Mr. C and Phoebe to themselves.

23. I also use Mr. C and *60 Years* to challenge the notion that Holden had the “control” over his actions and life decisions that readers (particularly young readers) seem to admire. Holden was portrayed in *Catcher* as a young man who did not follow

convention, did not try to succeed at school, would not “sell out,” but, instead, was trying to find his own true path to follow. By contrast, in *60 Years*, it becomes clear that Mr. C is not free, and has not determined his life for himself, instead he is a character whose every move is controlled by “Mr. Salinger.” I hope that my portrayal of Mr. C makes my reader question whether Holden really was free from convention, or if he was being controlled all along.<sup>5</sup>

### **60 Years is Not a Sequel**

24. While my earlier book cover and some promotional material characterized *60 Years* as a sequel, I now realize that this description is inaccurate and I have changed it for purposes of any new publication or edition of the book, including any publication in the United States. *60 Years* is not in any way a continuation of *Catcher*. It does not pick up where *Catcher* left off; it does not represent a new adventure in the life of Holden Caulfield; and it does not even take place in the same narrative world as *Catcher*.

25. My book is not designed to satisfy any interest the public might have in learning what happened next to Holden Caulfield or the other characters in Salinger’s book. Rather, it is intended to stand on its own as a critical examination of the character Holden Caulfield, the relationship between author and his creation, and the life of a particular author as he grows old but seems imprisoned by the literary character he created.<sup>6</sup>

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<sup>5</sup> In fact, there are hints in *Catcher* that Holden is not as free as he and the reader might think. In one scene, on page 5, he runs across an icy road then observes “I don’t even know what I was running for – I guess I just felt like it. After I got across the road, I felt like I was sort of disappearing.” In *60 Years*, it is clear that when Mr. C doesn’t know why he is doing something, or disappears, it is because the author, “Mr. Salinger” is controlling him without his knowledge.

<sup>6</sup> I dedicated my book to J.D. Salinger to draw the connection between my book and *Catcher* and because, while I greatly admire Salinger as a writer, he is not the



**60 Years Takes Minimal Material from  
Catcher and Only to Serve its Purpose**

26. Despite Salinger's strained efforts to paint me as some sort of literary pirate, any detailed analysis of my book shows how little similarity there is between it and *Catcher*. I thought very carefully about how to draw the connection between *Catcher* and my book, and only used as much of *Catcher* as I needed to make my point.

27. Apart from my dedication of the book to J.D. Salinger ("the most terrific liar you ever saw in your life"), I do not copy or appropriate any of the literal expression from *Catcher*. I do use a few of Holden's catchphrases, such as "phony" and "goddam," which I need in order to make the connection between the 76-year-old Mr. C and the sixteen-year-old Holden Caulfield.

28. Only three of the approximately 80 characters from *Catcher* arguably appear in *60 Years*: Mr. C, Stradlater (Holden's prep school roommate) and Phoebe, Holden's sister.<sup>7</sup> Each of these characters is 60 years older and, as a result, has very little in common with the characters drawn in *Catcher*. None of them share physical attributes with the characters described in *Catcher*. I do not use Holden Caulfield's name anywhere in the book.

29. Each character from *Catcher* that I include in *60 Years* is there to further my exploration of the relationship between "Mr. Salinger" and Mr. C and the other themes of my book, as outlined above. The character Stradlater appears in only ten pages

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God/Author the public has created and, like any writer, he makes things up and readers either believe the story or not. My dedication is intended to be ironic and poses the question whether Mr. Salinger is, in fact, the "greatest liar in the world."

<sup>7</sup> In addition, I make passing references to other characters in *Catcher*, such as D.B. and Allie (Holden's brothers), old Spencer (Holden's teacher), Maurice and the Prostitute and Mr. C's mother, but not one of these characters actually appears in *60 Years*.

of my book, speaks very little and abruptly disappears on page 98 at “Mr. Salinger’s” direction, a victim of the control “Mr. Salinger” seeks to exert over his characters. Similarly, as I discussed above, the Phoebe in my book is a foil, set up to show the fallacy of Holden’s relationship with Phoebe in *Catcher*.

30. Plaintiff’s attempt to say that I included other characters from *Catcher* in my book is disingenuous. For example, he stretches to absurd lengths in an effort to draw some connection between my character, Mr. C’s deceased wife “Mary,” and the fact that one of Holden’s girlfriends in *Catcher* went to the “Mary C. Woodruff” school. Similarly, he tries to argue similarity between Mr. C escaping from the “Sunnyside” Nursing Home and the prostitute who visits Holden in *Catcher* being named “Sunny.” Obviously, Salinger does not own the names “Mary” and “Sunny,” but, in any event, my use of these names is mere coincidence and entirely different (“Sunny,” only as part of the name of an institution).

31. Also, my book includes approximately 25 characters who do not appear in *Catcher* at all. A list of these characters, some major and some less important, is annexed hereto as Exhibit A.

32. Even more importantly, my book includes J.D. Salinger himself as the narrator/puppet master of the Mr. C character. Indeed, as one reads my book, it becomes more and more clear that it is Salinger who is the most important character. He is directing all of the action, trying again and again to kill off his character. His narrative starts and stops as he tries different ways to move the story forward. He even makes characters appear and disappear in front of Mr. C as the book progresses.

33. In *60 Years*, I have used only a small amount of material from *Catcher*, only what was need to conjure up one of my subjects (Holden Caulfield), and to that I

have added my speculation (fueled by various news stories) about my other subject (Salinger). I took only what was needed to further my examination of the unique relationship between Salinger and his most famous character, to point out the flaws in that character, and to explore the themes I have outlined above.

34. Whether my thesis is persuasive or my book succeeds is not up to me to decide. I believe that it raises numerous important issues, and provides a unique basis for people to discuss these and other issues. I suppose that in a theoretical sense I could have written this book as a work of scholarly analysis. But I do not have that kind of background and I consider myself a novelist not an academic. I do not think that the fact that I have chosen to write in the genre of fiction changes anything. Fiction can be just as powerful a vehicle for conveying thoughts and ideas as any other form of writing.

#### **My Use of the Pseudonym J.D. California is Part of My Commentary**

35. I decided to use the pseudonym J.D. California as part of my extended commentary on *Catcher*. Just as Holden and Salinger are the same person, Mr. C and Mr. California may be the same person.


#### **Both Windupbird Publishing and I Will be Damaged if 60 Years is Enjoined**

36. *60 Years* is my first novel. I have invested my heart and soul and almost an entire year of my life into writing the book. The book includes themes and concerns of great importance to me about which I have spent much time thinking. If *60 Years* is enjoined, not only will my reputation as a serious writer be tarnished, but I will feel as though I have lost a part of me -- my creation.

37. Windupbird also has invested substantial time and money in connection with the marketing and promotion of *60 Years*. We showed the book at the London Book

Fair in April of this year and have sent advance copies to numerous book sellers throughout the United States. We have hired a public relations firm to assist us with the promotion of the book and purchased advertising in trade magazines. The timing of the publication was a significant part of our marketing plan because we believed the distribution in the United Kingdom would be a springboard for the publication in the United States, which was scheduled to take place several months after the U.K. release. If *60 Years* is enjoined we will lose the public interest and other momentum created by our marketing efforts and the U.K. publication.

Dated: June 14, 2009  
Borås, Sweden

  
Fredrik Colting