

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC, JOHN
WILEY & SONS, INC., and PENGUIN
RANDOM HOUSE LLC

Plaintiffs,

v.

INTERNET ARCHIVE and DOES 1 through 5,
inclusive

Defendants.

Case No. 1:20-CV-04160-JGK

**DECLARATION OF SANDRA
CISNEROS**

Pursuant to 28 U.S.C. § 1746, I, **SANDRA CISNEROS**, declare as follows:

1. I am the author of 13 books of fiction, poetry and essays, including *The House on Mango Street*, *Caramelo* and *A House of My Own: Stories from My Life*. I submit this declaration in support of the motion for summary judgment filed in this action by plaintiffs Penguin Random House LLC, Hachette Book Group, Inc., HarperCollins Publishers LLC, and John Wiley & Sons, Inc. (collectively, “Plaintiffs”). This declaration is based on my personal knowledge except as stated herein.

2. I am a professional author and I am very proud to earn a living by my pen. This was not a foregone conclusion or an easy achievement. I am the granddaughter of people who came to this country and could not read or write until they were elders. I am also the daughter of a man, an immigrant from Mexico, who labored with his hands. I am a woman of color who comes from working class roots, but my father – who was an upholsterer – taught me about craft and taking pride in what I make.

3. I also consider myself to be a product of the Chicago Public Library. My family did not own the books that I read when I was a child, we borrowed them from the library. The

public libraries that raised me up as an author, like the Chicago Public Library, bought their books with money from the local community and paid authors for their work. When I read those books, I knew I was not dealing with stolen goods and I would never want to rip off authors by reading bootleg books that a library had acquired dishonestly.

4. I knew I wanted to be an author from a young age, and published my first book at 21, but it was not easy to make a living from my writing. I obtained an undergraduate degree in English from Loyola University of Chicago and then a Master of Fine Arts Degree in poetry from the University of Iowa Writers' Workshop in 1978. After I graduated, I started working at the Latino Youth Alternative High School in Chicago because I was unable to make a living from writing at that time.

5. But I kept writing nevertheless. I was primarily writing poetry during this period of my life but I was also writing a prose novel. That novel became *The House on Mango Street* – which I started at the University of Iowa and continued while I was working at the high school. I wrote that book with care and labored honestly on my writing, as my father had taught me to do, in order to make it the very best it could be. It took many hours to construct each page and many years to complete all 103 pages of the book, which was finally published in 1984.

6. *The House of Mango Street* has sold over six million copies and won the American Book Award among other prestigious prizes, but the publication of that book did not translate into instantaneous financial security for me. About three years after *The House of Mango Street* was published, when I was 33 years old, I found myself unable to pay the rent and considered killing myself because it was so painful to feel like I was of no value to society, even though I knew I was a gifted writer. Fortunately, I received a grant for the National Endowment of the Arts that provided the temporary financial support I needed to continue.

7. I was also fortunate that my agent of the last thirty-five years, Susan Bergholz, approached me at this time and helped me to enforce my rights as an author. From this point onwards, my agent advised me on contracts and defended me against economic abuse by former publishing partners. She also worked very hard to get major publishing houses to pay attention to a writer like me, who had previously only worked with small presses. My life was changed after I started working with Susan because I no longer had to concern myself so much with the business part of book publishing, which I am not very good at. I could concern myself instead with the creative part that I have devoted my life to.

8. I signed my first publishing agreement with Random House (Vintage Books), which is now an imprint of Penguin Random House, in 1990. For the last thirty years, Penguin Random House has provided me with the full range of editorial support – including the payment of advances, editors to provide notes on my manuscripts, cover art designers and distribution of royalties. It has also provided me with incredible marketing support to ensure that my books and my voice reach as far as possible. My experiences with Penguin Random House is very different from when I published my first book at a small press and had to be the publicist, the distributor and sometimes a travelling sale person. I carried a big bag with five hundred or so copies of my book and it was my job to sell them. I am so glad that Penguin Random House now does that work for me.

9. I did not start earning significant money from my writing until I was in my mid-forties, approximately twenty-five years after I published my first book, and I was forced to work a day job throughout that time. I worked hard to earn the financial security that I now have and which enables me to earn a living from my pen without fear of poverty. And, as my agent reminds me, the royalty revenues I receive from the sales of books I have written are precious

and must be closely guarded because this is ultimately going to generate the money that supports me in old age.

10. For many years, I (and my agent) were fearful to publish ebook editions of my work. Everything was so new, and changing rapidly, that we had serious concerns that people would swap my books online and never pay for them again. But my agent did the research necessary to make astute business decisions that protected me and made sure that I would be protected in the future. We ultimately made an agreement with Penguin Random House to publish my work as ebooks in 2013 and, from that time onwards, I have relied on my publisher to make sure that my ebooks are distributed responsibly and in a controlled manner that ensures that I do not risk losing the present or future income from book sales that I have worked so hard to secure.

11. When I went on the Internet Archive's website and saw that scans of my books were being distributed to anybody who wanted them for free – without my permission or any payment – I was appalled. I found the experience so viscerally upsetting that I could not stay on the website for long. It was like I had gone to a pawn shop and seen my stolen possessions on sale.

12. To this day, I am angry that Internet Archive tells the world that it is a library and that, by bootlegging my books, it is simply doing what libraries have always done. Real libraries do not do what Internet Archive does. The libraries that raised me paid for their books, they never stole them. Any libraries that want to provide ebook versions of my books to the public for free can do so because I have authorized Penguin Random House to license my work to any library that is willing to pay for the authorized digital formats. I consider Internet Archive's

distribution of my books to be a terrible violation of the control I have worked so hard to establish over my work.

13. I am also insulted by the fact that Internet Archive seems to think that it needs to make my books available for free because I do not care about people who are too poor to pay for my work. For more than forty years, I have travelled across the country to talk to speak with those in disadvantaged communities whenever I can and I have distributed free copies of my books to thousands of people who could not otherwise afford them, often at my own expense. Penguin Random House has supported me in this endeavor and there are even terms in my publishing agreements that require it to cover the costs of providing free books and tapes to 13 libraries or schools that I designate each year based on requests that I had received personally. Internet Archive's website, by contrast, is of no use to many of the people I meet and provide with books because many of them lack the good fortune to have reliable internet connections. In short, it is my discretion to determine when and to whom I provide free copies of my books. It is not Internet Archive's (or anyone else's) right to make that decision.

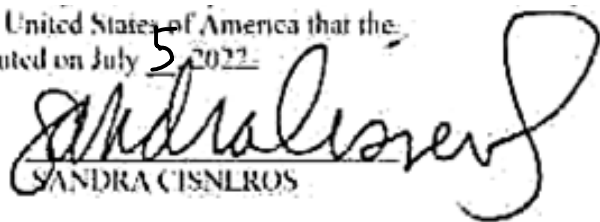
14. There is also no doubt in my mind that I lost money because Internet Archive has posted my work online. It is common sense that if someone is willing to download one of my books for free from the internet, they are not going to pay for it later. Given the fact that even over a relatively short period of time, almost a thousand people have already obtained *The House on Mango Street* on Internet Archive's website, there cannot be any serious doubt that at least some of those people would have paid for the book if Internet Archive did not exist. In addition, I have lost money because Internet Archive has not paid me any of the fees that actual libraries pay to license my work and lend it to the public.

15. I am proud to make a living from my pen, especially because I labored honestly and expended a lifetime's worth of creative energy on my craft – as my father taught me to do. But my financial security is only possible because I have learned to enforce my rights. This is what has made it possible to focus on my art and to spend the rest of my working life writing, which I believe will benefit our culture. I make this declaration because Internet Archive's disregard for my rights disrespects the contributions I have made and would threaten my livelihood if this sort of theft was permitted to become more widespread.

16. I also make this declaration because I want to ensure that other writers, who are starting their careers and struggling like I did, know that they stand a chance of earning a living and that their books matter. If Internet Archive had stolen my work when I was still in a vulnerable stage of my writing career, I do not know if I could have kept going to become what I am today. Internet Archive hurts all of the authors whose work it steals and it should be stopped so that it does not threaten anybody else's chances of making a living from their pen.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on July 5, 2022.


SANDRA CISNEROS