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THUNDERBOLT - S1002-5008 - Request for Reconsideration Denied - Return to TTAB  
- Message 2 of 12

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The pair re-envisioned the character, who became more of a hero in the mythic tradition, inspired by such characters as [Samson](#) and [Hercules](#),<sup>[18]</sup> who would right the wrongs of Siegel and Shuster's times, fighting for [social justice](#) and against [tyranny](#). It was at this stage the costume was introduced, Siegel later recalling that they created a "kind of costume and let's give him a big S on his chest, and a cape, make him as colorful as we can and as distinctive as we can."<sup>[9]</sup> The design was based in part on the costumes worn by characters in outer space settings published in pulp magazines, as well as comic strips such as *Flash Gordon*,<sup>[19]</sup> and also partly suggested by the traditional circus strong-man outfit, which comprised a pair of shirts worn over a contrasting bodysuit.<sup>[19][20]</sup> However, the cape has been noted as being markedly different from the [Victorian](#) tradition. Gary Engle described it as without "precedent in popular culture" in *Superman at Fifty: The Persistence of a Legend*.<sup>[21]</sup> The circus performer's shorts-over-tights outfit was soon established as the basis for many future superhero outfits. This third version of the character was given extraordinary abilities, although this time of a physical nature as opposed to the mental abilities of the villainous Superman.<sup>[9]</sup>

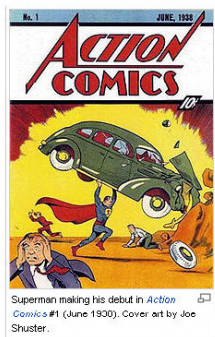
The locale and the hero's civilian names were inspired by the movies, Shuster said in 1983. "Jerry created all the names. We were great movie fans, and were inspired a lot by the actors and actresses we saw. As for Clark Kent, he combined the names of [Clark Gable](#) and [Kent Taylor](#). And Metropolis, the city in which Superman operated, came from the [Fritz Lang](#) movie [*Metropolis*, 1927], which we both loved".<sup>[22]</sup>

Although they were by now selling material to comic book publishers, notably [Malcolm Wheeler-Nicholson's National Allied Publishing](#), the pair decided to feature this character in a comic strip format, rather than in the longer comic book story format that was establishing itself at this time. They offered it to both [Max Gaines](#), who passed, and to [United Feature Syndicate](#), who expressed interest initially but finally rejected the strip in a letter dated February 10, 1937. However, in what historian Les Daniels describes as "an incredibly convoluted turn of events", Max Gaines ended up positioning the strip as the lead feature in Wheeler-Nicholson's new publication, *Action Comics*. [Vin Sullivan](#), editor of the new book, wrote to the pair requesting that the comic strips be refashioned to suit the comic book format, requesting "eight panels a page". However Siegel and Shuster ignored this, utilizing their own experience and ideas to create [page layouts](#), with Siegel also identifying the image used for the cover of *Action Comics* #1 ([June 1938](#)), Superman's first appearance.<sup>[23]</sup> In February 2010, an original *Action Comics* #1 was sold at auction for \$1,000,000.<sup>[24]</sup>

Siegel may have been inspired to create the *Superman* character due to the death of his father. Mitchell Siegel was an immigrant who owned a clothing store on New York's Lower East Side. He died during a robbery attempt in 1932, a year before Superman was created. Although Siegel never mentioned the death of his father in interviews, both [Gerard Jones](#) and [Brad Meltzer](#) believe it must have affected him. "It had to have an effect," says Jones. "There's a connection there: the loss of a dad as a source for Superman." Meltzer states: "Your father dies in a robbery, and you invent a bulletproof man who becomes the world's greatest hero. I'm sorry, but there's a story there."<sup>[25]</sup>

## Publication

See also: [List of Superman comics](#)



Superman's first appearance was in *Action Comics* #1, in 1938. In 1939, a [self-titled series](#) was launched. The first issue mainly reprinted adventures published in *Action Comics*, but despite this the book achieved greater sales.<sup>[26]</sup> The year 1939 also saw the publication of *New York World's Fair Comics*, which by summer of 1942 became *World's Finest Comics*. With issue #7 of *All Star Comics*, Superman made the first of a number of infrequent appearances, on this occasion appearing in cameo to establish his honorary membership in the [Justice Society of America](#).<sup>[27]</sup>

Initially Jerry Siegel and Joe Shuster provided the story and art for all the strips published. However, Shuster's eyesight began to deteriorate, and the increasing appearances of the character meant an increase in the workload. This led Shuster to establish a studio to assist in the production of the art,<sup>[28]</sup> although he insisted on drawing the face of every Superman the studio produced. Outside the studio, [Jack Burnley](#) began supplying covers and stories in 1940<sup>[28]</sup> and in 1941 artist [Fred Ray](#) began contributing a stream of Superman covers, some of which, such as that of *Superman* #14 (February 1942), became iconic and much reproduced. [Wayne Boring](#), initially employed in Shuster's studio, began working for DC in his own right in 1942 providing pages for both *Superman* and *Action Comics*.<sup>[29]</sup> [Al Plastino](#) was hired initially to copy Wayne Boring but was eventually allowed to create his own style and became one of the most prolific Superman artists during the Gold and Silver Ages of comics.<sup>[30]</sup>

The scripting duties also became shared. In late 1939 a new editorial team assumed control of the character's adventures. [Whitney Ellsworth](#), [Mort Weisinger](#) and [Jack Schiff](#) were brought in following Vin Sullivan's departure. This new editorial team brought in [Edmond Hamilton](#), [Manly Wade Wellman](#), and [Alfred Bester](#), established writers of science fiction.<sup>[31]</sup>

By 1943, Jerry Siegel was drafted into the army in a special celebration, and as a result his contributions diminished. [Don Cameron](#) and [Alvin Schwartz](#) joined the writing team, Schwartz teaming up with Wayne Boring to work on the *Superman comic strip*, which had been launched by Siegel and Shuster in 1939.<sup>[29]</sup>

In 1945, *Superboy* made his debut in *More Fun Comics* #101. The character moved to *Adventure Comics* in 1946, and his own title, *Superboy*, was launched in 1949. The 1950s saw the launching of *Superman's Pal Jimmy Olsen* (1954) and *Superman's Girlfriend Lois Lane* (1958). By 1974 these titles had merged into *Superman Family*, although the series was

cancelled in 1982. *DC Comics Presents* was a series published from 1978 to 1986 featuring team-ups between Superman and a wide variety of other characters of the DC Universe. In 1986, a decision was taken to restructure the universe the Superman character inhabited with other DC characters in the mini-series *Crisis on Infinite Earths*, resulting in the publication of "Whatever Happened to the Man of Tomorrow", a two-part story written by Alan Moore, with art by Curt Swan, George Pérez and Kurt Schaffenberger.<sup>[32]</sup> The story was published in *Superman* #423 and *Action Comics* #683 and presented what Les Daniels notes as "the sense of loss the fans might have experienced if this had really been the last Superman tale."<sup>[33]</sup>

Superman was relaunched by writer & artist John Byrne, initially in the limited series *The Man of Steel* (1986). The year 1986 also saw the cancellation of *World's Finest Comics*, and the *Superman* title renamed *Adventures of Superman*. A second volume of *Superman* was launched in 1987, running until cancellation in 2006. After this cancellation, *Adventures of Superman* reverted to the *Superman* title. *Superman: The Man of Steel* was launched in 1991, running until 2003, while the quarterly book *Superman: The Man of Tomorrow* ran from 1995 to 1999. In 2003 *Superman/Batman* was launched as well as the *Superman: Birthright* limited series, with *All Star Superman* launched in 2005 and *Superman Confidential* in 2006 (this title was cancelled in 2008). He also appeared in the TV animated series-based comic book tie-ins *Superman Adventures* (1996–2002), *Justice League Adventures*, *Justice League Unlimited* (canceled in 2008) and *The Legion of Super-Heroes in The 31st Century* (canceled in 2008).

Current ongoing publications that feature Superman on a regular basis are *Superman*, *Action Comics*, *Superman/Batman* and *Justice League of America*. The character often appears as a guest star in other series and is usually a pivotal figure in DC crossover events.

### Influences

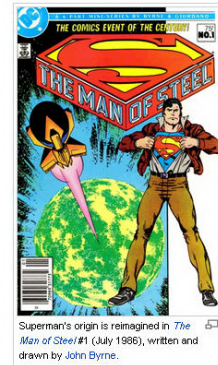
An influence on early Superman stories is the context of the Great Depression. The left-leaning perspective of creators Shuster and Siegel is reflected in early storylines. Superman took on the role of social activist, fighting crooked businessmen and politicians and demolishing run-down tenements.<sup>[34]</sup> This is seen by comics scholar Roger Sabin as a reflection of "the liberal idealism of Franklin Roosevelt's New Deal", with Shuster and Siegel initially portraying Superman as champion to a variety of social causes.<sup>[35]</sup> In later Superman radio programs the character continued to take on such issues, tackling a version of the KKK in a 1946 broadcast.<sup>[36][37]</sup> Siegel and Shuster's status as children of Jewish immigrants is also thought to have influenced their work. Timothy Aaron Pevey has argued that they crafted "an immigrant figure whose desire was to fit into American culture as an American", something which Pevey feels taps into an important aspect of American identity.<sup>[38]</sup>

Siegel himself noted that the mythic heroes in the traditions of many cultures bore an influence on the character, including Hercules and Samson.<sup>[5]</sup> The character has also been seen by Scott Bukatman to be "a worthy successor to Lindberg ... (and) also ... like Babe Ruth", and is also representative of the United States dedication to "progress and the new" through his "invulnerable body ... on which history cannot be inscribed."<sup>[39]</sup> Further, given that Siegel and Shuster were noted fans of pulp science fiction,<sup>[12]</sup> it has been suggested that another influence may have been Hugo Danner. Danner was the main character of the 1930 novel *Gladiator* by Philip Wylie, and is possessed of the same powers of the early Superman.<sup>[40]</sup>

Comics creator and historian Jim Steranko has cited the pulp hero Doc Savage as another likely source of inspiration, noting similarities between Shuster's initial art and contemporary advertisements for Doc Savage: "Initially, Superman was a variation of pulp heavyweight Doc Savage."<sup>[41]</sup> Steranko argued that the pulps played a major part in shaping the initial concept: "Siegel's Superman concept embodied and amalgamated three separate and distinct themes: the visitor from another planet, the superhuman being and the dual identity. He composed the Superman charisma by exploiting all three elements, and all three contributed equally to the eventual success of the strip. His inspiration, of course, came from the science fiction pulps,"<sup>[41]</sup> identifying another pulp likely to have influenced the pair as being "John W. Campbell's Aarn Munro stories about a descendant of earthmen raised on the planet Jupiter who, because of the planet's dense gravity, is a mental and physical superman on Earth."<sup>[41]</sup>

Because Siegel and Shuster were both Jewish, some religious commentators and pop-culture scholars such as Rabbi Simcha Weinstein and British novelist Howard Jacobson suggest that Superman's creation was partly influenced by Moses,<sup>[42][43]</sup> and other Jewish elements. Superman's Kryptonian name, "Kal-El", resembles the Hebrew words קל-אל, which can be taken to mean "voice of God".<sup>[44][45]</sup> The suffix "el", meaning "(of) God"<sup>[46]</sup> is also found in the name of angels (e.g. Gabriel, Ariel), who are flying humanoid agents of good with superhuman powers. Jewish legends of the Golem have been cited as worthy of comparison,<sup>[47]</sup> a Golem being a mythical being created to protect and serve the persecuted Jews of 16th century Prague and later revived in popular culture in reference to their suffering at the hands of the Nazis in Europe during the 1930s and 1940s. Superman is often seen as being an analogy for Jesus, being a saviour of humanity.<sup>[35][43][47][48]</sup>

Whilst the term Superman was initially coined by Friedrich Nietzsche, it is unclear how influential Nietzsche and his ideals were to Siegel and Shuster.<sup>[43]</sup> Les Daniels has speculated that "Siegel picked up the term from other science fiction writers who had casually employed it", further noting that "his concept is remembered by hundreds of millions who may barely know who Nietzsche is."<sup>[49]</sup> Others argue that Siegel and Shuster "could not have been unaware of an idea that would dominate Hitler's National Socialism. The concept was certainly well discussed."<sup>[49]</sup> Yet Jacobson and others point out that in many ways Superman and the Übermensch are polar opposites.<sup>[42]</sup> Nietzsche envisioned the Übermensch as a



Superman's origin is reimaged in *The Man of Steel* #1 (July 1986), written and drawn by John Byrne.

clark kent was discussed. The discussion and others point out that in many ways Superman and the Superman are polar opposites. The Superman is envisioned as a man who had transcended the limitations of society, religion, and conventional morality while still being fundamentally human. Superman, although an alien gifted with incredible powers, chooses to honor human moral codes and social mores. Nietzsche envisioned the perfect man as being beyond moral codes; Siegel and Shuster envisioned the perfect man as holding himself to a higher standard of adherence to them.<sup>[50]</sup>

Siegel and Shuster have themselves discussed a number of influences that impacted upon the character. Both were avid readers, and their mutual love of science fiction helped to drive their friendship. Siegel cited *John Carter* stories as an influence: "Carter was able to leap great distances because the planet Mars was smaller than the planet Earth, and he had great strength. I visualized the planet Krypton as a huge planet, much larger than Earth."<sup>[22]</sup> The pair were also avid collectors of comic strips in their youth, cutting them from the newspaper, with *Winsor McKay's Little Nemo* firing their imagination with its sense of fantasy.<sup>[51]</sup> Shuster has remarked on the artists which played an important part in the development of his own style, whilst also noting a larger influence: "Alex Raymond and Burne Hogarth were my idols — also Milt Caniff, Hal Foster, and Roy Crane. But the movies were the greatest influence on our imagination: especially the films of Douglas Fairbanks Senior."<sup>[52]</sup> Fairbanks' role as *Robin Hood* was certainly an inspiration, as Shuster admitted to basing Superman's stance upon scenes from the movie.<sup>[53]</sup> The movies also influenced the storytelling and page layouts<sup>[54]</sup> whilst the city of Metropolis was named in honor of the Fritz Lang motion picture of the same title.<sup>[22]</sup>

### Copyright issues

As part of the deal which saw Superman published in *Action Comics*, Siegel and Shuster sold the rights to the company in return for \$130 and a contract to supply the publisher with material.<sup>[55][56]</sup> *The Saturday Evening Post* reported in 1940 that the pair was each being paid \$75,000 a year, a fraction of National Comics Publications' millions in Superman profits.<sup>[57]</sup> Siegel and Shuster renegotiated their deal, but bad blood lingered and in 1947 Siegel and Shuster sued for their 1938 contract to be made void and the re-establishment of their ownership of the intellectual property rights to Superman. The pair also sued National in the same year over the rights to Superboy, which they claimed was a separate creation that National had published without authorization. National immediately fired them and took their byline off the stories, prompting a legal battle that ended in 1948, when a New York court ruled that the 1938 contract should be upheld. However, a ruling from Justice J. Addison Young awarded them the rights to Superboy. A month after the Superboy judgment the two sides agreed on a settlement. National paid Siegel and Shuster \$94,000 for the rights to Superboy. The pair also acknowledged in writing the company's ownership of Superman, attesting that they held rights for "all other forms of reproduction and presentation, whether now in existence or that may hereafter be created",<sup>[58]</sup> but DC refused to re-hire them.<sup>[59]</sup>

In 1973 Siegel and Shuster again launched a suit claiming ownership of Superman, this time basing the claim on the *Copyright Act of 1909* which saw copyright granted for 28 years but allowed for a renewal of an extra 28 years. Their argument was that they had granted DC the copyright for only 28 years. The pair again lost this battle, both in a *district court* ruling of October 18, 1973 and an *appeal court* ruling of December 5, 1974.<sup>[60][61]</sup>

In 1975 after news reports of their pauper-like existences, *Warner Communications* gave Siegel and Shuster lifetime pensions of \$20,000 per year and health care benefits. Jay Emmett, then executive vice president of Warner Bros., was quoted in the *New York Times* as stating, "There is no legal obligation, but I sure feel there is a moral obligation on our part."<sup>[57]</sup> Heidi MacDonald, writing for *Publisher's Weekly*, noted that in addition to this pension "Warner agreed that Siegel and Shuster would henceforth be credited as creators of Superman on all comics, TV shows and films".<sup>[56]</sup>

The year after this settlement, 1976, the copyright term was extended again, this time for another 19 years for a total of 75 years. However, this time a clause was inserted into the extension to allow authors to reclaim their work, reflecting the arguments Siegel and Shuster had made in 1973. The new act took effect in 1976 and allowed a reclamation window in a period based on the previous copyright term of 56 years. This meant the copyright on Superman could be reclaimed between 1994 to 1999, based on the initial publication date of 1938. Jerry Siegel having died in January 1996, his wife and daughter filed a copyright termination notice in 1999. Although Joe Shuster died in July 1992, no termination was filed at this time by his estate.<sup>[62]</sup>

In 1998, the copyright was extended again with the *Sonny Bono Copyright Term Extension Act*. This time the copyright term was extended to 95 years with a further window for reclamation introduced. In January 2004 Mark Peary, nephew and legal heir to Joe Shuster's estate, filed notice of his intent to reclaim Shuster's half of the copyright, the termination effective in 2013.<sup>[62]</sup> The status of Siegel's share of the copyright is now the subject of a legal battle. Warner Bros. and the Siegels entered into discussions on how to resolve the issues raised by the termination notice, but these discussions were set aside by the Siegels and in October 2004 they filed suit alleging copyright infringement on the part of Warner Bros. Warner Bros. countersued, alleging that the termination notice contains defects, among other arguments.<sup>[63][64]</sup> On March 26, 2008, Judge Larson of the *United States District Court for the Central District of California* ruled that Siegel's estate was entitled to claim a share in the United States copyright. The ruling does not affect the international rights, which Time Warner holds on the character through DC. Issues regarding the amount of monies owed Siegel's estate and whether the claim the estate has extends to derivative works such as movie versions will be settled at trial, although any compensation would only be owed from works published since 1999. Time Warner offered no statement on the ruling but do have the right to challenge it.<sup>[65][66]</sup> The case is currently scheduled to be heard in a California *federal court* in May, 2008.<sup>[67]</sup>

A similar termination-of-copyright notice filed in 2002 by Siegel's wife and daughter concerning the Superboy character was ruled on in their favor on March 23, 2006.<sup>[68]</sup> However, on July 27, 2007, the same court issued a ruling<sup>[69]</sup> reversing the March 23, 2006 ruling. This ruling is currently subject to a legal challenge from Time Warner, with the case as yet <sup>open</sup>



Jerry Siegel, with wife Joanne and daughter Laura in 1976. Joanne and Laura Siegel filed a termination notice on Jerry Siegel's share of the copyright of Superman in 1999.