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SAG-AFTRA and Guild Intellectual
10 Property Realization, LLC

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

14 ED ASNER, CLANCY BROWN,
15 GEORGE COE, TOM BOWER,
DENNIS HAYDEN, WILLIAM
16 RICHERT, LOUIS REEKO
MESEROLE, TERRENCE BEASOR,
17 ALEX MCARTHUR, ED O'ROSS,
ROGER CALLARD, STEVEN BARR,
18 RUSSELL GANNON, STEPHEN
WASTELL, JAMES A. OSBURN, and
19 ERIC HUGHES aka JON WHITELEY,
collectively known as the United Screen
Actors Committee (USAC),

20 Plaintiffs,

21 vs.

22 SCREEN ACTORS GUILD -
23 AMERICAN FEDERATION OF
TELEVISION AND RADIO
24 ARTISTS, a labor organization
commonly known as SAG-AFTRA and
25 its GUILD INTELLECTUAL
PROPERTY REALIZATION LLC,

26 Defendants.
27

CASE NO. CV 13-3741 R (FFMx)

**NOTICE OF MOTION AND
MOTION TO STRIKE
PLAINTIFFS' FIRST AMENDED
COMPLAINT AND
MEMORANDUM OF POINT AND
AUTHORITIES IN SUPPORT**

**Date: January 6, 2014
Time: 10:00 a.m.
Ctrm.: 8
Judge: Manuel L. Real**

[Fed. R. Civ. P. 12(f)]

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1 TO ALL PLAINTIFFS AND THEIR COUNSEL OF RECORD:
 2 PLEASE TAKE NOTICE that on January 6, 2014 at 10:00 a.m. or as soon
 3 thereafter as counsel may be heard, in Courtroom 8 of the United States Courthouse,
 4 312 North Spring Street, Los Angeles, California, Defendants SAG-AFTRA and
 5 Guild Intellectual Property Realization LLC (collectively, “Defendants”) will move
 6 this Court to strike certain portions of the First Amended Complaint.

7 This Motion requests the Court to strike allegations that the Court has
 8 previously held to be prejudicial and not material or pertinent to the gravamen of
 9 this action but which Plaintiffs included in their First Amended Complaint despite
 10 the Court’s Order of October 21, 2013 striking substantively identical allegations.

11 Specifically, Defendants move that the Court strike the following italicized
 12 material:

Citation	Allegations to be struck	Basis for striking
Paragraph 22, page 23, lines 4–5	With respect to Defendant SAG-AFTRA, SAG-AFTRA is a labor organization which General Counsel DUNCAN CRABTREE-IRELAND and National Executive Director DAVID WHITE caused to be incorporated in the State of Delaware <i>on March 30, 2012, while SAG had previously been incorporated in the State of California.</i>	Order Granting Motion to Strike, Dkt. No. 41, page 2, first and third bullets (striking portions of original Complaint concerning SAG-AFTRA’s corporate registration in Delaware)
Paragraph 39, page 37, line 17 to page 38, line 5	<i>In light hereof, Plaintiffs have reason to believe SAG and AFTRA’s agents, employees and representatives, including its attorneys and accountants, deliberately engaged in forum shopping for the purpose of incorporating its newly merged</i>	Order Granting Motion to Strike, Dkt. No. 41, page 2, first and third bullets (striking portions of original Complaint concerning SAG-

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organization in Delaware. In these regards, it is affirmatively alleged that WHITE, CRABTREE-IRELAND and others knew that practically the entire membership of the new union, SAG-AFTRA, and its predecessor unions, SAG and AFTRA, reside currently and historically in California. Plaintiffs have reason to believe that these actions were taken to collect, retain, and withhold member and non-member property by avoiding California escheat laws which have historically obliged SAG to make every effort to unite members (and non-members) with their property or surrender that property to the State of California.

AFTRA’s corporate registration in Delaware)

DATED: November 20, 2013

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A Law Corporation

By: /S/ Robert A. Bush
ROBERT A. BUSH
Attorneys for Defendants
SAG-AFTRA and Guild Intellectual Property
Realization, LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 On July 31, 2013, Defendants filed a Motion to Strike pursuant to Federal
3 Rule of Civil Procedure 12(f). (Dkt. No. 6.) Among other material that Defendants
4 requested the Court to strike from the original Complaint as immaterial, impertinent
5 and prejudicial were references to SAG-AFTRA's decision to register as a corporate
6 entity in Delaware. (Dkt. No. 6, p. 2/15 to 3/13; p. 5/19 to 6/12.) Defendants
7 argued that there was no link between SAG-AFTRA's corporate registration and the
8 issues in the Complaint.

9 At the hearing on Defendants' Motion to Strike held October 7, 2013, the
10 Court granted Defendants' Motion to Strike in large part. The Court then entered its
11 Order Granting Motion to Strike on October 21, 2013. (Dkt. No. 41.) The Court
12 ordered stricken from the Complaint "[p]ortions of Paragraph 22 contained on
13 page 18, line 12 beginning with the word 'although' through page 18, line 22 ending
14 with the word 'heirs'" and "Paragraph 66 (i.e. page 45, lines 6–17)." (Dkt No. 41,
15 p. 2/9–11 & 14.) The first portion of the specific material that the Court ordered
16 stricken is the italicized text in the following passage:

17 Defendant SAG-AFTRA is a labor organization which General
18 Counsel DUNCAN CRABTREE-IRELAND and National Executive
19 Director DAVID WHITE caused to be incorporated in the State of
20 Delaware on March 30, 2012, *although SAG had been a corporation*
21 *organized in the State of California since its inception in July 1933.*
22 *Plaintiffs have reason to believe CRABTREE-IRELAND and WHITE*
23 *have sought to escape the Escheat laws of California which would have*
24 *required the predecessors of SAG-AFTRA and now SAG-AFTRA to*
25 *turn over Residuals and Foreign Royalties allegedly "unclaimed" or*
26 *involving "unable to locate" ("UTL") owners to the State of California*
27 *which operates a widely publicized program to reunite escheated*
28 *monies with their rightful owners or heirs.*

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1 Now, in Paragraph 22 of the First Amended Complaint, Plaintiffs allege:

2 With respect to Defendant SAG-AFTRA, SAG-AFTRA is a labor
3 organization which General Counsel DUNCAN CRABTREE-
4 IRELAND and National Executive Director DAVID WHITE caused to
5 be incorporated in the State of Delaware on March 30, 2012, while
6 SAG had previously been incorporated in the State of California.

7 The new language is practically identical to the allegations this Court struck, with
8 the few changed words scattered throughout the passage failing to alter the core fact
9 that Plaintiffs have simply restated allegations that this Court has already held
10 impertinent, immaterial and prejudicial.

11 In the Court’s October 21 Order, it also struck the italicized text in the
12 following passage:

13 After being accused of devising a scheme to avoid escheating allegedly
14 “unclaimed” Foreign Royalties monies to the State of California in the
15 Class Action initiated by Ken Osmond of “Leave It To Beaver” fame
16 against SAG, SAG and AFTRA thereafter merged into SAG-AFTRA
17 *and thereafter insisted on becoming incorporated in the State of*
18 *Delaware where escheat laws permit SAG-AFTRA to retain in its*
19 *coffers all unclaimed monies belonging to out-of-state residents.*
20 *Plaintiffs are informed and believe that the lionshare of said residents*
21 *eligible to receive Residuals and Foreign Royalties are from*
22 *California, thereby demonstrating that SAG-AFTRA was engaging in*
23 *forum shopping to ensure its maximum retention of Residuals and*
24 *Foreign Royalties, without ever having to be accountable for the*
25 *distribution thereof.*

26 Paragraph 39 of the First Amended Complaint now states:

27 In light hereof, Plaintiffs have reason to believe SAG and AFTRA’s
28 agents, employees and representatives, including its attorneys and

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1 accountants, deliberately engaged in forum shopping for the purpose of
2 incorporating its newly merged organization in Delaware. In these
3 regards, it is affirmatively alleged that WHITE, CRABTREE-
4 IRELAND and others knew that practically the entire membership of
5 the new union, SAG-AFTRA, and its predecessor unions, SAG and
6 AFTRA, reside currently and historically in California. Plaintiffs have
7 reason to believe that these actions were taken to collect, retain, and
8 withhold member and non-member property by avoiding California
9 escheat laws which have historically obliged SAG to make every effort
10 to unite members (and non-members) with their property or surrender
11 that property to the State of California.

12 In this case, the language has changed but the meaning has not. Plaintiffs repeat
13 their accusation that SAG-AFTRA engaged in “forum-shopping” in order to avoid
14 the escheat laws of California. This Court specifically stated at the October 7
15 hearing that California’s unclaimed property laws do not depend on the state of
16 incorporation of the party allegedly holding unclaimed property and struck
17 Plaintiffs’ allegations. That law has not changed, yet Plaintiffs persist in defiance of
18 this Court’s clear Order.

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1 The Court has stricken the allegations described above. Plaintiffs should not
2 be permitted to re-allege them now or to litigate them. For the foregoing reasons,
3 Defendants respectfully request that this Court grant this Motion to Strike the
4 objectionable allegations set forth in the Notice and the Proposed Order.

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DATED: November 20, 2013

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