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DANIEL M. PETROCELLI (S.B. #97802)
dpetrocelli@omm.com
MOLLY M. LENS (S.B. #283867)
mlens@omm.com
DAVID MARROSO (S.B. #211655)
dmarroso@omm.com
LEAH GODESKY (*pro hac vice*)
lgodesky@omm.com
O'MELVENY & MYERS LLP
1999 Avenue of the Stars
Los Angeles, California 90067-6035
Telephone: (310) 553-6700
Facsimile: (310) 246-6779

Attorneys for Plaintiffs
Twentieth Century Fox Film Corporation
and Fox 21, Inc.

FILED
Superior Court of California
County of Los Angeles
12/23/2019
Sherri R. Carter, Executive Officer / Clerk of Court
By: Priscilla Anyankor Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, WEST DISTRICT**

TWENTIETH CENTURY FOX FILM CORPORATION, a Delaware Corporation,
and FOX 21, INC., a Delaware Corporation,

Plaintiffs,

v.

NETFLIX, INC., a Delaware Corporation,

Defendant.

And Related Cross-Claims.

Case No. SC126423

**JOINT STIPULATION AND
[PROPOSED] ORDER REGARDING
TWENTIETH CENTURY FOX FILM CORPORATION AND FOX 21, INC.'S
FIRST AND SECOND CAUSES OF ACTION**

Complaint Filed: September 16, 2016
Cross-Complaint Filed: October 19, 2016

1 Plaintiffs and Cross-Defendants Twentieth Century Fox Film Corporation and Fox 21, Inc.
2 (collectively, “Fox”) and Defendant and Cross-Complainant Netflix, Inc. (“Netflix”) (collectively,
3 the “Parties”), by and through their respective counsel of record, hereby stipulate and agree as
4 follows:

5 **WHEREAS**, on September 16, 2016, Fox filed a Complaint against Netflix asserting three
6 causes of action: (1) tortious interference with Marcos Waltenberg’s Fox fixed-term employment
7 agreement (Claim 1), (2) tortious interference with Tara Flynn’s Fox fixed-term employment
8 agreement (Claim 2), and (3) unlawful and unfair business practices in violation of Section 17200
9 of California’s Unfair Competition Law (the “UCL”) (Claim 3);

10 **WHEREAS**, on October 19, 2016, Netflix filed a Cross-Complaint asserting two causes of
11 action: (1) unlawful business practices, based on Fox’s use of fixed-term employment agreements,
12 in violation of Section 17200 of the UCL; and (2) declaratory relief that Fox’s fixed-term
13 employment agreements are unlawful;

14 **WHEREAS**, on January 31, 2019, Netflix moved for summary adjudication (“Netflix’s
15 Motion”), requesting the dismissal of Fox Claim 3;

16 **WHEREAS**, on February 1, 2019, Fox moved for summary judgment or, in the alternative,
17 summary adjudication (“Fox’s Motion”) on Claims 1-3 and for dismissal of Netflix’s Cross-
18 Complaint;

19 **WHEREAS**, on June 5, 2019, the Court denied Netflix’s Motion;

20 **WHEREAS**, on July 9, 2019, while Fox’s Motion was still pending, Netflix filed an
21 amended Cross-Complaint and an amended Answer as to two affirmative defenses;

22 **WHEREAS**, on December 10, 2019, the Court issued its order on Fox’s motion, granting
23 Fox’s Motion in part and denying it in part (the “Order”);

24 **WHEREAS**, the case is scheduled for trial on January 27, 2020;

25 **WHEREAS**, the Parties have met and conferred, and in the interest of judicial economy,
26 hereby stipulate as follows:

- 27 1. Fox will voluntarily dismiss without prejudice Claim 1 and Claim 2 within one business
28 day of receiving notice that the Court has so-ordered this Stipulation.

- 1 2. For the avoidance of doubt, Netflix is not precluded from arguing that the Court’s finding
2 of triable issues of fact as to damages under Claim 1 and Claim 2 bars summary adjudication
3 for Fox on Claim 3. However, Netflix will not argue (including without limitation on
4 appeal or in the trial court) that Fox’s voluntary dismissal of Claim 1 and Claim 2 constitutes
5 grounds for challenging the Court’s Order granting summary adjudication in Fox’s favor
6 on Claim 3.
- 7 3. The Parties agree that the period from the date of this Stipulation to the resolution of any
8 appeal shall be excluded when calculating for purposes of the five-year rule (*see* California
9 Code of Civil Procedure Section 583.310) the amount of time from the filing of Fox’s
10 Complaint and Netflix’s Cross Complaint until trial. To this end, neither Fox nor Netflix
11 will seek a dismissal of the opposing party’s claims based on a purported violation of
12 Section 583.310 that includes the period of time referenced in the preceding sentence.

13
14 Dated: December 20, 2019

ORRICK HERRINGTON & SUTCLIFFE LLP

15 /s/ Karen G. Johnson-McKewan

16 KAREN G. JOHNSON-MCKEWAN
17 Attorneys for Defendant and Cross-Complainant
18 NETFLIX, INC.

19 Dated: December 20, 2019

O’MELVENY & MYERS LLP

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21 DANIEL M. PETROCELLI
22 Attorneys for Plaintiffs and Cross-Defendants
23 TWENTIETH CENTURY FOX FILM
24 CORPORATION and FOX 21, INC.

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~~PROPOSED~~ ORDER ON STIPULATION

Having reviewed the foregoing stipulation and for good cause appearing,

IT IS HEREBY ORDERED:

1. Fox will voluntarily dismiss without prejudice Claim 1 and Claim 2 within one business day of receiving notice that the Court has so-ordered this Stipulation.
2. For the avoidance of doubt, Netflix is not precluded from arguing that the Court’s finding of triable issues of fact as to damages under Claim 1 and Claim 2 bars summary adjudication for Fox on Claim 3. However, Netflix will not argue (including without limitation on appeal or in the trial court) that Fox’s voluntary dismissal of Claim 1 and Claim 2 constitutes grounds for challenging the Court’s Order granting summary adjudication in Fox’s favor on Claim 3.
3. The Parties agree that the period from the date of this Stipulation to the resolution of any appeal shall be excluded when calculating for purposes of the five-year rule (*see* California Code of Civil Procedure Section 583.310) the amount of time from the filing of Fox’s Complaint and Netflix’s Cross Complaint until trial. To this end, neither Fox nor Netflix will seek a dismissal of the opposing party’s claims based on a purported violation of Section 583.310 that includes the period of time referenced in the preceding sentence.



Marc D. Gross

Dated: 12/23/2019

Marc D. Gross / Judge
HONORABLE MARC GROSS