

HELENA S. WISE, State Bar No.: 91163
LAW OFFICE OF HELENA S. WISE
1907 W. Burbank Blvd., Suite 101
Burbank, CA 91506
Tel: (818) 843-8086
Fax: (818) 843-7958
lawofficesofhelenasunnywise@earthlink.net

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

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

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

v.

SCREEN ACTORS GUILD – AMERICAN
FEDERATION OF TELEVISION AND
RADIO ARTISTS, a labor organization
commonly known as SAG-AFTRA and its
GUILD INTELLECTUAL PROPERTY
REALIZATION, LLC,
Defendants.

Case No.: 13-CV-3741 R (FFMx)

PLAINTIFFS REQUEST
FOR JUDICIAL NOTICE
(Vol. 1 of 3)

Hearing: October 7, 2013
Courtroom: 8
Time: 10:00 a.m.

Action Filed: May 28, 2013
Trial Date: None

PLAINTIFFS ED ASNER, CLANCY BROWN, GEORGE COE, TOM
BOWER, DENNIS HAYDEN, WILLIAM RICHERT, LOUIS REEKO MESEROLE,
PLAINTIFFS REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION

1 TERRENCE BEASOR, ALEX MCARTHUR, ED O'ROSS, ROGER CALLARD,
2 STEVEN BARR, RUSSELL GANNON, STEPHEN WASTELL, JAMES A.
3 OSBURN, and ERIC HUGHES aka JON WHITELEY, collectively known as the
4 United Screen Actors Committee (USAC), do hereby request that the Court take
5 judicial notice, pursuant to Federal Rules of Evidence (FRE) , Rule 201, of the below
6 list of facts and documents.
7

8 Rule 201 of the Federal Rules of Evidence requires the Court take judicial
9 notice of adjudicative facts "if a party request it and the court is supplied with the
10 necessary information." Rule 201(c)(2), FRE, Fed.Rules of Evid. 201. The facts and
11 documents listed below are adjudicative.
12

13 The Court may take notice of facts that "can be accurately and readily
14 determined from sources whose accuracy cannot reasonably be questioned." FRE
15 201(b)(2).
16

17 Request 1 is Congressional Testimony, taken at the Hearings Before the
18 Subcommittee on Intellectual Property and Judicial Administration, One Hundred
19 Third Congress, taken on April 29 and May 27, 1993, while Request Nos. 2, 4-9, 11-
20 16, and 18-20 were filed in connection with *Osmond vs. Screen Actors Guild, BC*
21 *377780, Los Angeles Superior Court*, (hereinafter *Osmond Action*) which Defendants
22 claim but Plaintiffs disagree is dispositive of the instant case, with both parties
23 referencing same as a related case.
24

25 Similarly, Request Nos. 21-23 were filed in connection with the *Richert vs.*
26 *Writers Guild of America West*, Los Angeles Superior Court Case No. BC 33972,
27
28

1 hereinafter *WGA* Action.

2 Request Nos. 24-26 were filed in connection with *Screen Actors Guild vs.*
3 *Federal Insurance*, originally filed in the Los Angeles Superior Court, Case No. BC
4 466014, and thereafter once removed to federal court became CV 11-07123,
5 hereinafter *Federal Insurance* action.
6

7 The Court may take judicial notice of “proceedings in other courts .. if
8 those proceedings have a direct relation to matters at issue.” *U.S. ex rel.*
9 *Robinson Rancheria Citizens Council vs. Borneo, Inc.* (9th Cir., 1992), 971 F 2d
10 244, 248 (quoting *St. Louis Baptist Temple, Inc. vs FDIC* (10th Cir., 1979), 605 F
11 2d 1169. As referenced in the Motion to Dismiss and the Opposition thereto, the
12 *Osmond* litigation is related to the foreign royalties/foreign levies issue in this
13 action, although Plaintiffs disagree that the same issues have been previously
14 adjudicated and could in anyway be deemed to be determinative of the matters
15 at hand. Similarly the striking differences between Class Counsel’s handling of
16 the SAG litigation versus their handling of the Writers Guild litigation shows
17 that due process was denied members of the Screen Actors Guild, and non-
18 members, warranting a full collateral attack on the *Osmond* Class Action
19 Settlement. Each of the documents listed in Request Nos. 2, 4-9, 11-16, 18-20, and
20 21-26 are an important part of the *Osmond*, *WGA* and *Federal Insurance*
21 litigation, while the facts of their filing and content “cannot reasonably be
22 questioned. Rule 201(b)(2), FRE.
23
24
25
26
27
28

1 Although Defendants rely upon the Final Approval of the Class
2 Settlement incorporating the final settlement agreement, Plaintiffs refer to same
3 to show that potential class members were not given notice prior to being asked
4 to opt out of the settlement, and thus the Agreement is subject to collateral
5 attack. The Ninth Circuit has taken judicial notice of declarations filed in other
6 litigation. See *Harris vs. Orange* (9th Cir., 2012), 682 F 3d 1126, 1132.
7
8

9
10 EXHIBIT “1”: Congressional Testimony of Jay Roth and Robert Hadl,
11 Federal Register, April 29 and May 27, 1993, USGovernment Printinf Office,
12 Washington: 1994.
13

14 EXHIBIT “2”: Order of the Honorable Margaret M. Morrow remanding
15 *Osmond, et al., vs Screen Actors Guild, Inc.*, 07-CV-07095 MMM(PJWx), filed March
16 18, 2008;
17

18 EXHIBIT “3”: Foreign Levy Agreements between the Producers and the
19 Directors Guild of America as well as the Producers and the Screen Actors Guild;
20

21 EXHIBIT “4”: Newspaper Articles and Press Releases concerning the Class
22 Action Settlement in *Osmond vs. SAG*, including from the Screen Actors Guild, the
23 Los Angeles Times, Variety, Hollywood Reporter and other news media, including
24 Top Class Actions.

25 EXHIBIT “5”: Declaration of Duncan Crabtree-Ireland filed on September 17,
26 2010 in *Osmond* Action;
27

28 EXHIBIT “6”: Proposed Notice of Class Action Settlement and Opt-Out Notice

1 filed on or about September 17, 2010 with Motion for Preliminary Approval in
2 *Osmond* Action;

3 EXHIBIT “7”: Class Action Lawsuits Notice, September 23, 2010, without opt
4 out dates, *Osmond* Action;

5 EXHIBIT “8”: Objections and Request to Intervene, filed on December 17,
6 2010, in *Osmond* Action;

7 EXHIBIT “9”: Motion for Final Approval, served January 18, 2011, in
8 *Osmond* Action

9 EXHIBIT “10”: Variety Article, December 7, 2010 and SAG Press Release
10 Lists for 2010 and 2011;

11 EXHIBIT “11”: Declaration of Daniel Scott Schecter, served January 18, 2011,
12 in *Osmond* Action, re Motion for Final Approval;

13 EXHIBIT “12”: Declaration of Jo Sisson, served January 18, 2011, in *Osmond*
14 Action, re Motion for Final Approval;

15 EXHIBIT “13”: Response to Defendant’s Request from Intervenor Eric
16 Hughes, in *Osmond* Action’

17 EXHIBIT “14”: SAG Announcement of Foreign Royalties Tracker, January
18 27, 2011;

19 EXHIBIT “15”: Minutes of February 18, 2011 Proceedings in *Osmond* Action;

20 EXHIBIT “16”: Notice of Entry of Judgment, served on March 7, 2011,
21 *Osmond* Action;

22 EXHIBIT “17”: News Article, *Screen Actor* Magazine, Summer 2011;

1 EXHIBIT "18": Joint Statement of Remaining Issues, *Osmond* Action, signed
2 September 28, 2011;

3 EXHIBIT "19": Notice of Motion and Motion to Seal Exhibit, *Osmond* Action,
4 filed October 11, 2011;

5 EXHIBIT "20": Reply in Support of Defendant's Motion to Seal Exhibit,
6 *Osmond* Action, filed October 21, 2011;

7 EXHIBIT "21": Judgment and Order, *Richert vs. Writers Guild of America*,
8 filed June 2, 2010;

9 EXHIBIT "22": Order Awarding Attorney's Fees, filed July 14, 2010, *Richert*
10 *vs. Writers Guild of America*;

11 EXHIBIT "23": Minute Order, July 1, 2010, *Richert vs. Writers Guild of*
12 *America*,

13 EXHIBIT "24": Complaint, *Screen Actors Guild vs. Federal Insurance*
14 *Company*, filed July 22, 2011;

15 EXHIBIT "25": Notice of Depositions and Deposition Testimony, *Federal*
16 *Insurance* action, filed on April 9, 2012, re Summary Judgment;

17 EXHIBIT "26": Order Re Cross-Motions for Summary Judgment, filed July 11,
18 2013, *Federal Insurance* action;

19 EXHIBIT "27": Annual Review of Screen Actors Guild-American Federation
20 Of Television and Radio Artists' Foreign Royalties Program, As of March 31, 2012
21 (unaudited);

22 EXHIBIT "28": SAG Form LM-2 Filings for Calendar Years 2000 – March
23
24
25
26
27
28

1 30, 2012 and SAG-AFTRA Form LM-2 Filings for Calendar Years 2012 and 2013;

2 EXHIBIT "29": SAG Form 990 Filings for Calendar Years 2003, 2004, 2008,
3 2009 and 2010;

4
5 EXHIBIT "30": Newspaper Articles, commencing on July 13, 2002 (*Los*
6 *Angeles Times*) and up through and including *Variety*, June 5, 2013, regarding SAG's
7 Processing of Residuals and Unclaimed Residuals.

8
9
10 Request Nos. 4, 10, 17 and 30 are newspaper articles pertaining to SAG's
11 handling of *Residuals* and *Foreign Royalties/Foreign Levies*, including the
12 events leading up to and following the reaching of a Class Action Settlement in
13 the *Osmond* matter.

14
15 Unlike Defendants, the Plaintiffs further request that the Court take
16 notice of the truth of various articles, as well as the fact of their publication and
17 the logical implication that this case has received significant media attention.
18 The Ninth Circuit has taken notice of the truth of statements in newspapers, see
19 *Valley Broad. Co. vs. U.. Court for Dist. Of Nevada* (9th Cir., 1986), 798 F 2d
20 1289, 1290, n. 1. Also see *Von Saher vs. Norton Simon Museum of Art at*
21 *Pasadena* (9th Cir., 2009) 578 F 3d 1016, amended and supersede on Denial of
22 Rehearing en banc, (9th Cir, 2010), 592 F 3d 954.

23
24
25 Dated: September 16, 2013

LAW OFFICES OF HELENA S. WISE

26 BY: 
27 HELENA S. WISE, ESQ.
28 ATTORNEYS FOR PLAINTIFFS USAC