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FILED
LOS ANGELES SUPERIOR COURT

OCT 18 2013

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BY PAUL SANCHEZ DEPUTY

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10 RYAN O'NEAL

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

11 THE BOARD OF REGENTS OF THE) CASE NO. BC468468
12 UNIVERSITY OF TEXAS SYSTEM ON)
13 BEHALF OF THE UNIVERSITY OF) [Hon. Ernest M. Hiroshige, Department 54]
14 TEXAS AT AUSTIN,)
15 Plaintiff,) **DEFENDANT AND CROSS-**
16 v.) **COMPLAINANT RYAN O'NEAL'S**
17 RYAN O'NEAL, an individual,) **OBJECTIONS TO PLAINTIFF AND**
18 Defendant.) **CROSS-DEFENDANT THE BOARD OF**
19) **REGENTS OF THE UNIVERSITY OF**
20) **TEXAS SYSTEM ON BEHALF OF THE**
21) **UNIVERSITY OF TEXAS AT AUSTIN'S**
22) **NOTICE TO APPEAR AND PRODUCE**
23) **EVIDENCE AT TRIAL**
24 RYAN O'NEAL,)
25 Cross-Complainant,) Trial Date: November 13, 2013
26 v.)
27 THE BOARD OF REGENTS OF THE)
28 UNIVERSITY OF TEXAS SYSTEM ON)
UNIVERSITY OF TEXAS AT AUSTIN, an entity form)
unknown; and ROES 1 - 50, inclusive,)
Cross-Defendants.)
Complaint Filed: August 26, 2011

ORIGINAL

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:**

2 Pursuant to California Code of Civil Procedure section 1987(c), Defendant and Cross-
3 Complainant Ryan O’Neal (“Defendant”) hereby objects to the “Notice To Defendant and Cross-
4 Complainant Ryan O’Neal To Appear and Produce Evidence At Trial” served by Plaintiff The
5 Board of Regents for The University of Texas System on Behalf of the University of Texas at Austin
6 (“Plaintiff”) as follows:

7

8 **GENERAL OBJECTIONS TO REQUESTS TO PRODUCE EVIDENCE AT TRIAL**

9 1. Defendant objects to the Requests to the extent that they are not limited to the subject
10 matter of this action and thus are irrelevant, immaterial, and not reasonably calculated to lead to the
11 discovery of admissible evidence.

12 2. Defendant objects to the Requests to the extent that they are unduly burdensome,
13 oppressive, unreasonably cumulative, duplicative and overbroad.

14 3. Defendant objects to the Requests to the extent that they seek information protected
15 from disclosure under the attorney-client privilege, work product doctrine or any other applicable
16 protection or privilege. To the extent any Requests seek information that is privileged under law,
17 whether under attorney-client privilege, or work product doctrine, or otherwise, Defendant objects
18 thereto and asserts the privilege protection provided by such doctrines to the fullest extent permitted
19 by law.

20 4. Defendant objects to the Requests to the extent that they seek disclosure of trade
21 secret and/or other confidential and/or proprietary information.

22 5. Defendant objects to the scope of the Requests to the extent that they fail to specify
23 a properly limited period of time relevant to each Request, making each Request overly broad,
24 unduly burdensome, harassing, oppressive, vague, irrelevant and not reasonably calculated to lead
25 to the discovery of admissible evidence.

26 6. Defendant objects to the Requests to the extent that they seek information protected
27 from disclosure by rights of privacy under the Constitutions of the United States or the State of
28 California.

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1 7. Defendant objects to the Requests to the extent that they seek information to which
2 the Plaintiff has equal access.

3 8. Defendant objects generally to the Requests to the extent that they assume facts not
4 in evidence, mischaracterize or misstate facts and/or allegations appearing in the pleadings in this
5 action.

6 9. Defendant objects generally to the Requests on the grounds and to the extent that they
7 are vague and ambiguous in that the manner in which specific Requests are phrased creates
8 confusion.

9 These general objections are incorporated into each response below, regardless of whether
10 specifically mentioned. The specific objections set forth below are not a waiver, in whole or in part,
11 of any of these general objections.

12
13 **SPECIFIC OBJECTIONS TO REQUESTS TO PRODUCE EVIDENCE AT TRIAL**

14
15 **REQUEST NO. 1:**

16 The Portrait of Farrah Fawcett created by Andy Warhol, that is the subject of this lawsuit,
17 which is in Ryan O'Neal's possession.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

19 Defendant incorporates by this reference each and every general objection above, as though
20 fully set forth herein. Defendant further objects to this Request on the ground that it is unduly
21 burdensome. In particular, because Plaintiff's own expert has valued the subject portrait at over \$10
22 Million (a value that Defendant contests), it would be unduly burdensome to require Defendant to
23 bring such a purportedly valuable item to the courthouse (where it would be subjected to the risk of
24 theft and/or damage). A photograph of the portrait could just as effectively be used to display the
25 portrait during trial.

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1 **REQUEST NO. 2:**

2 Any journals, notes, cards, or other documents written by Ryan O'Neal or Farrah Fawcett at
3 any time from August 1979 to date that refer in any manner to:

- 4 a) Andy Warhol;
- 5 b) any portrait of Farrah Fawcett created by Andy Warhol;
- 6 c) trips to New York City or New York state involving interactions between
7 Ryan O'Neal and/or Farrah Fawcett, on the one hand, and Andy Warhol, on
8 the other hand, including but not limited to any such trip in the years 1980
9 through 1983;
- 10 d) any other drawing, painting or other artwork by Andy Warhol, including but
11 not limited to the Warhol Napkin;
- 12 e) Bob Colacello
- 13 f) Karen Lerner;
- 14 g) the filming of the 20/20 episode involving the creation of the Andy Warhol
15 portraits of Farrah Fawcett;
- 16 h) contracts executed for the filming of the 20/20 episode involving the creation
17 of the Andy Warhol portraits of Farrah Fawcett;
- 18 i) the Andy Warhol book signing party in Texas at which Karen Lerner testified
19 that she arranged for Farrah Fawcett to film the 20/20 episode in exchange for
20 Warhol portraits;
- 21 j) the incidents described on pages 179-183 of the book "Both of Us";
- 22 k) the display of the Warhol portraits of Farrah Fawcett at the Andy Warhol
23 museum in Pittsburgh;
- 24 l) the creation or execution of any living trust or will for Farrah Fawcett;
- 25 m) visits to Farrah Fawcett's condominium at The Wilshire following her
26 passing;
- 27 n) discussions with Bernie or Russell Francis or Shira Nachson, or any
28 employee working with any of these individuals, concerning artwork in

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1 Farrah Fawcett's possession at any time, and Farrah Fawcett's estate or
2 materials in her possession at the time of her passing; or

- 3 o) discussions with Bernie or Russell Francis or Shira Nachson, or any
4 employee working with any of these individuals, concerning artwork in Ryan
5 O'Neal's possession at any time, and insurance relating to such artwork.

6 Such journals, notes, cards and documents are of the type referenced in Ryan O'Neal's book,
7 "Both of Us" – for example, at pages 16-18, 23, 31-32, 36-37, 72, 172, 175-77, and 252-53. Should
8 Mr. O'Neal and/or his representatives not want to incur the time and expense of identifying any such
9 specific references from such journals, notes, cards, or other documents, representatives of Plaintiff
10 would be willing, at Plaintiff's expense, to review all materials that could contain such responsive
11 information.

12 **RESPONSE TO REQUEST NO. 2:**

13 Defendant incorporates by this reference each and every general objection above, as though
14 fully set forth herein. Defendant further objects to this Request on the ground that it fails to state
15 "the exact materials or things desired," and that Defendant has those materials or things in his
16 possession or under his control – a clear violation of Code of Civil Procedure § 1987(c). *See* Cal.
17 Civ. Proc. Code § 1987(c) ("The notice shall state *the exact materials or things desired and that the*
18 *person has them in his or her possession or under his or her control.*") (emphasis added). In
19 particular, requesting a category of documents, as opposed to an exact document, is *not* permissible
20 in a notice to produce evidence at trial pursuant to Code of Civil Procedure § 1987. *See* Wegner *et*
21 *al.*, *Cal. Practice Guide: Civil Trials and Evidence*, ¶¶ 1:114 -1:115 (The Rutter Group 2013) (unlike
22 discovery requests, a category of documents is an impermissible request in a notice to produce
23 documents at trial). Here, this request outrageously seeks *15 separate categories of documents* over
24 a *34 year period* without identifying with particularity even a single document contained within
25 those categories, and without any affirmative representation that the documents are in Defendant's
26 possession or control, as required by Code of Civil Procedure § 1987(c).

27 Defendant further objects to this Request on the grounds that it is overbroad, unduly
28 burdensome, oppressive, compound, and harassing. In particular, this Request, which seeks *more*

1 *than 34 years* of unidentified “journals, notes, cards, or other documents” *from within 15 different*
2 *broad categories*, effectively requires Defendant to locate and produce an exorbitant number of
3 documents which could and should have been properly requested during discovery. In other words,
4 only *30 days before trial*, and a *year after the close of discovery*, Plaintiff is now attempting to make
5 an end-run around the discovery cut-off by reopening discovery and conducting a fishing expedition
6 for *unspecified* documents. Subparts “n” and “o” are particularly illustrative of the gross
7 overbreadth of this Request, as those subparts seek documents referring “in any manner
8 to...discussions with Bernie or Russell Francis or Shira Nachson, or any employee working with *any*
9 of these individuals, concerning artwork in [Farrah Fawcett’s or Ryan O’Neal’s] possession *at any*
10 *time, and insurance* relating to such artwork.”

11 Defendant further objects to this Request as vague and ambiguous in that the manner in
12 which certain of its fifteen subparts are phrased creates confusion. For example (and without
13 limitation), subpart “i” which improperly seeks documents over a 34 year period, vaguely refers to
14 “the incidents described on pages 179-183 of the book ‘Both of Us,’” without specifying any
15 particular incident. As such, this subpart (and others), is hopelessly vague and ambiguous. In any
16 event, a request for all documents related to multiple incidents referenced in a book is not a proper
17 form of a request in a notice to appear and produce documents at trial, wherein a party may only
18 request *exact* documents, not generalized categories of documents lacking specificity.

19 Defendant further objects to this Request to the extent it seeks confidential financial, business
20 or otherwise private documents protected from disclosure by rights of privacy under the
21 Constitutions of the United States or the State of California. Defendant further objects to this
22 Request to the extent it violates the attorney-client privilege and/or attorney work product doctrine.

23
24 **REQUEST NO. 3:**

25 Any and all photographs that include a depiction of Andy Warhol or any portrait of
26 Farrah Fawcett by Andy Warhol, from August 1979 to present.

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1 **RESPONSE TO REQUEST NO. 3:**

2 Defendant incorporates by this reference each and every general objection above, as
3 though fully set forth herein. Defendant further objects to this Request on the ground that it fails
4 to state “the exact materials or things desired,” and that Defendant has those materials or things
5 in his possession or under his control – a clear violation of Code of Civil Procedure § 1987(c).
6 See Cal. Civ. Proc. Code § 1987(c) (“The notice shall state *the exact materials or things desired*
7 and that the person has them in his or her possession or under his or her control”) (emphasis
8 added). In particular, requesting a category of documents, as opposed to an exact document, is
9 *not* permissible in a notice to produce evidence at trial pursuant to Code of Civil Procedure §
10 1987. See Wegner *et al.*, *Cal. Practice Guide: Civil Trials and Evidence*, ¶¶ 1:114 -1:115 (The
11 Rutter Group 2013) (unlike discovery requests, a category of documents is an impermissible
12 request in a notice to produce documents at trial). Here, not only does this Request fail to
13 identify a particular document, but it seeks production of a broad category of photographs
14 spanning a 34 year period, without any affirmative representation that the photographs are even
15 in Defendant’s possession or control, as required by Code of Civil Procedure § 1987(c).

16 Defendant further objects to this Request on the grounds that it is overbroad, unduly
17 burdensome, oppressive and harassing. In particular, this Request effectively requires Defendant
18 to locate and produce a potentially exorbitant number of documents which could and should have
19 been properly requested during discovery.

20
21
22 DATE: October 18, 2013

LAVELY & SINGER
PROFESSIONAL CORPORATION
MARTIN D. SINGER
TODD S. EAGAN

23
24
25 By: 
26 TODD S. EAGAN
27 Attorneys for Defendant and
28 Cross-Complainant RYAN O'NEAL

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PROOF OF SERVICE
1013A(3) C.C.P. Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2049 Century Park East, Suite 2400, Los Angeles, California 90067-2906.

On October 18, 2013, I served the foregoing document described as:

DEFENDANT'S OBJECTION TO NOTICE TO APPEAR AND PRODUCE EVIDENCE

on the interested parties in this action by placing: a true and correct copy -OR- the original document thereof enclosed in sealed envelopes addressed as follows:

Edith R. Matthai
Diana K. Rodgers
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ematthai@romalaw.com
drodgers@romalaw.com

**Attorneys for Plaintiff/Cross-Defendant
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BEHALF OF THE UNIVERSITY OF
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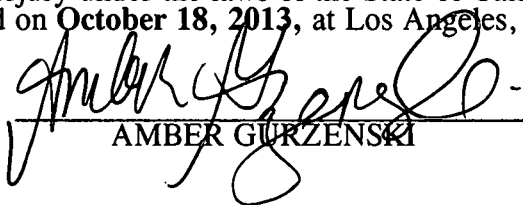
BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY FEDERAL EXPRESS: I am "readily familiar" with the firm's practice of collection and processing correspondence for Federal Express. Under that practice it would be deposited with Federal Express on that same day with all costs fully prepaid at Los Angeles, California in the ordinary course of business.

BY PERSONAL SERVICE: I delivered said envelope(s) to the offices of the addressee(s), via hand delivery.

BY ELECTRONIC SERVICE: I served the foregoing document by electronically mailing a true and correct copy through Lavelly & Singer Professional Corporation's electronic mail system to the e-mail address(s) stated on the service list per agreement in accordance with Code of Civil Procedures section 1010.6.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **October 18, 2013**, at Los Angeles, California.



AMBER GURZENSKI

10/18/2013