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CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED
CLERK, U.S. DISTRICT COURT
MAR 14 2000
CENTRAL DISTRICT OF CALIFORNIA
BY DEPU

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

VINCE OFFER,)
)
Plaintiff,)
)
vs.)
)
PETER FARRELLY, an individual,)
BOBBY FARRELLY, an individual, ED)
DECTOR, an individual, JOHN J.)
STRAUSS, an individual, FRANK)
BEDDOR, an individual, MICHAEL)
STERNBERG, an individual, CHARLES)
B. WESSLER, an individual,)
BRADLEY THOMAS, an individual,)
MARK S. FISHER, an individual,)
TWENTIETH CENTURY FOX, a)
corporation, and DOES 1-10,)
inclusive,)
)
Defendants.)

CASE NO. CV 98-7697 RAP(RCx)
[PROPOSED] ORDER GRANTING
MOTION OF DEFENDANT
TWENTIETH CENTURY FOX FILM
CORPORATION FOR AWARD OF
ATTORNEYS' FEES AND COSTS

ENTERED
CLERK, U.S. DISTRICT COURT
MAR 20 2000
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

The Motion of defendant Twentieth Century Fox Film Corporation ("Twentieth Century") for Defendants' Attorneys' Fees and Other Expenses, made pursuant to 17 U.S.C. § 505 and Fed. R. Civ. P. Rule 54(d), came on for hearing on Monday, February 28, 2000. David Aronoff of Leopold, Petrich & Smith, P.C. appeared on behalf of defendants, including moving party Twentieth Century. No

LEOPOLD, PETRICH & SMITH
A Professional Corporation
623657

Docketed
 Copies / NTC Sent
 JS - 5 / JS - 6
 JS - 2 / JS - 3
 CLSD

45.

1 appearance was made by or on behalf of plaintiff, and the Motion
2 was unopposed.

3
4 After due consideration of the moving papers submitted by
5 Twentieth Century and the Court's files and records in this matter,
6 and good cause appearing,

7
8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant
9 to 17 U.S.C. § 505 and Fed. R. Civ. P. Rule 54(d), Twentieth
10 Century's Motion is granted and defendant Twentieth Century is
11 hereby awarded defendants' reasonable attorneys' fees and other
12 expenses in the amount of \$66,336.92, together with interest as
13 provided by law, against plaintiff Vince Offer.

14
15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
16 Court has made the following findings:

17
18 1. Defendants have prevailed completely in this
19 copyright infringement action, summary judgment having been entered
20 in their favor on January 14, 2000;


21
22 2. Plaintiff's infringement claims were objectively
23 unreasonable, frivolous and vexatious, particularly in light of the
24 overwhelming evidence of: (a) Defendants' independent creation of
25 the motion picture THERE'S SOMETHING ABOUT MARY; (b) Defendants'
26 lack of access to plaintiff's UNDERGROUND COMEDY MOVIE; and (c) The
27 utter lack of substantial similarity in protectible expression
28 between the works at issues.

1 3. An award of defendants' attorneys' fees and
2 litigation expenses is warranted to discourage such frivolous
3 copyright infringement claims and to further the purposes of the
4 Copyright Act, which is to promote the progress of science of the
5 useful arts.

6
7 4. The relatively modest amount sought by Twentieth
8 Century as reimbursement for bearing defendants' attorneys' fees
9 and costs in this litigation is just and reasonable in light of,
10 among other things, (a) the time and labor required, (b) the
11 difficulty of the issues that were litigated, (c) the reputations,
12 skill and efficiency of defendants' counsel, (d) the complete
13 success achieved by defendants in the action, (e) the comparatively
14 low hourly rate charged by defendants' counsel, and (f) the
15 preclusion of other employment by defendants' counsel due to their
16 work on this case.

17
18 DATED: 3/10/00

RICHARD A. PAEZ
UNITED STATES DISTRICT JUDGE

19 Presented by: 
20
21 LOUIS P. PETRICH [State Bar No. 038161]
22 DAVID ARONOFF [State Bar No. 125694]
23 LEOPOLD, PETRICH & SMITH
24 A Professional Corporation
25 2049 Century Park East, Suite 3110
26 Los Angeles, California 90067-3274
27 Telephone: 310/277-3333;
28 Facsimile: 310/277-7444
Attorneys for Defendants

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of
4 California. I am over the age of 18 years and not a party to the
5 within action; my business address is 2049 Century Park East, Los
6 Angeles, California 90067-3274.

7 On March 1, 2000, I served the foregoing document described as
8 [PROPOSED] ORDER GRANTING MOTION OF DEFENDANT TWENTIETH CENTURY FOX
9 FILM CORPORATION FOR AWARD OF ATTORNEYS' FEES AND COSTS on the
10 interested party in this action by placing a true copy thereof
11 enclosed in a sealed envelope addressed as follows:

12 VINCE OFFER
13 8264 Santa Monica Boulevard
14 Los Angeles, California 90046

15 Andrew Krzemuski, Esq.
16 SCHLOSSBERG and KRZEMUSKI
17 9615 Brighton Way, Suite 222
18 Beverly Hills, CA 90210-5118

19 I caused such envelope with postage fully prepaid to be placed
20 in the United States mail at Los Angeles, California. I am
21 "readily familiar" with the firm's practice of collection and
22 processing correspondence for mailing. It is deposited with the
23 U.S. postal service on that same day in the ordinary course of
24 business. I am aware that on motion of party served, service is
25 presumed invalid if postal cancellation date or postage meter date
26 is more than one day after date of deposit for mailing in
27 affidavit.

28 _____ An additional copy of said document was sent on the same date
to each of the addressees stated above at the specified
telefax numbers.

Executed on March 1, 2000, at Los Angeles, California.

_____(State) I declare under penalty of perjury under the laws of
the State of California that the above is true and correct.

X (Federal) I declare that I am employed in the office of a
member of the bar of this Court at whose direction the service
is made.

29 _____
30 Stella D. Pavluk
31 Type or Print Name

