

Attorneys for Plaintiff  
OLIVIA DE HAVILLAND, DBE

OLIVIA DE HAVILLAND, DBE, an individual,  
Plaintiff,

FX NETWORKS, LLC, a California limited liability company; PACIFIC 2.1 ENTERTAINMENT GROUP, INC., a California corporation; and DOES 3 through 100, inclusive,

[Complaint Filed June 30, 2017]

- 1) **Infringement of Common Law Right of Publicity**
- 2) **Infringement of Cal. Civil Code Section 3334 Right of Publicity**
- 3) **Invasion of Privacy (False Light Publicity)**
- 4) **Unjust Enrichment**

///

1 Plaintiff, Olivia de Havilland, DBE, (hereinafter "PLAINTIFF" or "OLIVIA DE HAVILLAND")  
2 alleges as follows:

3 **THE PARTIES**

4 1. OLIVIA DE HAVILLAND is now and was, at all relevant times, a United States  
5 citizen domiciled in Paris, France.

6 2. OLIVIA DE HAVILLAND is informed and believes, and on that basis, alleges that  
7 Defendants, FX Networks, LLC ("FX") and Pacific 2.1 Entertainment Group, Inc. ("Pacific 2.1")  
8 (together "FX DEFENDANTS"), are, and at all times mentioned herein were, limited liability  
9 companies and/or corporations, maintaining principal places of business in Los Angeles, California.

10 3. The true names and capacities of defendants named as DOES 3 through 100,  
11 inclusive, are presently unknown to OLIVIA DE HAVILLAND. OLIVIA DE HAVILLAND will  
12 amend this complaint, setting forth the true names and capacities of these fictitious defendants when  
13 they are ascertained. OLIVIA DE HAVILLAND is informed and believes, and on that basis alleges,  
14 that each of the fictitious defendants has participated in the acts alleged in this complaint that have  
15 been done by the named defendants.

16 4. OLIVIA DE HAVILLAND is informed and believes, and on that basis alleges, that  
17 at all relevant times, each of the defendants, whether named or fictitious, was the agent or employee  
18 of each of the other defendants, and in doing the things alleged to have been done in the complaint,  
19 acted within the scope of such agency or employment, and/or ratified the acts of the other. To the  
20 extent that said conduct was perpetrated by certain defendants, the named defendant or defendants  
21 confirmed and ratified the same.

22 5. OLIVIA DE HAVILLAND is informed and believes, and on that basis alleges, that  
23 at all times herein relevant, each defendant was the agent, principal, alter-ego, employee, and/or  
24 partner of each other defendant in the acts and conduct alleged herein, and therefore incurred  
25 liability to OLIVIA DE HAVILLAND for the acts and conduct alleged herein and/or for the acts and  
26 omissions alleged below. OLIVIA DE HAVILLAND is further informed and believes, and on that  
27 basis, alleges that each Defendant entered into a joint venture with the others to create,

28 ///

1 produce, publish, and market, “Feud: Bette and Joan” and at all times herein relevant, all of the  
2 defendants were acting within the course and scope of their employment and/or said agency.

### 3 JURISDICTION AND VENUE

4 6. The Court has personal jurisdiction over FX DEFENDANTS, because each  
5 Defendant is headquartered in and doing business in the State of California, County of Los Angeles.

6 7. The Court has subject matter jurisdiction over FX DEFENDANTS, because it is a  
7 court of general jurisdiction and this matter is not of limited or exclusive jurisdiction.

8 8. Venue is proper in the County of Los Angeles because FX DEFENDANTS’  
9 misconduct occurred in Los Angeles County, OLIVIA DE HAVILLAND was injured and damaged  
10 by this misconduct, and FX DEFENDANTS are headquartered in and doing business in Los  
11 Angeles County, pursuant to California Code of Civil Procedure § 395.5.

### 12 GENERAL ALLEGATIONS AND BACKGROUND

13 9. OLIVIA DE HAVILLAND is a living legend and unique role model for multiple  
14 generations of actors and fans. She is a two-time Academy Award winner for Best Actress in a  
15 Leading Role. Her iconic portrayal of Melanie Hamilton in “Gone with the Wind” earned her the  
16 first of many other Oscar nominations. *See* Exhibit A (BRITANNICA ONLINE ENCYCLOPEDIA, *Olivia*  
17 *de Havilland* (Dec. 29, 2016), available at [https://www.britannica.com/biography/Olivia-de-](https://www.britannica.com/biography/Olivia-de-Havilland)  
18 *Havilland*). She celebrated her 101st birthday on July 1, 2017.

19 10. On June 17, 2017, OLIVIA DE HAVILLAND was honored with a damehood (the  
20 female equivalent of a knighthood) by the Queen of England in the most recent “birthday honors”  
21 list. OLIVIA DE HAVILLAND lives in Paris, where she received the Legion of Honor award in  
22 2010. She is a United States citizen and has a daughter who lives in Los Angeles. She made her  
23 professional career almost entirely in Hollywood, California, and has lectured in California on the  
24 arts for years. During and after World War II, she visited United States service personnel in military  
25 installations and hospitals for a total “salary” of \$0.50. Her life was at risk a number of times and  
26 she was injured on one of these trips, but she refused to stop. *See* Exhibit B (Don Walter, *Olivia de*  
27 *Havilland Recalls Wartime Shows, Enjoys Making Similar Type Tours Now*, STARS AND

28 ///

1 STRIPES (July 12, 1958), available at [https://www.stripes.com/olivia-de-havilland-recalls-wartime-](https://www.stripes.com/olivia-de-havilland-recalls-wartime-2 shows-enjoys-making-similar-type-tours-now-1.187691)

3 11. In 2008, OLIVIA DE HAVILLAND was awarded the National Medal of Arts by then  
4 President George W. Bush.

5 12. To say that OLIVIA DE HAVILLAND is beloved and respected by her peers would  
6 be an understatement. For example, at the 75th Academy Awards, OLIVIA DE HAVILLAND  
7 introduced the segment where 59 other former Best Acting winners were honored. The standing  
8 ovation upon her entrance on stage lasted a full 4 minutes. OLIVIA DE HAVILLAND narrated a  
9 film about Alzheimer's patients in 2009, "I Remember Better When I Paint," (French Connection  
10 Films 2009). In 2016, OLIVIA DE HAVILLAND republished her autobiography, "Every  
11 Frenchman Has One," (and it is not what you think).

12 13. A key reason for the public's deep respect for OLIVIA DE HAVILLAND is that, in  
13 an 80-plus year career, she has steadfastly refused to engage in typical Hollywood gossip about the  
14 relationships of other actors. Even in her own case, where the press reported unkind and critical  
15 remarks allegedly made about her by her sister, actress Joan Fontaine, who also wrote an  
16 autobiography painting an unflattering picture of OLIVIA DE HAVILLAND, she used remarkable  
17 restraint. She went so far as to publically state that she "doesn't look back in anger [on any conflict  
18 in their relationship], only affection" and stated, "I loved her so much as a child." William Stadiem,  
19 *Olivia de Havilland and the Most Notorious Sibling Rivalry in Hollywood*, Vanity Fair (June 29,  
20 2017, 12:26 PM), [http://www.vanityfair.com/hollywood/2016/04/olivia-de-havilland-joan-fontaine-](http://www.vanityfair.com/hollywood/2016/04/olivia-de-havilland-joan-fontaine-sibling-rivalry)  
21 sibling-rivalry. The author concluded, "Ever the lady, [OLIVIA DE HAVILLAND] refused to  
22 discuss her sister or their relationship since the 1950s." *Id.*

23 14. In particular, OLIVIA DE HAVILLAND has built a professional reputation for  
24 integrity, honesty, generosity, self-sacrifice and dignity. She has refused to use what she knew about  
25 the private or public lives of other actors (which was a considerable amount) to promote her own  
26 press attention and celebrity status, and this aspect of her character was, and is, both commercially  
27 and personally valuable to her. In short, OLIVIA DE HAVILLAND has made

28 ///

1 efforts, spent time and money, protecting her well-defined public image as one who does not engage  
2 in gossip and other unkind, ill-mannered behavior.

3 15. In particular, OLIVIA DE HAVILLAND did not talk about the relationships between  
4 other actors to the press. She did not give any interviews about the strained relationship of Bette  
5 Davis and Joan Crawford during their lives or after their deaths, despite the fact that she was very  
6 close to Ms. Davis, having starred in four films together. To engage in this conduct would have  
7 been hypocritical, given her decades-long public distaste for such behavior.

8 16. In March 2017, “Feud: Bette and Joan” (“Feud”), a pseudo-documentary-style  
9 television series, aired nationally on the FX Network. The pseudo-documentary was created,  
10 produced and distributed by FX and Pacific 2.1 Entertainment Group, Inc. “Feud” is available  
11 through several subscription-based streaming services, including Amazon Video, iTunes, and Vudu,  
12 and will be broadcast in the United Kingdom on BBC Two in fall of 2017. FX DEFENDANTS  
13 have promoted their companies and the pseudo-documentary in a number of advertisements and  
14 public relations campaigns using OLIVIA DE HAVILLAND’S name and identity falsely, including  
15 the portrayal of OLIVIA DE HAVILLAND as if she was endorsing “Feud” and FX DEFENDANTS  
16 and their services, companies, and products.

17 17. By meticulously including specific details from real life, FX DEFENDANTS  
18 intended for the audience to believe that the events depicted and the statements made by role players  
19 in “Feud” were accurate, and were actually quotes from real people, including OLIVIA DE  
20 HAVILLAND. FX DEFENDANTS used recreations of OLIVIA DE HAVILLAND in the same  
21 activities for which she is known in real life, at the same time putting false words into her mouth,  
22 knowingly or recklessly not reporting events truthfully and accurately. For example, “Feud” opens  
23 with an interview with OLIVIA DE HAVILLAND, played by Academy Award-winning actress,  
24 Catherine Zeta-Jones. As the Zeta-Jones’ de Havilland character is speaking the caption reads:  
25 “Olivia de Havilland[,] Two-Time Oscar Winner.” *See Exhibit C (Screenshot, FEUD: Bette and*  
26 *Joan: Pilot (FX television broadcast Mar. 5, 2017)).* Additional captions pinpoint the setting to  
27 “1978[,] Dorothy Chandler Pavilion[,] Los Angeles, California,” the location of the 50<sup>th</sup> Academy  
28 Awards. *See Exhibit D (Screenshot, FEUD: Bette and Joan: Pilot (FX television broadcast Mar. 5,*



2017)). The use of OLIVIA DE HAVILLAND’S name attracted viewers’ attention to “Feud.” FX DEFENDANTS intended and succeeded in portraying OLIVIA DE HAVILLAND’S name, likeness and identity to state and imply that she endorsed “Feud” and FX DEFENDANTS, their products, companies and services, including their advertisements and the series itself. FX DEFENDANTS knew that OLIVIA DE HAVILLAND did not and would not endorse “Feud” in any way, and nevertheless published the false statements and images with knowledge that they were false or in reckless disregard of the truth. FX DEFENDANTS have made it more difficult for OLIVIA DE HAVILLAND to endorse other, truthful services and products commercially.

18. OLIVIA DE HAVILLAND did attend the 50<sup>th</sup> Academy Awards at the Dorothy Chandler Pavilion in Los Angeles in 1978, as she was an award presenter. In addition, Zeta-Jones’ de Havilland’s appearance was designed to appear as close as possible to OLIVIA DE HAVILLAND’S real-life appearance at the 1978 Academy Awards. Her black gown, capped with sheer sleeves, is exactly the same. Her diamond necklace, hanging from a black cord, is copied, as are her dangling earrings. Even her hair, which was coifed out at the back for the ceremony in real life, has been replicated with precision. *See Exhibit E* (side-by-side comparison of OLIVIA DE HAVILLAND at 1978 Oscars and Zeta-Jones’ de Havilland at “Feud” version of 1978 Oscars). The make-up team of “Feud” even fitted a chin prosthetic to Zeta-Jones in order to further duplicate the actual appearance of OLIVIA DE HAVILLAND at the 1978 ceremony. *Inside Look: Looking the Part*, FXNow (June 23, 2017, 6:12 PM), <http://www.fxnetworks.com/video/934691395854>. FX DEFENDANTS promoted and advertised that “Feud” was intentionally designed to look as if it was reality. No expense was spared in costumes, make-up and sets to create a real-life appearance. *Id.* The depiction of OLIVIA DE HAVILLAND is the sum and substance of her portrayal in “Feud.” The marketability and economic value of those episodes of “Feud” and its marketing materials in which her name, likeness, and identity are appropriated, derive primarily from the previously created real life and actual fame of the celebrity of OLIVIA DE HAVILLAND, with which FX DEFENDANTS had nothing to do. No one even consulted the only living person who knew what was real as far as her own statements and roles had or had not been, OLIVIA DE HAVILLAND.

///

1           19.       In fact, all statements made by Zeta-Jones as OLIVIA DE HAVILLAND in this  
2 fake interview are completely false, some inherently so; others false because they were never said.  
3 Such an interview never occurred. FX DEFENDANTS did not engage in protected First  
4 Amendment speech in putting false words into the mouth of OLIVIA DE HAVILLAND in a fake  
5 interview that did not occur and would not have occurred. FX DEFENDANTS misappropriated  
6 OLIVIA DE HAVILLAND'S name, likeness and identity without her permission and used them  
7 falsely in order to exploit their own commercial interests.

8           20.       FX DEFENDANTS' portrayal of OLIVIA DE HAVILLAND in "Feud" creates the  
9 public impression that she was a hypocrite, selling gossip in order to promote herself at the  
10 Academy Awards. This did not happen and is false. There is no public interest to be protected by  
11 putting false statements into the mouth of a living person, using their name and identity for a false  
12 and unauthorized purpose, damaging their reputation. The First Amendment does not protect the  
13 false, damaging, unauthorized use of the name and identity of a real, living celebrity merely because  
14 the perpetrators cloak the work in the title of pure fiction, much less a pseudo-documentary film.

15           21.       Specifically, the first lines of "Feud" are spoken by Zeta-Jones' de Havilland: "There  
16 was never a rivalry like theirs [Davis and Crawford]. For nearly a half a century, they hated each  
17 other, and we loved them for it." *FEUD: Bette and Joan: Pilot* (FX television broadcast Mar. 5,  
18 2017). Zeta-Jones' de Havilland continues to enthusiastically gossip about the title characters to the  
19 interviewer, and a clapperboard is shown, reading "Crawford Doc[umentary]." See Exhibit F,  
20 *FEUD: Bette and Joan: Pilot* (FX television broadcast Mar. 5, 2017). Zeta-Jones' de Havilland  
21 interview provides the framework upon which the rest of the documentary is based and places false,  
22 salacious commentary in the mouth of OLIVIA DE HAVILLAND.

23           22.       Zeta-Jones' de Havilland appeared in six episodes of "Feud" and eleven promotional  
24 advertisements for FX DEFENDANTS' stations and companies.

25           23.       OLIVIA DE HAVILLAND did not give any such interview and never made these  
26 statements about Miss Davis and Miss Crawford or their relationship. The interview is fake and the  
27 statements attributed to OLIVIA DE HAVILLAND are false. This interview itself and the  
28 statements attributed to OLIVIA DE HAVILLAND are contrary to her public and private image and

1 reputation and have caused her economic, reputational, and emotional damages, including distress,  
2 anxiety, and humiliation.

3         24.     FX DEFENDANTS do not stop there. They go on to have OLIVIA DE  
4 HAVILLAND call her real-life sister, Joan Fontaine, names, again demeaning her reputation for  
5 being a lady even in the face of unfair and untrue personal attacks. For example, in the fifth  
6 segment of “Feud,” “And the Winner Is... (The Oscars of 1963),” Zeta-Jones’ de Havilland refers to  
7 Joan Fontaine as her “bitch sister,” an offensive term that stands in stark contrast with OLIVIA DE  
8 HAVILLAND’S reputation for good manners, class and kindness. *FEUD: Bette and Joan: And the*  
9 *Winner Is... (The Oscars of 1963)* (FX television broadcast Apr. 2, 2017). OLIVIA DE  
10 HAVILLAND never referred to her sister as her “bitch sister,” as portrayed in “Feud” and did not,  
11 and does not, engage in such vulgarity.

12         25.     At the 1963 Academy Awards, Zeta-Jones’ de Havilland comments to Bette Davis,  
13 portrayed by Susan Sarandon, that Oscar host Frank Sinatra must have drunk all the alcohol in the  
14 backstage lounge, because they cannot find any. All of this is untrue and casts OLIVIA DE  
15 HAVILLAND in false, hurtful and damaging light.

16         26.     In the seventh segment, “Abandoned!,” OLIVIA DE HAVILLAND is again  
17 portrayed as a petty gossip. When a director offers her the role of a villainess in “Hush...Hush,  
18 Sweet Charlotte,” Zeta-Jones’ de Havilland states that she doesn’t “play bitches,” and invites the  
19 director to call her sister, Joan Fontaine, whom she called a “bitch” in an earlier episode. *FEUD:*  
20 *Bette and Joan: Abandoned!* (FX television broadcast Apr. 16, 2017). This is false. OLIVIA DE  
21 HAVILLAND never called her sister a “bitch” as portrayed in “Feud” and certainly not to a director.  
22 Putting these false words into OLIVIA DE HAVILLAND’S mouth in a documentary format,  
23 designed to appear real, has caused OLIVIA DE HAVILLAND commercial and private damage to  
24 her reputation. Again, she appears to be a hypocrite, who built a public image of being a lady, not  
25 speaking in crude and vulgar terms about others, including her sister, when in private she did the  
26 opposite by freely speaking unkindly of others. This is patently false.

27         27.     OLIVIA DE HAVILLAND did not give her permission for FX DEFENDANTS to  
28 use her name, identity, or likeness in “Feud” or any of the promotional materials used by the FX



1 DEFENDANTS to advertise themselves, their products and services. FX DEFENDANTS knew  
2 that they did not obtain OLIVIA DE HAVILLAND’S permission to use her name, identity, or  
3 likeness in their documentary or the advertisements of their products and services. *See, e.g.,* Scott  
4 Feinberg, *Emmys: Ryan Murphy on the Role the Oscars Play Throughout ‘Feud’ (Q&A)*, The  
5 Hollywood Reporter (June 23, 2017, 5:40 PM), [http://www.hollywoodreporter.com/race/emmys-](http://www.hollywoodreporter.com/race/emmys-ryan-murphy-role-oscars-play-throughout-feud-q-a-990187)  
6 [ryan-murphy-role-oscars-play-throughout-feud-q-a-990187](http://www.hollywoodreporter.com/race/emmys-ryan-murphy-role-oscars-play-throughout-feud-q-a-990187). In promotional interviews for “Feud,”  
7 Zeta-Jones also states that she did not consult OLIVIA DE HAVILLAND in preparing to portray  
8 her. A. Bottinick, *Catherine Zeta-Jones Talks Playing Hollywood Legend Olivia de Havilland in*  
9 *‘Feud: Bette and Joan’*, TV Insider (June 26, 2017, 11:58 AM),  
10 <https://www.tvinsider.com/145637/catherine-zeta-jones-feud-olivia-de-havilland/>.

11 28. Each FX DEFENDANT, FX Networks and Pacific 2.1 Entertainment Group, Inc.,  
12 knew or recklessly disregarded publicly available information that OLIVIA DE HAVILLAND is  
13 alive. Each FX DEFENDANT knew or recklessly disregarded publicly available information that  
14 OLIVIA DE HAVILLAND did not give any interviews at the 1978 Academy Awards or otherwise  
15 about the allegedly strained relationship between Bette Davis and Joan Crawford. Each FX  
16 DEFENDANT knew or recklessly disregarded publicly available information that OLIVIA DE  
17 HAVILLAND created a professional reputation—and maintains that reputation in private—for  
18 honesty, integrity and good manners, avoiding gossip mongering. Each FX DEFENDANT knew or  
19 recklessly ignored publicly available information that OLIVIA DE HAVILLAND did not call her  
20 sister, Joan Fontaine, or other actors, vulgar names, and did not discuss private, personal tragedies  
21 with other professionals.

22 29. Each FX DEFENDANT, knowing the truth or recklessly ignoring publicly available  
23 information about OLIVIA DE HAVILLAND and her reputation, intentionally published a fake  
24 interview which falsely attributed statements to her in order to intentionally promote their  
25 companies, services, and products and to make it appear that OLIVIA DE HAVILLAND endorsed  
26 “Feud,” FX DEFENDANTS, their services, companies, and products. This fake interview,  
27 published in the documentary, advertisements for such, and featured in other publicity, was created  
28 at the expense and to the detriment of OLIVIA DE HAVILLAND. FX DEFENDANTS knew that it

1 is the custom and practice in the industry, as well as the law, that consent must be obtained before  
2 using the name, identity or identity of a living celebrity. FX DEFENDANTS actually sought the  
3 consent of at least one living celebrity whose name, identity, and property are portrayed in “Feud,”  
4 demonstrating their knowledge and/or reckless disregard of OLIVIA DE HAVILLAND’S rights.

5 30. Each FX DEFENDANT knew “Feud” would be more successful if they placed an  
6 individual like OLIVIA DE HAVILLAND, who is known for her honesty and integrity, at the  
7 forefront of the story. Her credibility, as both the only living person of significance portrayed in  
8 “Feud” and as a reliable source who was close to the action, added to the success of “Feud” at the  
9 expense of OLIVIA DE HAVILLAND. Each FX DEFENDANT benefitted from the wrongful and  
10 false exploitation of OLIVIA DE HAVILLAND’S name, identity and likeness and the false  
11 statements put into her mouth in “Feud,” and has financially profited from the advertisements,  
12 publicity, and the documentary, which will run in the United Kingdom on the BBC network. The  
13 depiction of OLIVIA DE HAVILLAND is the sum and substance of her portrayal in “Feud.” The  
14 marketability and economic value of those episodes of “Feud” and its marketing materials in which  
15 her name, likeness, and identity are appropriated, derive primarily from the previously created real  
16 life and actual fame of the celebrity of OLIVIA DE HAVILLAND, with which FX DEFENDANTS  
17 had nothing to do. Each FX DEFENDANT knew or recklessly ignored publicly available  
18 information that OLIVIA DE HAVILLAND would be harmed financially and personally by the  
19 falsehoods they each published about her.

20 31. FX DEFENDANTS did not engage in protected First Amendment speech in putting  
21 false words into the mouth of OLIVIA DE HAVILLAND in fake interviews and documentary-style  
22 conversations that did not occur and would not have occurred. FX DEFENDANTS misappropriated  
23 OLIVIA DE HAVILLAND’S name, likeness, and identity without her permission and used them  
24 falsely in order to exploit their own commercial interests and knowingly portrayed OLIVIA DE  
25 HAVILLAND and used her name, identity, and likeness to create the impression that she endorsed  
26 “Feud,” FX DEFENDANTS, their products, companies, and services. FX DEFENDANTS  
27 portrayal of OLIVIA DE HAVILLAND creates the public impression that she was a hypocrite,  
28 selling gossip in order to promote herself at the Academy Awards, criticizing fellow actors, using

1 vulgarity and cheap language with others. This did not happen and was false. There is no public  
2 interest to be protected by putting false statements into the mouth of a living person, damaging their  
3 reputation. The First Amendment does not shield use of falsehoods about a real, identified person  
4 because they appear in a work denominated pure fiction, much less a pseudo-documentary. The  
5 First Amendment does not protect false depictions of a celebrity which, intentionally or with  
6 reckless disregard for the truth, suggest that OLIVIA DE HAVILLAND endorsed "Feud," FX  
7 DEFENDANTS, their companies, products, or services. The First Amendment does not protect a  
8 false depiction of OLIVIA DE HAVILLAND which incorporates the sum and substance of her  
9 name, likeness, and identity, the value of which are derived primarily from the previously created  
10 real life and actual fame of the celebrity of OLIVIA DE HAVILLAND, with which FX  
11 DEFENDANTS had nothing to do.

#### 12 **FIRST CAUSE OF ACTION**

##### 13 **(Common Law Right of Publicity Against All Defendants)**

14 32. OLIVIA DE HAVILLAND reasserts and realleges all allegations set forth in  
15 paragraphs 1 through 31, inclusive, as though set forth in full herein.

16 33. FX DEFENDANTS used OLIVIA DE HAVILLAND'S name, likeness, and identity  
17 without her permission.

18 34. FX DEFENDANTS gained a commercial benefit by using OLIVIA DE  
19 HAVILLAND'S name, likeness, and identity.

20 35. OLIVIA DE HAVILLAND benefits financially from the authorized use of her own  
21 name, likeness, and identity. The misappropriation caused OLIVIA DE HAVILLAND to sustain  
22 injury, damage, loss and harm.

23 36. FX DEFENDANTS' conduct was a substantial factor in causing OLIVIA DE  
24 HAVILLAND'S harm.

25 37. FX DEFENDANTS used OLIVIA DE HAVILLAND'S name, picture, and identity  
26 for the purpose of exploiting and taking advantage of OLIVIA DE HAVILLAND'S reputation,  
27 prestige, social and commercial standing, and the public interest and other value attached to her  
28 name, likeness, and identity, including falsely portraying OLIVIA DE HAVILLAND, as if she

1 endorsed "Feud," FX DEFENDANTS, their products, services and companies.

2 38. FX DEFENDANTS knew the account of OLIVIA DE HAVILLAND in "Feud" was  
3 false or published it with a reckless disregard for the falsity of the account.

4 39. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, OLIVIA  
5 DE HAVILLAND has been and will be harmed and deprived of monetary sums in an amount to be  
6 determined at trial.

7 40. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, OLIVIA  
8 DE HAVILLAND has suffered emotional harm in an amount to be determined at trial.

9 41. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, OLIVIA  
10 DE HAVILLAND has suffered harm to her reputation in an amount to be determined at trial.

11 42. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, said  
12 DEFENDANTS have received profits from and attributable to the unauthorized use, which OLIVIA  
13 DE HAVILLAND is entitled to recover.

14 43. OLIVIA DE HAVILLAND was not compensated for the unauthorized use of her  
15 name, likeness, and identity and suffered economic loss therefrom.

16 44. FX DEFENDANTS, in doing the things herein alleged, acted willfully, maliciously,  
17 intentionally or with reckless disregard of the consequences to OLIVIA DE HAVILLAND. By  
18 reason thereof, OLIVIA DE HAVILLAND is entitled to recover punitive and exemplary damages  
19 from FX DEFENDANTS in an amount to be determined at trial.

20 45. Unless restrained by this court, FX DEFENDANTS will continue to infringe  
21 OLIVIA DE HAVILLAND's right of publicity, engendering a multiplicity of judicial proceedings.  
22 Absent injunctive relief, OLIVIA DE HAVILLAND will continue to suffer such irreparable harm to  
23 her goodwill, and pecuniary compensation will not afford OLIVIA DE HAVILLAND adequate  
24 relief for such damage. Therefore, OLIVIA DE HAVILLAND is entitled to injunctive and other  
25 equitable relief from this Court to permanently restrain FX DEFENDANTS from continuing to  
26 infringe OLIVIA DE HAVILLAND'S right of publicity.

27 ///

28 ///



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

22  
23  
24  
25  
26  
27  
28

24  
25  
26  
27  
28

27  
28



63. FX DEFENDANTS knew the publication would create a false impression about OLIVIA DE HAVILLAND or acted with reckless disregard for the truth.

64. There is clear and convincing evidence that FX DEFENDANTS were negligent in determining the truth of the information or whether a false impression would be created by its publication.

65. OLIVIA DE HAVILLAND benefits financially from the authorized use of her own name, likeness, and identity. The misappropriation caused OLIVIA DE HAVILLAND to sustain injury, damage, loss and harm.

66. OLIVIA DE HAVILLAND sustained harm to her property, business, profession, or occupation.

67. FX DEFENDANTS' conduct was a substantial factor in causing OLIVIA DE HAVILLAND'S harm.

68. The false information was made public either by communicating it to the public at large or to so many people that the information or material was substantially certain to become public knowledge.

69. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, OLIVIA DE HAVILLAND has been and/or will be harmed and deprived of monetary sums in an amount to be determined at trial.

70. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, OLIVIA DE HAVILLAND has suffered emotional harm in an amount to be determined at trial.

71. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, OLIVIA DE HAVILLAND has suffered harm to her reputation in an amount to be determined at trial.

72. As a proximate result of the aforesaid wrongful acts of FX DEFENDANTS, said FX DEFENDANTS have received profits from and attributable to the unauthorized use, which OLIVIA DE HAVILLAND is entitled to recover.

73. FX DEFENDANTS, in doing the things herein alleged, acted willfully, maliciously, intentionally or with reckless disregard of the consequences to OLIVIA DE HAVILLAND. By

///

1 reason thereof, OLIVIA DE HAVILLAND is entitled to recover punitive and exemplary damages  
2 from FX DEFENDANTS in an amount to be determined at trial.

3 74. Unless restrained by this court, FX DEFENDANTS will continue to infringe  
4 OLIVIA DE HAVILLAND's right of publicity, engendering a multiplicity of judicial proceedings.  
5 Absent injunctive relief, OLIVIA DE HAVILLAND will continue to suffer such irreparable harm to  
6 her goodwill, and pecuniary compensation will not afford OLIVIA DE HAVILLAND adequate  
7 relief for such damage. Therefore, OLIVIA DE HAVILLAND is entitled to injunctive or other  
8 equitable relief from this Court to permanently restrain FX DEFENDANTS from continuing to  
9 infringe OLIVIA DE HAVILLAND'S right of publicity.

#### 10 **FOURTH CAUSE OF ACTION**

##### 11 **(Unjust Enrichment Against All Defendants)**

12 75. OLIVIA DE HAVILLAND reasserts and realleges all allegations set forth in  
13 paragraphs 1 through 74, inclusive, as though set forth in full herein.

14 76. As a result of the wrongful acts of FX DEFENDANTS, and each of them, as  
15 hereinabove alleged, FX DEFENDANTS, and each of them, have received unjust financial and  
16 economic benefits at the expense of OLIVIA DE HAVILLAND. Such unjust enrichment and  
17 benefits include, but are not limited to (1) the value of the use of OLIVIA DE HAVILLAND'S  
18 name, image and identity for the commercial purposes made thereof by FX DEFENDANTS; and (2)  
19 the amount of FX DEFENDANTS', and each of their, gross revenues attributable to the use of  
20 OLIVIA DE HAVILLAND'S name, image and identity as alleged herein.

21 77. As alleged herein above, OLIVIA DE HAVILLAND suffered harm as a result of FX  
22 DEFENDANTS' actions in obtaining a financial and economic benefit.

23 78. FX DEFENDANTS' retention of these benefits at the expense of OLIVIA DE  
24 HAVILLAND is unjust.

25 79. As a direct and proximate result of the allegations above, FX DEFENDANTS have  
26 been unjustly enriched at the expense of OLIVIA DE HAVILLAND in an amount to be proved at  
27 trial.

28 ///



1           80.     FX DEFENDANTS, and each of them, are under an obligation to pay OLIVIA DE  
2     HAVILLAND, forthwith, the entire amount by which they have been unjustly enriched and OLIVIA  
3     DE HAVILLAND is entitled to the imposition of a constructive trust, as more particularly alleged  
4     hereinabove.

5     ///

6     ///

7     ///

8     ///

9     ///

10    ///

11    ///

12    ///

13    ///

14    ///

15    ///

16    ///

17    ///

18    ///

19    ///

20    ///

21    ///

22    ///

23    ///

24    ///

25    ///

26    ///

27    ///

28    ///

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, OLIVIA DE HAVILLAND prays for judgment as follows:

3 **As to All Causes of Action:**

- 4 1. For compensatory damages in an amount to be determined at trial;
- 5 2. For emotional distress damages in an amount to be determined at trial;
- 6 3. For damages sustained through harm to OLIVIA DE HAVILLAND'S reputation in
- 7 an amount to be determined at trial;
- 8 4. For economic losses sustained by OLIVIA DE HAVILLAND, both past and future,
- 9 in an amount to be determined at trial;
- 10 5. For any profits gained by defendant from and attributable to the unauthorized use of
- 11 OLIVIA DE HAVILLAND'S name, photograph, or likeness, in an amount to be determined at trial;
- 12 6. For punitive and exemplary damages in an amount to be determined at trial;
- 13 7. For reasonable attorneys' fees, costs of this action, and interest as provided by law;
- 14 8. For a permanent injunction restraining FX DEFENDANTS from continuing to
- 15 infringe OLIVIA DE HAVILLAND'S right of publicity through use of OLIVIA DE HAVILLAND'S
- 16 name, photograph, and likeness on or in products, merchandise or goods for purposes of advertising
- 17 or selling goods or services, or soliciting purchases of products, merchandise, goods or services
- 18 related to the pseudo-documentary-style television series "Feud" as well as broadcast and
- 19 distribution of the series itself; and
- 20 9. For any such further relief as this Court may deem just and proper.

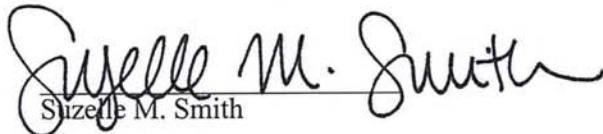
21

22 Dated: August 28, 2017

HOWARTH & SMITH

23 DON HOWARTH  
24 SUZELLE M. SMITH  
25 ZOE E. TREMAYNE

26 By:

  
Suzelle M. Smith

27 Attorneys for Plaintiff  
28 OLIVIA DE HAVILLAND, DBE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

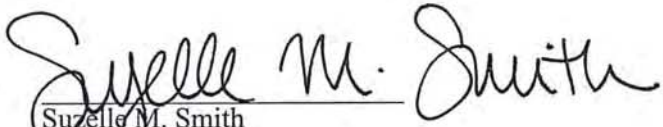
Plaintiff hereby demands trial by jury.

Dated: August 28, 2017

HOWARTH & SMITH

DON HOWARTH  
SUZELLE M. SMITH  
ZOE E. TREMAYNE

By:

  
Suzelle M. Smith

Attorneys for Plaintiff  
OLIVIA DE HAVILLAND, DBE

# **EXHIBIT A**

**JA 0657**



## Olivia de Havilland



Olivia de Havilland in *The Adventures of Robin Hood* (1938).

*Encyclopædia Britannica, Inc.*



Puck and Hermia, as portrayed by Mickey Rooney (left) and Olivia de Havilland, in the film ...

© Archive Photos



**Olivia de Havilland**, in full Olivia Mary de Havilland (born July 1, 1916, Tokyo, Japan), American motion-picture actress remembered for the lovely and gentle ingenues of her early career as well as for the later, more substantial roles she fought to secure.

The daughter of a British patent attorney, de Havilland and her younger sister, Joan Fontaine, moved to California in 1919 with their mother, an actress. While attending school, de Havilland was chosen from the cast of a local California production of *A Midsummer Night's Dream* to play Hermia in a 1935 Warner Brothers film version of that play. As the sweet-tempered beauty to Errol Flynn's gallant swain, she appeared in many costume adventure movies of the 1930s and '40s, including *Captain Blood* (1935), *The Charge of the Light Brigade* (1936), *The Adventures of Robin Hood* (1938), and *They Died with Their Boots On* (1941). She also played romantic leading roles in *Strawberry Blonde* (1941), *Hold Back the Dawn* (1941), and *The Male Animal* (1942) and portrayed Melanie Wilkes in *Gone with the Wind* (1939).

In 1945 de Havilland won a precedent-setting case against Warner Brothers, which released her from a six-month penalty obligation appended by the studio to her seven-year contract. Free to take more challenging roles, she gave Academy Award-winning performances in *To Each His Own* (1946) and *The Heiress* (1949). She also gave a superb performance in *The Snake Pit* (1948). De Havilland moved to France in 1955 and worked infrequently in films after that, most memorably in *The Light in the Piazza* (1962), *Lady in a Cage* (1964), and *Hush..Hush, Sweet Charlotte* (1964). She also appeared in a number of television plays.

Montgomery Clift and Olivia de Havilland in  
*The Heiress* (1949).

© 1949 Paramount Pictures Corporation;  
photograph from a private collection

"Olivia de Havilland". *Encyclopædia Britannica. Encyclopædia Britannica Online.*

Encyclopædia Britannica Inc., 2017. Web. 29 Jun. 2017

<<https://www.britannica.com/biography/Olivia-de-Havilland>>.

## **EXHIBIT B**

## Olivia de Havilland recalls wartime shows, enjoys making similar type tours now

By DON WALTER | Stars and Stripes | Published: July 12, 1958

---

OLIVIA DE HAVILLAND was radiant and lovely, like a movie queen ought to be.

"Come on in," she said. "But you'll have to excuse the house — we're raising the roof around here," The carpenters were busy and the interior decorator had just sent over a new chair for Miss de Havilland's bedroom and the delivery boys were struggling up the stairs with it.

She and her French husband, Paris magazine executive Pierre Galante, were literally "raising the roof." Their white stucco house in Paris' 16th Arrondissement was undergoing a complete transformation. Included in the remodeling was a project that heightened the top floor to make space for a playroom for their children.

This day Miss de Havilland had every right to be a bundle of nerves — upset house, a trip to the States to prepare for, plans for a personal appearance at the premiere of her new film in Atlanta. But she displayed the charm and smoothness for which she is famous as she graciously and naturally received the reporter and photographer from The Stars and Stripes. It was more as though she, in her role as Paris mother and housewife, were having neighbors in for a midmorning cup of coffee.

Although she now lives in Paris, Miss de Havilland is still very much a part of the movies. And she is still enjoying a vast popularity both in the U.S. and overseas, often in remote corners of the world. "I have received letters commenting on films that I'd even forgotten about," Miss de Havilland said as she thumbed through a recent batch of mail. There were letters from Madagascar, East Germany, Yugoslavia and the Far East.

The Oscar-winning actress, whose performances in "The Snake Pit" and "The Heiress" are regarded among the highlights in the history of the cinema, says she likes living in Paris. Business and social engagements keep her occupied, but she has found time in her schedule to keep appointments with some of her favorite people — U.S. servicemen.

Appearing at U.S. military installations is one of the star's old loves. It was her patriotic contribution during World War II. She earned the reputation for being one of the most faithful and favorite celebrities visiting isolated islands and battlefronts in the Pacific during World War II. She risked life and limb in this effort. Once she rode out a crippled plane over the ocean. Another time she came down with virus pneumonia, spent days in an island hospital before doctors finally could diagnose her near-critical case.





At her home in Paris in 1958, actress Olivia de Havilland models a jacket given to her when she was made an honorary member of the 11th Airborne Division.  
RED GRANDY/STARS AND STRIPES

She calls herself a "50-cent-a-year" woman, because she is presently under contract with the Army's Special Services for personal appearances for the next two years in Germany, France, Italy or at whatever installation in Europe where she may be invited. She is paid \$1 for the contract.

Last year she was made a honorary member of the 11th Airborne Div and now one of her prized possessions is the khaki jacket tailored to her measurements bearing the 11th's patch on one sleeve and the identification patch, "de Havilland" across the chest.

She has been to Berlin and to bases in Italy. Her summer schedule of tours is booked solid, as far as time and other commitments will allow. Counting her travel time, Miss de Havilland last year devoted nearly a month to visits with U.S. servicemen in Europe.

The \$1 contract has helped Miss de Havilland to retain her American citizenship. She was born in Tokyo of British parents and was naturalized in the U.S. after she went to Hollywood. Now, married to a French citizen, it would be necessary for her to return to the U.S. periodically to retain citizenship. The law provides that if a naturalized citizen remains outside the U.S. for five years, citizenship is lost.

At present, it is expected that Congress will pass a bill waiving the existing law in Miss de Havilland's case. Rep. Francis E. Walter (D-Pa.) recently introduced such a bill. He did not know Miss de Havilland personally, he said, but he was acquainted with her visits to servicemen both during the war and at present. Meanwhile, Miss de Havilland, with a Government contract, can retain her citizenship without interruption of the life she likes best.

Her marriage to Pierre Galante came about in the same storybook manner as the rest of her fabulous life since leaving school at Our Lady's Convent at Belmont, Calif., in 1934; going to drama school and beginning a motion picture career in 1935.

She met the magazine executive on her first visit to France, in 1953. That year she had come to Paris with her young son, Benjamin, on her way to Cannes for the international film festival.

It may have been by coincidence that Galante, a member of the festival committee, was at the airport when she arrived. It also may have been by coincidence that he happened to join her manager and her at lunch one day in Paris. And, by coincidence again, he was at her table every day during banquets at the film festival.

Later Miss de Havilland left for Dallas for a summer theater engagement. Shortly after, there was a cable from Galante. He was coming to Texas.

By now, the actress was aware that the Frenchman's attentions had nothing to do with coincidence. So, to welcome him to Dallas, she decided to please him with something typically French — foie gras and champagne. The fourth day of this diet, though,

caused the visitor to say, "I am deeply in love with you, but even though I am French there are two, things I really don't like — goose liver and champagne."

Miss de Havilland recalls she was more impressed, or perhaps stunned, at first at his gallantry in enduring the pate and champagne for four days than she was with his declaration of love. Shortly after they were married at Yvoy-le-Marron, near Orleans, France. It was April 2, the same day Napoleon had married Marie.

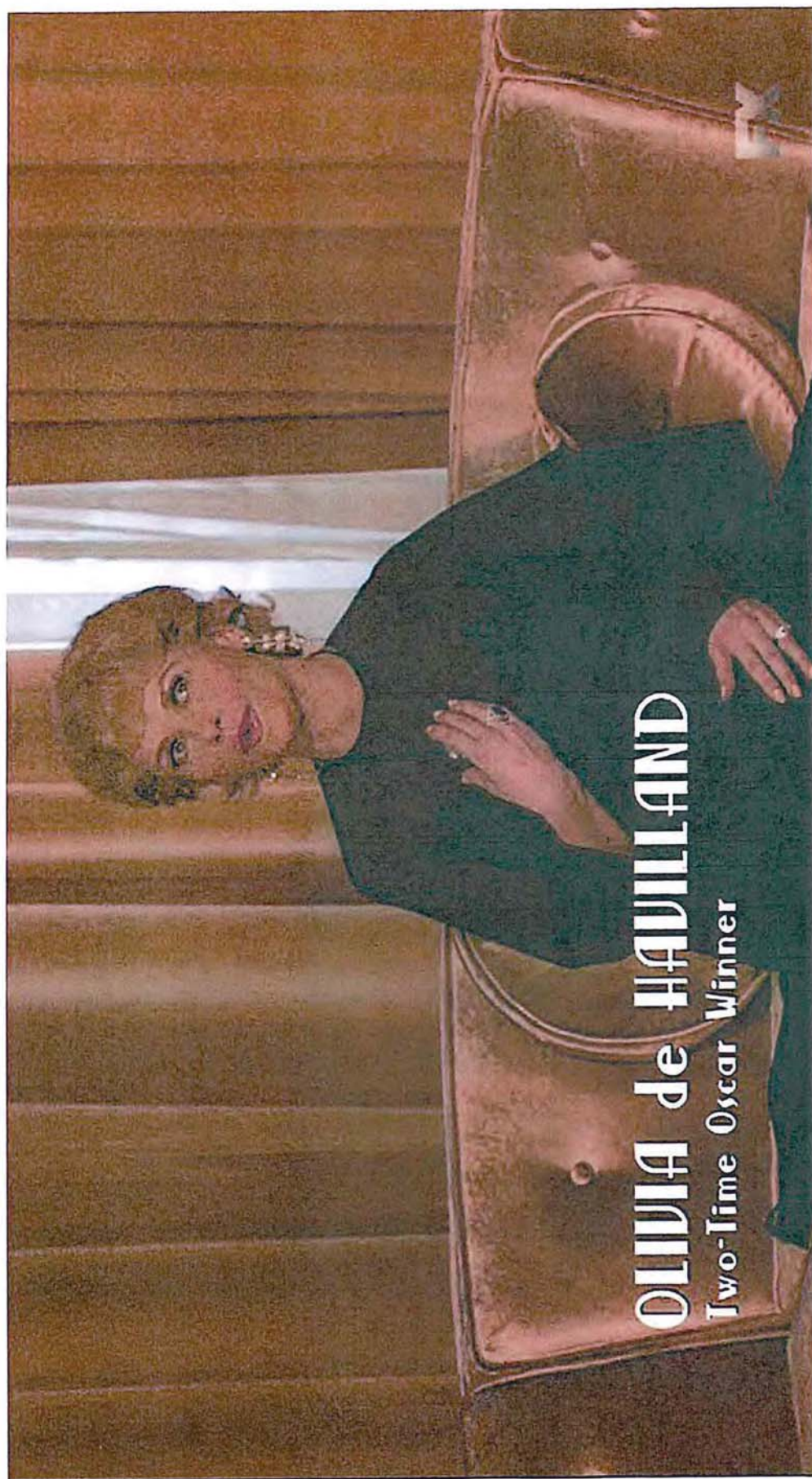
Paris life is interesting, says Miss de Havilland. She didn't know much French on her first visit to France, but now she speaks it well. Among the Galantes' friends are numerous French film notables. They like to entertain at home and will do so again once the house is finished. Thanksgiving dinner is always a big occasion at the Galante home. Benjamin now is in school in Normandy. The Galantes have a daughter. Gisele, who will be 2 years old this month.

Her new picture, "The Proud Rebel," will be on service screens soon. It is due for an early showing on the Champs-Elysses in Paris. Miss de Havilland attended the premiere in Atlanta, where just 20 years before she had gone for the opening of "Gone With the Wind."

"I'm not sure whether they're going to like me in Atlanta this time," she said before leaving Paris. "Last time I was the shining example of Southern womanhood. This time it's also a Civil War film, but I'm on the other side."

## **EXHIBIT C**

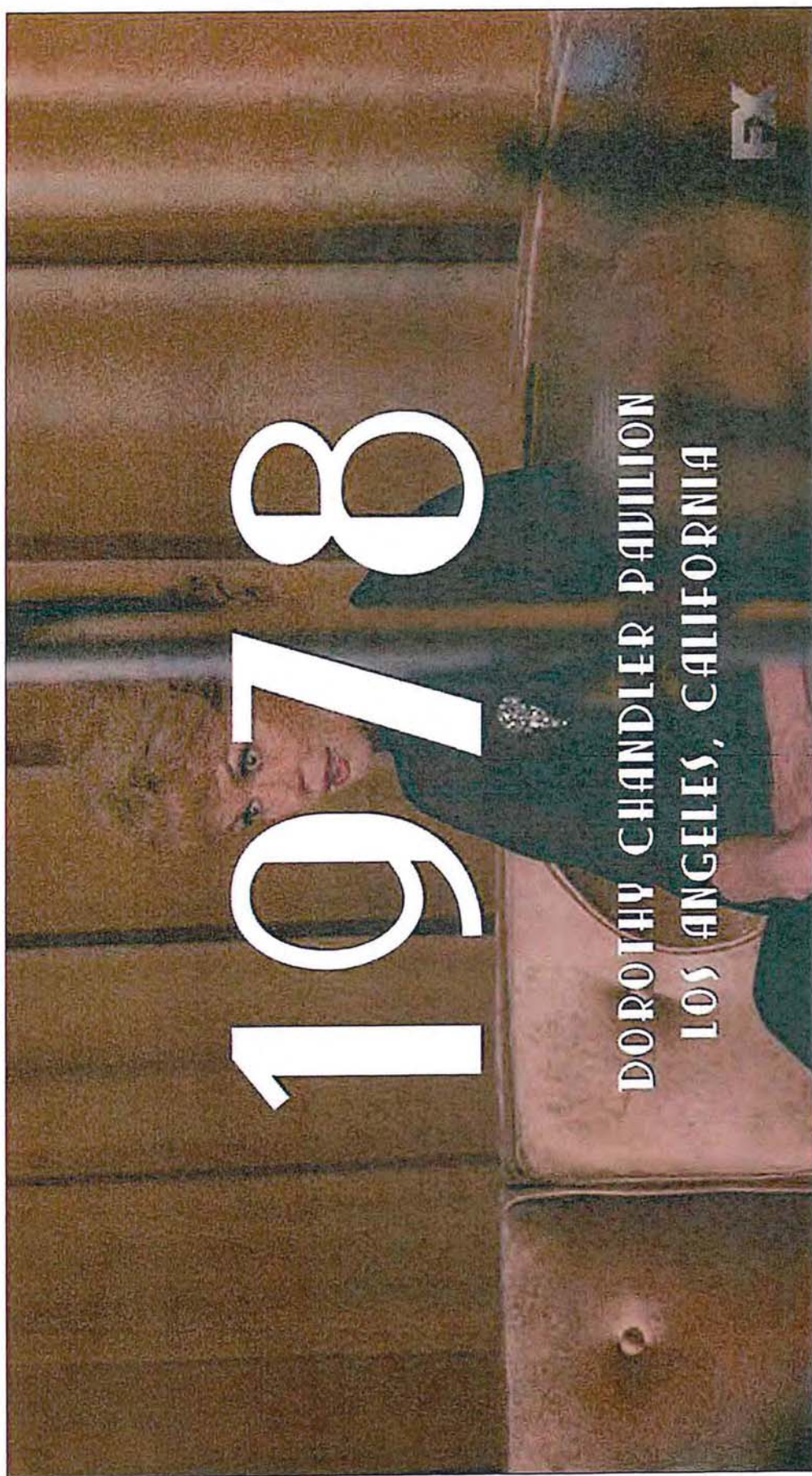




JA 0666



## **EXHIBIT D**



# **EXHIBIT E**

**JA 0669**

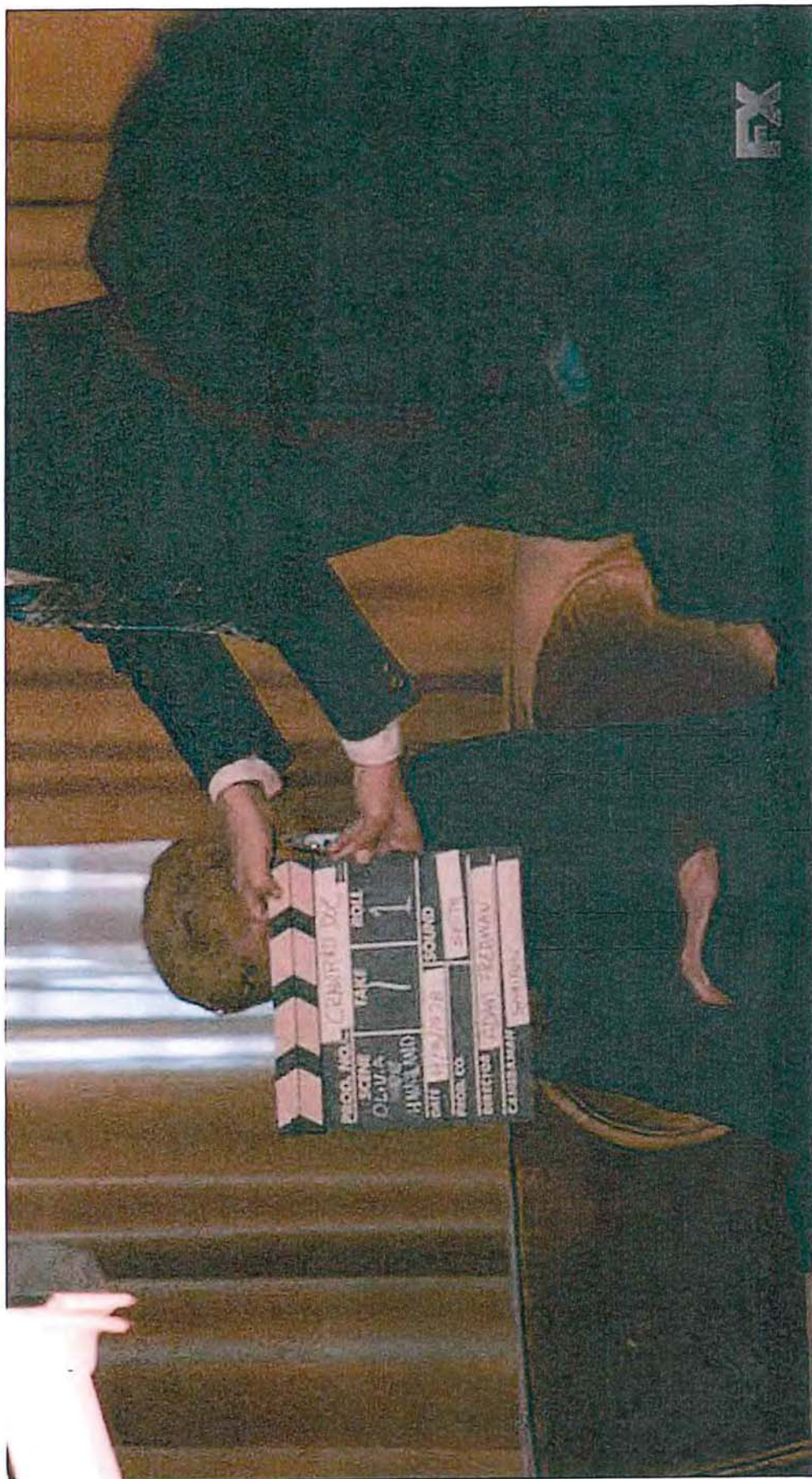




# **EXHIBIT F**

**JA 0671**





JA 0672

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

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 523 W. Sixth Street, Suite 728, Los Angeles, California 90014.

On August 28, 2017, I served the foregoing document described as:

**THIRD AMENDED COMPLAINT**

on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

Aaron Wais, Esq.  
Robert Rotstein, Esq.  
Mitchell Silberberg & Knupp LLP  
11377 W. Olympic Boulevard  
Los Angeles, CA 90064

*Attorneys for FX Networks, LLC and Pacific  
2.1 Entertainment Group, Inc.*

☒ (BY FEDERAL EXPRESS) I caused such document to be transmitted with fees thereon fully prepaid via federal express to the offices of the above addressees.

☐ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

☒ (BY E-MAIL) I caused such document to be transmitted electronically to the e-mail address(es) of the person(s) set forth above.

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

Executed on August 28, 2017, at Los Angeles, California.

  
Alice Gilbert

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

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 523 W. Sixth Street, Suite 728, Los Angeles, California 90014.

On August 28, 2017, I served the foregoing document described as:

**JOINT STIPULATION TO ALLOW FILING OF THIRD AMENDED COMPLAINT AND  
SETTING DATES**

on interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

Aaron Wais, Esq.  
Robert Rotstein, Esq.  
Mitchell Silberberg & Knupp LLP  
11377 W. Olympic Boulevard  
Los Angeles, CA 90064

*Attorneys for FX Networks, LLC, and Pacific  
2.1 Entertainment Group, Inc.*

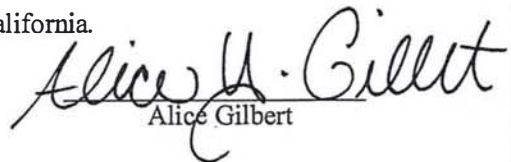
☒ (BY FEDERAL EXPRESS) I caused such document to be transmitted with fees thereon fully prepaid via federal express to the offices of the above addressees.

☐ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

☒ (BY E-MAIL) I caused such document to be transmitted electronically to the e-mail address(es) of the person(s) set forth above.

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

Executed on August 28, 2017, at Los Angeles, California.

  
Alice Gilbert