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Attorney for Plaintiffs

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

EDWARD ASNER, et al.,

Plaintiffs,

vs.

**THE SAG-AFTRA HEALTH
FUND, et al.,**

Defendants.

Case No. 2:20-cv-10914-CAS (JEM)

**SECOND SUPPLEMENTAL
DECLARATION OF STEVEN A.
SCHWARTZ IN SUPPORT OF
PLAINTIFFS' REPLY IN SUPPORT
OF MOTIONS FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT; AND FOR
ATTORNEYS' FEES,
REIMBURSEMENT OF
LITIGATION EXPENSES, AND
SERVICE AWARDS**

Date: September 11, 2023

Time: 10:00 a.m.

Courtroom: 8D

Judge: Christina A. Snyder

Steven A. Schwartz, hereby declares as follows:

1. I am a partner in Chimicles Schwartz Kriner & Donaldson-Smith LLP and have served as Lead Plaintiffs' Counsel in this case along with my law partner Robert J. Kriner, Jr., and submit this supplemental declaration ("Supp. Decl.") based on personal knowledge, and if called to do so, could testify to the matters contained herein.

2. Attached as Exhibit 1 is a copy of the August 6, 2023 letter sent to the Court from Settlement Class Member Jan Hoag. Class Counsel first received the Hoag Letter from the Court on August 28, 2023. Attached as Exhibit 2 is the letter sent by Settlement

1 Class Member Jimmy Hawkins that was first received by Class Counsel on September
2 6, 2023.

3 3. Class Counsel promptly contacted Ms. Hoag and answered all of her
4 questions.

5 4. In connection with her communications with Class Counsel, Ms. Hoag
6 authorized Class Counsel to report to the Court that: (1) she plans to participate and speak
7 at the Final Approval Hearing and would like to discuss the issues she raised in her Letter,
8 (2) that she stands by all of her statements and views expressed in her Letter, but (3) it
9 was not her intent and she does not intend to ask the Court to reject the Settlement.

10 5. Class Counsel requested and received from defense counsel information
11 regarding Ms. Hoag's sessional and residual earnings as reflected in the Plan's records
12 to confirm the amounts Ms. Hoag will receive if the Settlement is approved and clarify
13 any perceived discrepancies between the Plan's records and Ms. Hoag's calculations
14 regarding her eligibility for HRA allocations under the Settlement. According to the
15 Plan's counsel, the difference in Ms. Hoag's calculations and the Plan's calculations is
16 due to (1) the Plan not using a calendar year, but using the base earnings period (October
17 1 – September 30)¹ to calculate annual sessional and residual earnings, (2) the different
18 dates when Ms. Hoag's earnings were reported to the Plan (as opposed to the dates she
19 was paid), and (3) the fact that if earnings on a project exceed the cap established in the
20 CBAs, the earnings a performer receives are sometimes higher than the earnings that
21 count for the amount of contributions provided to the Plan. *Id.* Class Counsel provided
22 that information to Ms. Hoag.

23 6. Based on the information provided by defense counsel, Ms. Hoag will
24 receive an HRA allocation of at least \$2,200 for 2021/2022 damages, because during
25 those years she did not lose her Plan coverage due to the elimination of the Dollar
26 Sessional Rule; she lost Plan coverage due to elimination of the Age & Service Rule. In

27 _____
28 ¹ The October cut-off is significant, since Ms. Hoag received a large residual payment in
December of 2022. Letter at 5.

1 addition, while, due to the timing of her residual payments, she does not qualify for an
2 HRA allocation payment for 2023 (because she would not have met the standards for
3 coverage under the Dollar Sessional Rule), she already qualifies for an HRA allocation
4 for 2024, and given her high residual earnings, her HRA allocation will be at the high
5 end of the \$438 - \$4,375 range previously reported to the Court.

6 7. In order to maximize the benefit of the disclosures required by Section 11.2
7 of the Settlement Agreement, in connection with their agreement to dismiss their Ninth
8 Circuit appeal, the SAG-AFTRA Union agreed “to expressly undertake to monitor,
9 facilitate, and use reasonable efforts to ensure compliance by the SAG-AFTRA Health
10 Plan and its Board of Trustees with the rights and entitlements of the Union under the
11 Governance Provisions set forth in Section 11 of the Class Action Settlement Agreement
12 (“SA”) in the *Asner* case and as approved by the Court in connection with final approval
13 proceedings.”

14 8. According to Plan counsel, due to Ms. Hoag’s combined sessional and
15 residual earnings in Plan year 2023, the Settlement will provide Ms. Hoag with an
16 additional HRA allocation in 2024 that likely exceeds \$4,000.

17 9. According to information provided by the Plan to the Settlement
18 Administrator, prior to implementation of the 2020 Amendments, Mr. Hawkins only had
19 secondary coverage from the Plan.

20 Executed this 7th day of September, 2023 in Berwyn, Pennsylvania.

21
22
23 /s/ Steven A. Schwartz
24 Steven A. Schwartz
25
26
27
28

EXHIBIT 1

8-6-2023 p.1

To: UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

ATTN: The Honorable Christina A. Snyder

350 W. First Street LA, CA 90012

From: Jan Hoag 323-251-5862 thelittlestarlet@yahoo.com

855 N. Martel Ave. LA, CA 90046

Case: Asner, et al. v. The SAG-AFTRA Health Fund, et al.

Case #: 20-cv-10914-CAS (JEM)

Dear Judge Snyder,

This is my first venture in life in this arena, but I must speak out regarding this case issue and settlement. A bit of background...I am past traditional retirement age I am still working in this crazy world of acting, not only because I have to, but I also love it. I cannot even envision a world that is retirement. You must love your job as well.

I have a degree in business and marketing, I have "half" an MBA, I finally stopped, knowing I was leaving the corporate world. I was in the corporate world for 16 years out of college before sidestepping into showbiz. I joined SAG in mid 1989 and have been acting for 34 years. I have worked tirelessly to work ONLY at my profession, without ever having a second job, which is rare for actors. This business is not for the faint of heart. That's ok, I was never faint of heart.

p. 2

This case is based, simply put, on Senior Performers, who had always been promised health insurance for life (the trustees will debate this, but that is all we, as actors, ever heard) if they vested for 20 years in the Sag Pension and Health Program. However, we were summarily ditched from our SAG health insurance plan in 2020 in the middle of a pandemic. There was a "new" class of second class citizens created in the Trustee's view which included those members who were over the age of 65 AND taking their pensions. What a unique and novel idea that people would take their pensions around the age of 65. Let's punish them for that.

Secondarily, maybe if we knew this betrayal was coming, just maybe, some of us would not have taken our pensions. Vesting years for which we had worked our entire careers in order to ensure medical coverage for life and our residuals, which have ALWAYS counted as regular income on which we could qualify yearly for health insurance were now miraculously and randomly announced as NOT BEING INCOME for we second class citizens!

HOWEVER, our yearly SAG dues are still figured on our sessional AND residual incomes, hmmm....still considered income for THAT reason. Additionally, our health plan is largely made possible due to producers dollar contributions made directly to the plan based, again, on our income, both sessional AND residual. The plan continues to take my producer contributions based on my total income for THAT! hmmm....again residuals are considered income for THAT purpose as well. Are we sensing a theme here? When it benefits the plan and the union (dues),

residuals are income. When it benefits the actor, residuals are now NOT income. How can someone just DECIDE that?? i would have to question the legality of that alone.

While I am grateful to those within our union (ie, David Joliffe and Frances Fisher) who fought and secured representation in order to bring this lawsuit against the Health Plan Trustees, I would like to discuss some questions I have regarding the settlement terms and the actual "computation" of some of the settlement terms. As an aside, the fact that the health plan trustees settled without accepting any wrongdoing or responsibility regarding their decision making resulting in this senior member betrayal is the "eighth wonder of the world".

1. I am a fully vested senior. I am paying 3 times monthly now with Medicare and a Medicare Supplement than I was paying when I was on Sag Insurance, even with them doubling my premium due to the 2020 changes. My Senior Performer coverage which used to be \$60 a month prior to the 2020 changes became \$125 a month. Still certainly reasonable for healthcare coverage in my eyes. But after we got kicked off of coverage per the 2020 changes, my Medicare costs are presently \$165/mo. and my Supplemental coverage costs \$198/mo. and of course both these amounts are subject to change on a yearly basis. Total is now \$363/mo. vs. what was \$125/mo. I am part of the HRA program which allots \$1140 a year, which covers 6 1/2 months of my monthly medicare premium.

2. Regarding communication about the settlement...I think that there should have been a Q&A zoom meeting for all seniors effected regarding HOW these settlement amounts are being decided upon. Judging from the following qualification information, I believe that i qualify for the \$4400 settlement figure, yet, I have received notice that i only qualify for \$2200. I lost my health insurance plan on 6-30-21 (the end of my qualifying year) due to all residuals ceasing to be considered income (Dollar Sessional Rule). I also met all the requirements in the \$2200 qualification group. See below: I would have qualified for Health Insurance for all years in question in the lawsuit had residuals not been deemed as NON-Income.

	Sessional	Residuals
2020	4893	61,481
2021	4254	60,684
2022	6552	59,200

\$15 Million Fund: After deduction for any Attorneys' Fees, Costs, Service Awards, and Administrative Expenses approved by the Court, the balance of the \$15 million fund will be paid or allocated to Senior Performers and their age 65+ spouses who lost active or secondary health coverage from the Plan in 2021 or 2022 due to the 2020 Amendments. The following are the targeted amounts of these payments or allocations. (Each of the Senior Performer and their age 65+ spouse will receive the targeted amount.) If the Court approves the Settlement, the actual payments or allocations may be increased or decreased *pro rata* depending on the amount left in the \$15 million fund after payment of Attorneys' Fees, Costs, Service Awards, and Administrative Expenses approved by the Court:

- **\$4,400** - For Senior Performers and their spouses who received active health coverage from the Plan in December 2020 but did not qualify for active coverage in 2021 due to the elimination of the Dollar Sessional Rule in the 2020 Amendments.
- **\$2,200** - For Senior Performers and their spouses who received active health coverage from the Plan in December 2020 but did not qualify for active coverage in 2021 due to the

elimination of the age and service rules and/or raising of the earnings thresholds to qualify for health coverage as part of the 2020 Amendments.

3. Increases in HRA amounts...is there a scale? How are these being figured? If you have 25,000 in resid's is it a certain amount of increase for that year, if you have 50,000 in resid's for a given year is it another amount???? Additional HRA allocations for years 2023 - 2030 (please see section 10 of the settlement agreement for details). The computation is confusing at best. **HOWEVER** you can't base figures on yearly residual income if the union is not placing the residuals in the correct year!!! Again, our little band of "second class citizens" (seniors aged 65 and taking a pension) do not get residuals recorded when they were PAID. They now get recorded when the union gets around to PROCESSING THEM!! I actually called the union about this problem at the beginning of this year when i saw ALL my residuals paid in December of 2022 entered in 2023. At the time, I asked how my yearly pension increase based on income would be figured correctly if the yearly income figures are grossly incorrect??? I was told not to worry about the pension increase, that those numbers would be correct for the pension income increase. I checked, and for THAT reason, they were. **HOWEVER**, we need the Senior's residual numbers to be entered when they are PAID, and in the correct year, if HRA INCREASES ARE GOING TO BE BASED ON YOUR YEARLY RESIDUAL FIGURES.

In the above chart of my 3 year figures, right now in the year 2022 on my earnings pages, it is only reflecting \$11,470 in residuals. I had a large amount of residuals come in in Dec. of '22. ALL those resid's were posted in 2023. This must be corrected if HRA bumps

are to be based on yearly residuals. Our residuals cannot be entered by processing dates. They need to be entered by check paid dates for obvious reasons.

BTW, residuals should also be recorded correctly, due to the Commercials Class A Mitigation Fund in our new contract. Please remember that we are all NOT retired. Even though you term us as such. I'm still working and care about accuracy of income reporting!!

I find it disheartening that new policies that grew out of our "impacted senior second class citizen" group are enacted under the continued description of "members who are 65 and on a pension"!

Here is the wording right from the Covered Earning pages on the Sag-Aftra Plans:

For pensioners 65 and over, earnings will be attributed to the day they get processed by the Plans.

YES, incorrect earnings posting WILL impact my status. Now per the settlement, HRA increases are based on correct yearly residual posting!!!

4. And last, but hardly least, i need to comment on the decision making and lack of business acumen on the part of the Health Plan Trustees who couldn't come up with better solutions to better the health of...well...our Sag Health Plan, than what occurred.

How about...

7

--Higher premiums being set into place for ALL participants, i would have much preferred that than betrayal. Perhaps, years, before it came to this..ie: foresight and transparency.

--Raising the actors income caps on Producer Contributions which could have been accomplished in contract negotiations and bargaining sessions in 2019 and 2020, had the negotiators known the true condition of the health plan, before it was SPRUNG on us, and before contract negotiations took place.

--Don't charge the same premiums for 2 dependent children as you would for UNLIMITED dependent children.

--Once the senior actor had been dumped from their plan...the plan for which ONLY the actor was responsible for its existence...don't continue to cover all that actor's dependents and spouses even though the actor themselves is NOT ELIGIBLE. Lord, i could not believe THAT one. In talking to friends..."Say what now??? You, as the actor, were kicked off the plan, but all your children under the age of 26 and your spouse under the age of 65 continue to be covered"??? It's amazing how many people who lost their insurance are not aware of this and just about faint dead away hearing it. If you were looking to improve the financial health of the health plan, I believe that could have saved alot of \$\$\$ for the plan just on this one issue. So...the actor is dumped, for whom the plan exists, but the rest of the clan, WHO ARE NOT ACTORS will continue to be covered???? This settlement is just not enough.

Thank you for listening and for your consideration.

I am planning to attend the Fairness Hearing on Sept. 11th.

Jan Hoag

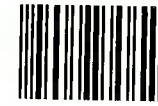


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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFOR
ATTN: The Honorable CHRISTINA A. Snyder
350 W. FIRST ST.
LA, CA 90012

EXHIBIT 2

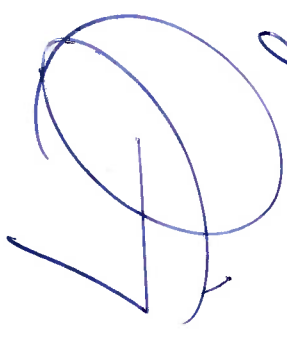
that has been reached in *Asner, et al. v. The SAG-AFTRA Health Fund, et al.*, Case No. 2:20-cv-10914-CAS-JEMX. A Settlement Notice

Sorry -

Have this

clear things

up -



JIMMY HAWKINS

CASE No 2:20-CV10914-CAS-JEMx

July 17, 2023

Honorable Consuelo B. Marshall

United States District Court
Central District of California
Department 8D
350 W. First Street
Los Angeles, CA 90012

Dear Judge Marshall:

My name is Jimmy Hawkins (James Francis "Jimmy" Hawkins). I was an active SAG member in 1960. One of my many credits was the 1946 Frank Capra classic, IT'S A WONDERFUL LIFE. I received on screen credit as the youngest son of James Stewart and Donna Reed, "Tommy Bailey".

I had numerous other film credits between 1943 and January of 1961.

When the negotiations and settlement was reached (SAG 1960 Theatrical/Residual Strike). That settlement resulted in SAG accepting a buy-out of all actors' residual rights in all films sold to television pre-dating January 1961.

SAG received some \$2.26 million which ultimately resulted in SAG's first Pension and Welfare plan. In exchange for our giving up our substantial residual rights (payments), we accepted SAG's offer of lifetime Healthcare Benefits.

The proposed Settlement Agreement before you, eliminates my (and others') Lifetime Benefits! SAG is asking that this Court be a party to their blatant BREACH of Contract!

While the number of members impacted has, and continues to grow smaller, this loss of benefits comes at a time when the benefits are likely needed most.

Current SAG leadership have stated that our claims, as outlined herein, are a "nuisance." They propose to throw us a small sum for a limited time which likely cause us substantial financial hardship in the remaining years we have.

I am simply asking that SAG live up to their contractual obligations as I, and my fellow actors have.

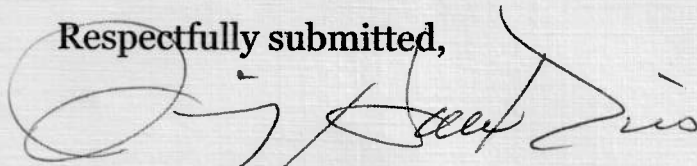
It would seem to me that any approval of SAG's proposed settlement should be conditioned on **carving out an exception for those members who waived their residuals back in 1960 and require SAG to comply with their contractual obligations.**

We, the SAG Class of 1960, actually gave up what it took to get SAG its health care.

In ending, I am reminded of the warnings I received from Mickey Rooney: "SAG is going to screw us Jimmy...wait and see. One day they're going to screw us over this!" Boy was he right!

Thank you for your giving us the opportunity to be heard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jimmy Hawkins", written over a circular stamp or mark.

Jimmy Hawkins

Jimmy Hawkins
4136 Edenhurst Ave.
L.A. Ca. 90039-1306



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL



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Honorable Consuelo B. Marshall
United States District Court
Central District of California
Department 8D
350 W. First Street
Los Angeles, CA 90012

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United States District Court
Central District of California
Office of the Clerk

Cristina M. Squieri Bullock
Chief Deputy of Administration
350 West 1st Street, Suite 4311
Los Angeles, CA 90012

Sara Tse Soo Hoo
Chief Deputy of Operations
255 East Temple Street, Suite TS-134
Los Angeles, CA 90012

August 16, 2023

Via U.S. Mail

JIMMY HAWKINS
4136 EDENHURST AVE.,
LOS ANGELES, CA 90039

Re: Mail Received by the U.S. District Court, Central District of California

Dear JIMMY HAWKINS:

On JULY 19, 2023, we received the document(s) you sent to the United States District Court for the Central District of California. However, this court has no record of any previous complaint filed in your name, and a review of the court's docket reflects there are no pending cases in this court in which you are a party. The court cannot file your document(s) or otherwise act upon them unless you identify an existing case in this court to which they relate, or choose to initiate a new case in this court. Accordingly, your document(s) are being returned to you.

If you have a case pending in a different federal district court, or in a state Superior Court, you must contact that court directly. If you wish to initiate a new case in this court, information about filing a civil case without a lawyer can be found on the court's website at www.cacd.uscourts.gov. Look for the "People Without Lawyers" link at the top of the court's homepage.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Squieri", written over a horizontal line.

Deputy Clerk, U.S. District Court

Enclosure(s)/YS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
350 W. 1ST STREET, SUITE 4311
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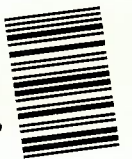
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