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FILED
SUPERIOR COURT of CALIFORNIA
COUNTY OF SANTA BARBARA

JUL 15 2019

Darrel E. Parker, Executive Officer
BY *Katrina Gutierrez*
Katrina Gutierrez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

David Weisman,)	Case No.: 1469303
Plaintiff,)	STATEMENT OF DECISION
vs.)	
Michael Post, an individual, and DOES 1- 10, inclusive,)	
Defendants.)	

This matter was heard in a Court Trial in Department Four of Santa Barbara Superior Court, before the Honorable Donna D. Geck, Judge of the Superior Court presiding, on May 6, 2019, May 7, 2019, May 8, 2019, May 9, 2019 and May 13, 2019. Plaintiff DAVID WEISMAN was present and was represented by his attorney of record, JAMES P. BALLANTINE, ESQ. Defendant MICHAEL POST was present and was represented by his attorney of record, GEOFF CONNOR NEWLAN, ESQ.

Plaintiff called the following witnesses to testify at trial: PAUL WHITE, ROBERT MARGOULEFF, Plaintiff DAVID WEISMAN, and Defendant MICHAEL POST under Code of Civil Procedure section 776. Defendant called one witness to testify at trial: Defendant

1 MICHAEL POST. Plaintiff offered the following Exhibits which were received into evidence at
2 Trial: Exhibit numbers 1, 2, 2A, 3, 4, 4.A, 4.B, 4.C, 4.D, 4.E, 4.F, 4.G, 5, 5A, 6, 7, 8, 9, 10, 12,
3 13, 14, 15, 16, 18, 19, 22, 23.A-ZH, 2.3ZI, 25C, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, 45, 46,
4 48, 49, 50.A-I, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69.A, 69.B,
5 70, 73, 74, 75, 76, 77, 78,79, 105, 108, 109, 110, 149.A, 149.B, 150.A, 150.B, 150.C, 150.D,
6 151.A, 151.B, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165. Defendant offered the
7 following Exhibit which was received into evidence at Trial: Exhibit number 1005.

8 The parties rested their case on May 9, 2019, and then presented their closing arguments
9 on May 13, 2019. Following closing, the Court directed counsel for each of the parties to
10 prepare a proposed Statement of Decision, for the court's consideration, to be filed with the
11 Court by July 1, 2019, at which time the case is submitted.

12 The Court, having considered the testimony of the witnesses at trial, the credibility of the
13 witnesses, the documentary evidence, and other exhibits admitted into evidence, and having
14 received and reviewed the Trial Briefs and proposed Statements of Decision from and having
15 heard arguments by, the attorneys for the parties, and good cause therefore, now issues this
16 Statement of Decision.

17 **I.**

18 **ISSUES BEFORE THE COURT**

19 This cases involves a dispute over the publicity rights, the rights to the name, voice,
20 signature, photograph, or likeness ("publicity rights"), as defined in California Civil Code
21 section 3344.1, of an individual known as Edith or Edie Sedgwick.

22 Plaintiff is a film producer and the owner of all rights in a film known as *Ciao!*
23 *Manhattan* (Exhibits 4A-4G), in which Edie Sedgwick appeared; in the process of appearing in
24 the film she had contractually assigned to the producer broad publicity and biography rights.
25 (Exhibit 1.) Defendant was married to Edie Sedgwick for approximately 3 months, until her
26 death.

27 The fundamental issue before the Court is whether the Defendant, Michael Post, is
28 entitled to claim publicity rights in Edie Sedgwick as a Successor-In-Interest to Edie Sedgwick,

1 pursuant to Civil Code Section 3344.1.

2 Plaintiff contends that Defendant does not qualify to be Successor-In-Interest to Edie
3 Sedgwick, pursuant to Civil Code Section 3344.1, because Edie Sedgwick was not a "deceased
4 personality" within the meaning of the statute, because her name, voice, signature, photograph,
5 or likeness did not have commercial value at the time of, or because of, her death, as required by
6 Civil Code Section 3344.1, subdivision (h). Plaintiff further contends that whatever publicity
7 rights Edie Sedgwick had at the time of her death had been contractually assigned to Plaintiff.

8 Defendant, by contrast, claims entitlement to be a Successor-In-Interest to Edie
9 Sedgwick, pursuant to Civil Code Section 3344.1. Defendant concedes that the sole ground by
10 which he claims any publicity rights in Edie Sedgwick is as a Successor-In-Interest, pursuant to
11 Civil Code Section 3344.1.

12 The parties appear to agree that, as claimant under Civil Code Section 3344.1, Defendant
13 had the burden of proving that Edie Sedgwick's publicity rights had commercial value at the time
14 of or as a result of her death, in order for her to qualify as a deceased personality under Civil
15 Code Section 3344.1. Plaintiff contended at trial that Defendant had the burden of proving any
16 entitlement as Successor-In-Interest to Edie Sedgwick. Defendant acknowledged having such
17 burden of proof. Defendant contended in his Trial Brief submitted at Trial: "Michael Post **will**
18 **show** that there was in fact at least "some" commercial value at the time of her death or as
19 the result of her death, which is all that is required under Civil Code Section 3344.1."
20 (Defendant's Trial Brief, p. 3, lines 6-9 (emphasis added).) Defendant further contended that
21 "Defendant Michael Post **will prove at trial** that he was married to Edie Sedgwick at the
22 time of her death and that she died without any children nor a will, thus leaving him as **the**
23 **sole successor-in -interest** of the right at issue here, as that is determined in Civil Code
24 Section 3344.1. (Defendant's Trial Brief, p. 3, lines 9-13 (emphases added).)

25 **II.**

26 **BACKGROUND**

27 This case concerns Plaintiff's ownership of the feature film *Ciao! Manhattan* (referred to
28 herein as "*Ciao!*") and publicity rights of Edie Sedgwick, the person who ultimately became the

1 film's lead actress, and who is now deceased. According to Plaintiff, although *Ciao!* was not
2 originally about Sedgwick, or even going to feature her, eventually during the course of its five
3 years of production, it did become biographical of Sedgwick. In December 1970, Sedgwick
4 assigned by contract to Plaintiff's predecessor a broad grant to use her publicity rights, including
5 in her "name, likeness and biography." (Trial Exhibit 1.) Thereafter, Plaintiff produced and
6 publicized the *Ciao!* film, which was a commercial success, and took steps to establish the
7 commercial value of Edie Sedgwick, since the premier of *Ciao!*, and was ultimately successful at
8 doing so.

9 Edie Sedgwick died on November 16, 1971 (Exhibit 3). Her estate was probated
10 thereafter, as set forth in the Probate Order issued in the case of the Estate of Edith Sedgwick
11 Post, Santa Barbara Superior Court Case No. 94863, on March 20, 1972. The final Order in the
12 Probate distributes the *entire estate* of Edie Sedgwick, consisting of 1.) Cash in the sum of
13 \$3,807.73, held by Fiduciary Trust Company of New York; and 2.) 65 shares of Capital Stock of
14 Western Independent Corporation, to Michael Post, and stated that "unless further estate not
15 described above is discovered, no further proceedings shall be had in the administration of the
16 estate of said decedent." (Exhibit 12.)

17 After the probate closed, on July 26, 1972, the film, *Ciao! Manhattan*, was completed
18 and premiered in Amsterdam, The Netherlands, by one of its co-producers. Plaintiff DAVID
19 WEISMAN, who testified at length as to the making and circumstances of the creation and
20 distribution of the film. The film was a product the first effort by a few young aspiring budding
21 filmmakers to make a commercial film. The film was started five years earlier, in March 1967,
22 and it originally cast another girl; in her replacement, the producers cast Edie Sedgwick, who had
23 no prior experience in a commercial film. Edie Sedgwick came to New York in 1964 and for a
24 time frequented Andy Warhol's Factory in 1965 and appeared in a few of his experimental art
25 films. None of the film or activities that Edie engaged at the Warhol Factory during the short
26 distinct period of April 1965 through November 1965 were commercial, or for which she ever
27 received monetary compensation. During that time, Edie appeared in editorial articles in a few
28 New York publications including *Vogue* and *Time*, but she never was compensated for any such

1 appearances in modeling or news publications.

2 After the release of the film, *Ciao! Manhattan*, Jean Stein, contacted Plaintiff and told
3 him that she wished to write a book about Edie Sedgwick, based upon interviews of family
4 members and friends. Plaintiff shared an extensive amount of material from the film with Jean
5 Stein and in response to her request, provided, among, other things, the original tapes of Edie
6 Sedgwick, and the original 1970 Contract that Edie had entered into in agreeing to work on the
7 second part of the filming, which took place in California in December 1970.

8 Ten years after the premier of *Ciao! Manhattan*, Jean Stein's book, *An American Girl*,
9 was published in 1982 (Exhibit 23), and Plaintiff chose to re-release his film, *Ciao! Manhattan*,
10 on home video at that time (see (Exhibit 2.)). There was significant public response to both, and
11 Jean Stein's book was on the nonfiction bestseller list for a number of weeks, selling millions of
12 copies (Exhibit 62.)

13 Six years later after the publishing of the *An American Girl* book, (Exhibit 23) on
14 February 7, 1989, Defendant filed with the Secretary of State of California, a Notice of
15 Successor-in-Interest, declaring that by virtue of his status as surviving spouse of Edie Sedgwick,
16 he *owned* 100% of "all types of rights of Edith Sedgwick Post" providing no description of the
17 rights. (Exhibit 149.A) Through this public filing, Defendant claims to own 100% of all
18 publicity rights of Edith Sedgwick Post, and does not identify any exceptions. (*Id.*) Starting in
19 2004, Defendant commenced licensing activities claiming to be Successor-in-Interest to Edie
20 Sedgwick.

21 Upon discovering Post's commercial activities involving the use of Edith Sedgwick's
22 images, Plaintiff initiated proceedings to protect his rights under his 1970 Contract with Edith
23 Sedgwick. (Exhibit 1.)

24 III.

25 PROCEDURAL BACKGROUND

26 In 2011, Plaintiff filed a complaint addressing this issue along with other claims
27 including copyright infringement in the United States District Court, Central District of
28 California ("USDC"). The USDC issued a Judgment dated September 24, 2014, ("Judgment") in

1 which the USDC granted Plaintiff certain relief finding that Plaintiff had the legal ownership of
2 the Publicity Rights with respect to Sedgwick and other rights, and declined to find that
3 Defendant Post had any rights whatsoever with respect to Sedgwick. (Ex. 10) In its Judgment,
4 the USDC expressly declined to exercise supplemental jurisdiction over Plaintiff's State Law
5 claims. Plaintiff filed the complaint initiating this action in this State Court within the time-
6 frame provided for under 28 U.S.C. § 1367. Defendant never timely sought State Court review
7 of any State Law claims as to Plaintiff under California Civil Code section 3344.1, or any other
8 provision of California law. (Id.)

9 Through its Judgment, the USDC held: (i) that Plaintiff has the legal ownership of the
10 Publicity Rights with respect to Sedgwick pursuant to the terms of the Agreement; (ii) that
11 Plaintiff has the additional rights to the images of Sedgwick arising from Plaintiff's copyright
12 registration of the Film; (iii) that other than the foregoing orders in favor of Plaintiff, it would not
13 make a finding as to whether Plaintiff had further ownership interests in images in Sedgwick
14 under California Civil Code section 3344.1, and that it would decline to make any further
15 determinations with respect to the extent of Plaintiff's rights with respect to Sedgwick under
16 California Civil Code section 3344.1, since it was declining to exercise any further supplemental
17 jurisdiction over questions arising under California law; (iv) that Defendant Post had no
18 common law/commercial misappropriation rights or any other rights with respect to Sedgwick
19 under California Civil Code section 3344; (v) that it could not make any declaration that
20 Defendant Post had any rights with respect to Sedgwick under California Civil Code section
21 3344.1; and (iv) that it would decline to adjudicate any further questions or make any further
22 findings under California Civil Code section 3344.1, and would decline to exercise supplemental
23 jurisdiction to decide any further State Law issues. Remaining to be adjudicated, following the
24 Judgment, is the complete extent of Plaintiff's rights in the name, likeness, image, and identity of
25 Sedgwick, including under California Civil Code section 3344.1, and whether Defendant Post
26 has any rights whatsoever with respect to Sedgwick under California Civil Code section 3344.1.
27 (Trial Exhibit 10.)

28 In accordance with the Judgment declining to further exercise supplemental jurisdiction

1 over the Plaintiff's State Law claims, Plaintiff filed the complaint initiating this action in this
2 State Court. Plaintiff's First Amended Complaint, filed on or about April 22, 2015, is the
3 operative pleading in this Action. Plaintiff's First Amended Complaint states three causes of
4 action for: 1) Violations of Rights of Publicity held by Plaintiff, 2) Declaratory Relief, 3)
5 Injunctive Relief. All relief requested are on the basis that as between Plaintiff and Defendant,
6 Plaintiff is the proper owner of all existing rights of publicity in Sedgwick, and that Defendant's
7 claim to be successor in interest under 3344.1 are without proper basis. Plaintiff seeks a
8 declaration that, as between Plaintiff and Defendant, Plaintiff is the proper owner of all existing
9 rights of publicity in Sedgwick, and that Defendant has no rights of publicity in Sedgwick as
10 successor in interest under 3344.1, and an order enjoining Defendant from acting or purporting to
11 act as successor-in-interest to Sedgwick, from interfering with Plaintiff's Publicity Rights to
12 Sedgwick or asserting Publicity Rights to Sedgwick contrary to Plaintiff's rights.

13 Defendant filed a general denial to Plaintiff's First Amended Complaint. He has not
14 sought any affirmative relief.

15 The gravamen of the relief requested by Plaintiff in this action is Plaintiff's Second Cause
16 of Action of his First Amended Complaint, for Declaratory Relief, in which Plaintiff seeks a
17 declaratory judgment from this Court which declares that the Publicity Rights in Sedgwick are
18 wholly owned by Plaintiff, that Defendant has no Publicity Rights to Sedgwick, and that
19 Defendant has no rights in the name, likeness, image, or identity of Sedgwick, as successor-in-
20 interest to Sedgwick under Civil Code section 3344.1 or otherwise. Plaintiff seeks this
21 declaration because Defendant is claiming rights to Sedgwick pursuant to Section 3344.1, and
22 admit and intends continue to do so. Plaintiff also seeks an injunction enjoining Defendant from
23 taking any further steps as Successor-in-Interest.

24 IV.

25 LEGAL BACKGROUND RE: PUBLICITY RIGHTS AT ISSUE IN THIS CASE

26 The Right of Publicity focuses on rights to a person's name, voice, photograph, or
27 likeness. In California, the right of publicity is both a common law and a statutory right,
28 addressed in Civil Code sections 3344 and 3344.1.

1 As the California Supreme Court has observed, California recognizes both a common law
2 and statutory right of publicity. (*Comedy III Productions, Inc. v. Gary Saderup, Inc.* (2001) 25
3 Cal.4th 387, 391.) The right of publicity is essentially an economic right; the right that the
4 publicity holder possesses is the right to prevent others from misappropriating the economic
5 value generated by the deceased personality's publicity rights, such as through the
6 merchandising of the deceased personality's name, voice, signature, photograph, or likeness. (*Id.*,
7 pp. 400-403.)

8 The so-called right of publicity means in essence that the reaction of the public to name
9 and likeness, which may be fortuitous or which may be managed or planned, endows the
10 name and likeness of the person involved with commercially exploitable opportunities.
11 (*Lugosi v. Universal Pictures* (1979) 25 Cal. 3d 813, 824.)

12 The common law right of publicity has been recognized in this state since 1931.
13 (*Gionfreddo v. Major League Baseball* (2001) 94 Cal.App.4th 400, 408.) The statutory right of
14 publicity first originated with Civil Code section 3344, enacted in 1971, allowing recovery by
15 any living person whose name, photograph, or likeness has been used for commercial purposes
16 without his or her consent. (*Comedy III, supra*, 25 Cal.4th 387, 391; Civ. Code § 3344.)

17 Eight years later in *Lugosi v. Universal Pictures, supra*, the California Supreme Court
18 reaffirmed the common law right of publicity, which protects against the unauthorized use of
19 one's name, likeness, or personality, and which the statute was said to complement. (*Id.* at p. 819
20 & fn. 6.) However the Supreme Court held that, because the common law right of publicity
21 derived from the right of privacy, the right to exploit the name and likeness is personal to the
22 artist and must be exercised, if at all, by him during his lifetime, and therefore did not survive the
23 death of the person whose identity was exploited and was not descendible to his heirs. (*Id.* at pp.
24 820-824.) The Supreme Court also noted: "Significantly, section 3344 does not purport to
25 create a descendible right enforceable by the heirs of the person whose identity was
26 appropriated." (*Id.* at fn. 6.)

27 In 1984, the California legislature enacted a statute creating a post-mortem right of
28 publicity for "deceased personalities," meaning individuals whose names, voices, signatures,

1 photographs, or likenesses have commercial value at the time of their death. This legislation was
2 codified as Civil Code section 990 (later renumbered section 3344.1, see *infra*) and became
3 effective January 1, 1985. Under the California statute, this right of publicity is a property right
4 that may be transferred by contract, trust, or other testamentary document. In the absence of such
5 a transfer, the right is descendible to certain statutory heirs and their successors after the
6 personality's death. Essentially, the enactment of the 1984 legislation "superceded the holding"
7 in *Lugosi v. Universal Pictures* "that the right of publicity was not descendible. (*Crosby v. HLC*
8 *Properties, LTD.* (2014) 233 Cal.App.4th 597, 600, Fn 4.) The California Supreme Court
9 characterized the 1984 enactment as follows:

10 In 1984 the Legislature enacted an additional measure on the subject, creating a
11 second statutory right of publicity that was descendible to the heirs and assignees of
12 deceased persons. (Stats. 1984, ch. 1704, § 1, p. 6169.) The statute was evidently
13 modeled on section 3344: many of the key provisions of the two statutory schemes
14 were identical. ...

15

16 The statute defines "deceased personality" as a person "whose name, voice, signature,
17 photograph, or likeness has commercial value at the time of his or her death," whether
18 or not the person actually used any of those features for commercial purposes while
19 alive.

20 (*Comedy III, supra*, 25 Cal.4th 387, 391-392.)

21 In 1999, the California legislature renumbered section 990 as section 3344.1 and
22 amended the statute to extend the duration of the post-mortem right of publicity from fifty to
23 seventy years after death, rephrased certain statutory exemptions for the media, and include a
24 provision applying the statute to acts occurring directly in the state of California. (Stats. 1999,
25 ch. 1000, p. 7620.)

26 In 2007, Civil Code section 3344.1 was amended to clarify its language in response to
27 court rulings by two federal courts. (Sen. Bill No. 771 (2007-2008 Reg. Sess.) § 1; see Stats.
28 2007, ch. 439, p. 3757.) The amendment revised the statute's provision regarding the transfer of

1 the right of publicity by contract or testamentary instrument, providing that this provision applied
2 to instruments executed before or after January 1, 1985, that such rights shall be deemed to have
3 existed at the time of death of any person who died prior to January 1, 1985, that its provisions
4 were retroactive, including to those deceased personalities who died before January 1, 1985.

5
6 **V.**

7 **EDIE SEDGWICK CONTRACTUALLY ASSIGNED PLAINTIFF RIGHTS OF
8 PUBLICITY**

9 It was disputed at Trial that at the time of her death, Edie Sedgwick was under contract to
10 the Plaintiff, through his production company, Court Pictures, as "Producer," with respect to the
11 motion picture, *Ciao! Manhattan*, the December 18, 1970 *Ciao! Contract*. (Exhibit 6.) Plaintiff
12 presented uncontested evidence at trial, through Plaintiff's testimony and exhibits, that Plaintiff
13 is the sole successor-in-interest to Court Films and has been assigned all rights in the *Ciao!*
14 *Manhattan* film, including the rights to the *Ciao! Contract* and all copyrights with respect to the
15 film (Trial Exhibits 4A – 4G.)

16 In the *Ciao Contract*, Edie Sedgwick, as Artist, granted to Producer, at ¶ 3 "all rights,
17 worldwide, in perpetuity, in all media and in all means whether presently known or unknown, to
18 the results and proceeds of Artist's services" and "the right to utilize Artist's name, likeness and
19 biography in connection with advertising or publicizing the motion picture *Ciao! Manhattan*."
20 Additionally, Sedgwick agreed "during the Term, or any extension thereof, not to permit her
21 name to be used in any manner for commercial purposes without the written consent of the
22 Producer." (Ex, 1, ¶ 4.)

23 Edie Sedgwick agreed for the Term of the *Ciao! Contract*, including any extension of the
24 contract, to "devote her services exclusively to Producer and not engage in any other
25 occupation." (*Id.*, ¶ 2.) "Term" is defined simply as the term of the contract (*Id.*), although it is
26 not more specifically defined as being any particular period or group of dates, and, has no
27 expiration date or maximum period. The *Ciao! Contract* provides at ¶ 10 that the term of the
28 contract shall automatically be extended for the number of days that Artist's services are required
to complete said motion picture" and at ¶ 8 that the Term shall be extended for any period of

1 force majeure. The *Ciao* Contract further provides at ¶ 9 that the Artist must perform to
2 Producer's satisfaction all scenes and dialogue provided to her by Producer. The *Ciao!* Contract
3 also provides at ¶ 13 that Sedgwick must be available to dub Artist's voice in English, with no
4 time limitation.

5 Essentially, through the *Ciao!* Contract, Edie Sedgwick was obligated to devote her
6 services exclusively to the *Ciao!* producers through the completion of the film (which had not
7 been completed at the time of her death). In addition, she had assigned to the *Ciao!* producers
8 broad rights of publicity, including her rights of biography, and since *Ciao!* was biographical,
9 this constituted a broad grant of rights to publicity to the *Ciao!* producers under the *Ciao!*
10 Contract.

11 *Ciao! Manhattan* is the only film in which Edie Sedgwick participated to which she ever
12 assigned her publicity rights of any kind. Plaintiff's claims in this regard were not questioned at
13 trial, and Defendant never claimed to the contrary.

14 In California, the right of publicity is freely transferable by contract or assignment. (*KNB*
15 *Enterprises v. Matthews* (2000) 78 Cal.App.4th 362, 365, fn 2., citing *Lugosi v. Universal Pictures*
16 (1979) 25 Cal. 3d 813, 820, 823.)

17 The assignability of the right of publicity in California is itself both a common law right
18 and a statutory right. "[S]ection 3344.1 is nevertheless notable because it acknowledges,
19 as the Supreme Court did in *Lugosi*, that the right of publicity can be assigned by the
20 owner during his or her lifetime. Section 3344.1, subdivision (b) states in relevant part:
21 "Nothing in this section shall be construed to render invalid or unenforceable any
22 contract entered into by a deceased personality *during his or her lifetime* by which the
23 deceased personality *assigned the rights*, in whole or in part, to use his or her name,
24 voice, signature, photograph, or likeness...."

25 (*Timed Out, LLC, v. Youabian, Inc.* (2014) 229 Cal.App.4th 1001, 1008.)

26 The December 18, 1970 contract reads: "ARTIST hereby grants PRODUCER all rights,
27 worldwide, in perpetuity, in all media and in all means whether presently known or unknown, to
28 the results and proceeds of ARTIST'S services, and grants PRODUCER the right to utilize

1 ARTIST'S name, likeness and biography in connection with advertising or publicizing the
2 motion picture 'CIAO! MANHATTAN.'" It was established at trial that Edie Sedgwick's only
3 commercial value at the time of her death was connected to and arising from Plaintiff's film
4 *Ciao! Manhattan*. The plain language of the *Ciao! Contract* assigns to Plaintiff "all rights,
5 worldwide, in perpetuity, in all media and in all means whether presently known or unknown, to
6 the results and proceeds of ARTIST'S services" as well as an assignment of Sedgwick's
7 publicity rights for Plaintiff's exploitation in connection with *Ciao! Manhattan*. Thus, the *Ciao!*
8 *Contract* assigns Plaintiff broad rights, including the right to benefit from commercial use of
9 Edie Sedgwick's name, likeness, and biography. Plaintiff testified without contradiction that he
10 prepared the *Ciao! Contract* and that the intent of the *Ciao! Contract* was to secure the broadest
11 possible assignment of publicity and biography rights from Edie Sedgwick, since the film had
12 become at the time of execution of the *Ciao! Contract* biographical about Edie Sedgwick.
13 Plaintiff and Robert Margouloff, who was the original co-producer of *Ciao! Manhattan* also
14 testified that at the time that filming of the work first began in 1967, Edie Sedgwick, along with
15 the other persons in the film signed a standard industry form contract for their services which
16 included a publicity release. According to Plaintiff, the *Ciao! Contract* contained a substantially
17 broader grant of publicity rights than the original contract.

18 VI.

19 CALIFORNIA CIVIL CODE SECTION 3344.1 PREVENTS DEFENDANT FROM 20 CLAIMING THAT HE OWNS THE SEDGWICK PUBLICITY RIGHTS BECAUSE 21 SEDGWICK HAD ALREADY TRANSFERRED THEM TO PLAINTIFF

22 California Civil Code Section 3344.1(b) provides that "[t]he rights recognized under this
23 section are property rights, freely transferable or descendible, in whole or in part, by contract or
24 by means of any trust or any other testamentary instrument, executed before or after January 1,
25 1985." Further, "[n]othing in this section shall be construed to render invalid or unenforceable
26 any contract entered into by a deceased personality during his or her lifetime by which the
27 deceased personality assigned the rights, in whole or in part, to use his or her name, voice,
28 signature, photograph, or likeness, regardless of whether the contract was entered into before or

1 after January 1, 1985.”

2 Plaintiff’s claim that Edie Sedgwick’s publicity rights were transferred to him through the
3 *Ciao!* Contract is supported by the provisions of Civil Code Section 3344.1 – publicity rights of
4 a deceased personality. The statute itself uses the term “commercial value,” thus monetizing the
5 publicity rights from something conceptual and rendering it a property right with value that can
6 be contracted away. At the time of contracting, and at the time of her death, all of Sedgwick’s
7 commercial value was attributable to the film *Ciao! Manhattan*. Plaintiff does not purport to
8 own all publicity rights that could have existed had Edie Sedgwick lived; Plaintiff only claims
9 rights that existed by virtue of Edie Sedgwick’s role in *Ciao! Manhattan* and the continued
10 commercial value that arose after Edie Sedgwick’s death as a result of Plaintiff’s continued
11 promotion and development of the Edie Sedgwick brand over the years as stemming from the
12 film. Plaintiff presented uncontradicted evidence at trial of the initial release of *Ciao!*
13 *Manhattan* (Exhibit 48(b), the re-release of the film in 1982, and beyond (Exhibits 62-109), and
14 Plaintiff’s ongoing efforts to promote the film and the Edie Sedgwick brand, including Plaintiff’s
15 2006 Book *Edie: Girl on Fire* (Exhibits 5-8).

16 The California Civil Code makes clear that any prior assignment of her rights of publicity
17 by the deceased personality prior to her death remains enforceable following her death, and that
18 any claim by a Successor-in-Interest is subject to any such prior *inter vivos* assignment. Civil
19 Code Section 3344.1(b), provides in pertinent part, “Nothing in this section shall be construed to
20 render invalid or unenforceable any contract entered into by a deceased personality during his or
21 her lifetime by which the deceased personality assigned the rights, in whole or in part, to use his
22 or her name, voice, signature, photograph, or likeness, regardless of whether the contract was
23 entered into before or after January 1, 1985.”

24 Accordingly, Edie Sedgwick’s *inter vivos* assignment of her rights to publicity under the
25 *Ciao* Contract supercedes any rights that could be claimed by Defendant as Successor-in-
26 Interest. To whatever degree Edie Sedgwick’s name and likeness had any commercial value at
27 the time of her death, those Publicity Rights had been assigned to the producer of *Ciao!* under
28 the *Ciao!* Contract. Moreover, under the *Ciao!* Contract, Edie Sedgwick had granted the

1 producers the rights to her biography, in addition to the Publicity Rights provided for under Civil
2 Code Section 3344.1.

3 As noted above, Civil Code Section 3344.1(b) specifically recognizes that the publicity
4 right can be transferred by contract and that nothing in the statute can render that contractual
5 transfer of rights invalid. Because of the December 18, 1970 *Ciao!* Contract, Sedgwick had
6 already contracted away any commercial value in her Publicity Rights and therefore, no publicity
7 rights were left to be transferred to Defendant upon Sedgwick's death. Consistent with the
8 foregoing, publicity rights are conspicuously absent from the Probate Order that distributed
9 Sedgwick's estate to Defendant, as well as from the Petition for Probate that Defendant filed
10 with the Court, as it was similarly absent from the listing of the property of Edie Sedgwick that
11 Defendant submitted to the State. The Estate of Edith Sedgwick Post, who died intestate, was
12 valued at under \$5,000 in probate. No publicity rights or any other intellectual property of Edie
13 Sedgwick was specified as an asset of the estate, nor was it purported to have been distributed
14 from the estate of Edie Sedgwick, nor was any later-discovered property distributed to
15 Defendant. (Exhibits 12, 14, 15, 16.)

16 VII.

17 **CIVIL CODE SECTION 3344.1. ONLY PROVIDES SUCCESSOR-IN-INTEREST** 18 **RIGHTS FOR PERSONS WHO MEET THE STATUTORY DEFINITION OF A** 19 **DECEASED PERSONALITY**

20 Defendant acknowledged that his sole claim to any publicity rights of Edie Sedgwick is
21 through Civil Code 3344.1, however Defendant cannot have a valid claim under section 3344.1,
22 if Sedgwick had no commercial value at the time, or as a result, of her death, under the express
23 provisions of § 3344.1.

24 Section 3344.1(h) provides, emphasis added:

25 "As used in this section, 'deceased personality' means any natural person whose
26 name, voice, signature, photograph, or likeness **has commercial value at the**
27 **time of his or her death**, or because of his or her death, whether or not during the
28 lifetime of that natural person the person used his or her name, voice, signature,

1 photograph, or likeness on or in products, merchandise, or goods, or for purposes
2 of advertising or selling, or solicitation of purchase of, products, merchandise,
3 goods, or services. A 'deceased personality' shall include, without limitation, any
4 such natural person who has died within 70 years prior to January 1, 1985."

5 This case involves the interpretation and the application of the phrase "deceased
6 personality" under Civil Code section 3344.1, since the section only provides successor-in-
7 interest rights to a person who is a successor-in-interest under its provisions to a "deceased
8 personality," a term specifically defined in section 3344.1, subsection (h). Specifically, this case
9 involves the application of the term "deceased personality," which is defined as a "natural person
10 whose name, voice, signature, photograph, or likeness has commercial value **at the time of his**
11 **or her death, or because of his or her death**" under Civil Code section 3344.1(h)(emphasis
12 added).

13 Accordingly, the inquiry in this case on this issue has focused on whether the Edie
14 Sedgwick's natural person whose name, voice, signature, photograph, or likeness **had**
15 **commercial value at the time of or because of** her death on November 16, 1971. Accordingly,
16 under the express provisions of section 3344.1, subdivision (h), Edie Sedgwick can only have
17 been considered a deceased personality if her name, voice, signature, photograph, or likeness
18 **had commercial value at the time of or because of** her death on November 16, 1971; she
19 cannot be considered to have been a deceased personality even if her name, voice, signature,
20 photograph, or likeness **may have had commercial value at some point in time before or after**
21 her death on November 16, 1971. The temporal limitation under section 3344.1, subsection (h)
22 is a specific limitation of the application of successor-in-interest rights. Section 3344.1 cannot be
23 construed to grant successor-in interest rights merely in the event that that the personality may
24 have had commercial value at some point or points in time in their life or after her death. Such a
25 construction would ignore the express definition set forth under section 3344.1, subsection (h).

26 Under the rules of statutory construction, the words of Section 3344.1, subdivision (h),
27 must all be fully construed. The words "at the time of . . . because of her death," may not be
28 rendered surplusage. The court is "required to give effect to every portion of [the statute being

1 construed by the Court], to avoid an interpretation which would render terms surplusage, and to
2 give every word “ ‘some significance, leaving no part useless or devoid of meaning.’” (*Donohue*
3 *v. Santa Paula West Mobile Home Park* (1996) 47 Cal.App.4th 1168, citing *Los Angeles County*
4 *Safety Police Assn. v. County of Los Angeles* (1987) 192 Cal.App.3d 1378, 1390, quoting *City*
5 *and County of San Francisco v. Farrell* (1982) 32 Cal.3d 47, 54)

6 **VIII.**

7 **DEFENDANT CANNOT CLAIM ANY RIGHTS UNDER CALIFORNIA CIVIL CODE**
8 **SECTION 3344.1 BECAUSE SEDGWICK WAS NOT A DECEASED PERSONALITY**
9 **UNDER THE SECTION BECAUSE SHE DID NOT HAVE COMMERCIAL VALUE AT**
10 **THE TIME OF HER DEATH; ALL HER COMMERCIAL VALUE AROSE AFTER HER**
11 **DEATH BECAUSE OF *CIAO!***

12 Despite claiming at the outset of Trial that “Michael Post **will show** that there was in
13 fact at least “some” commercial value at the time of her death or as the result of her
14 death,....” Defendant failed to do so. Defendant failed to produce any admissible evidence that
15 Edie Sedgwick’s publicity rights had any commercial value at the time of, or as a result of, her
16 death outside of those that had been assigned to the *Ciao!* producers. Defendant presented no
17 documentary evidence showing any such commercial value. Defendant presented no witnesses
18 establishing any such commercial value. Defendant presented no witnesses other than himself.
19 Defendant testified to vague claims that Edie Sedgwick must have had some commercial value at
20 the time of her death. However, such claims were merely lay opinion, and lacked foundation for
21 what is necessarily expert opinion. Defendant admitted that he had no background or experience
22 in evaluating the commercial value of the publicity rights of any artist or artistic production.

23 Defendant testified that Edie Sedgwick “must” have had commercial value because Edie
24 Sedgwick had appeared in some publications and in Andy Warhol films, however, Defendant
25 failed to produce any documentary evidence in support of such claims. (It was shown at trial that
26 Defendant had produced no documents in discovery showing that Edie Sedgwick had any
27 commercial value at the time of or as a result of her death, and had identified no such documents
28 in discovery (Exhibits 18, 22).)

Plaintiff, in contrast, presented specific evidence that explicitly addressed these issues,

1 and showed that none of them lead to Edie Sedgwick having any commercial value at the time of
2 her death outside of any publicity rights assigned to the *Ciao!* producers.

3 Plaintiff presented the testimony of three witnesses qualified to express opinions as to the
4 commercial value of the publicity rights of an artist or artistic production, and these witnesses
5 established that Edie Sedgwick's publicity rights did **not** have any commercial value at the time
6 of, or as a result of, her death outside of those that had been assigned to the *Ciao!* producers.
7 Plaintiff himself went on to become an experienced and Academy Award nominated film
8 producer, familiar with all aspects of evaluating the commercial value of artists and film
9 productions. (Exhibit 9, 156.)

10 Paul White, an experienced distributor of independent films, who distributes the *Ciao!*
11 *Manhattan* film and the Paul Morrissey films (Exhibit 161), testified as to the lack of commercial
12 value of the Andy Warhol experimental arts films in which Edie Sedgwick appeared.

13 Robert Margouleff, the original co-producer of *Ciao Manhattan*, and experienced movie
14 and record producer (Exhibit 162), testified to the fact that Edie Sedgwick was not cast in *Ciao!*
15 due to any commercial value and that in fact at the time of her death she had none.

16 Plaintiff presented evidence showing that Edie Sedgwick had appeared in some editorial
17 content in some New York publications over a period of time from July, 1965 to March 1966
18 (Exhibits 33 - 40). None of these were commercial; Defendant presented no evidence that Edie
19 Sedgwick was paid for any of these appearances, and Plaintiff presented uncontradicted
20 testimony that she was never paid for any of these appearances, which were editorial and not
21 commercial in nature. By October, 1966 the references to Edie Sedgwick alluded to her
22 substance abuse or related problems, such as burning buildings in which she was residing and
23 being in a "sanitorium" (Exhibits 41-46), and none appeared after October, 1968, three years
24 before her death.

25 Plaintiff presented uncontradicted evidence showing that the only Andy Warhol films in
26 which Edie Sedgwick ever appeared were filmed over a period of a few months during 1965 and
27 were experimental arts films which were never commercially shown or distributed, and were
28 filmed in a manner indicating that they were never intended to be commercially shown or

1 distributed. Plaintiff presented further uncontradicted evidence showing that Edie Sedgwick was
2 never paid to appear in any of these films. Defendant admitted that he was not aware that Edie
3 Sedgwick was ever paid to appear in any of this film appearance other than the *Ciao!* film, nor
4 was he aware of any film in which Edie Sedgwick appeared that was ever commercially
5 distributed other than the *Ciao!* film.

6 Edie Sedgwick's activities, including her artistic endeavors, modeling stints, appearances
7 in 16 MM art-film shorts, or from her uncompleted work on *Ciao!* did not generate commercial
8 value to her prior to her death. Therefore, Edie Sedgwick could not be considered a "deceased
9 personality" and has never been a "deceased personality" under California Civil Code section
10 3344.1, based on the language of the code defining a specific point in time – "as of the date of
11 death." Sedgwick's name, voice, signature, photograph, or likeness did not have commercial
12 value *at the time* of her death, nor did Sedgwick's name, voice, signature, photograph, or
13 likeness have commercial value *because of* her death.

14 In summary, despite claiming at the outset of Trial that he would "show that there was in
15 fact at least "some" commercial value at the time of [Edie Sedgwick's] death or as the result
16 of her death,...." Defendant failed to do so. Accordingly, Defendant failed to meet this burden
17 of proof of establishing an entitlement to claim rights to be a Successor-in-Interest to Edie
18 Sedgwick's publicity rights under California Civil Code section 3344.1. In contrast, Plaintiff
19 proved beyond a preponderance of evidence that Edie Sedgwick's publicity rights did not have
20 any commercial value at the time of or because of her death outside of those publicity rights
21 assigned to the *Ciao!* producers, which rights belong to Plaintiff, and therefore established that
22 Defendant could not and cannot claim any rights whatsoever to have been or be a Successor-in-
23 Interest to Edie Sedgwick's publicity rights under California Civil Code section 3344.1.

24 The evidence admitted at trial does not support Defendant's Successor-in-Interest claim.
25 Defendant's claim in this matter that Edie Sedgwick's publicity rights had commercial value at
26 the date of her death or as a result of her death was not supported by any evidence admitted at
27 trial. Rather, the evidence admitted at trial showed an *absence* of commercial value attributed to
28 Edie Sedgwick's publicity rights at the time of her death. The Probate proceedings of the Estate

1 of Edith Sedgwick Post in Santa Barbara Superior Court revealed that the attorneys who handled
2 the probate of the Estate of Edith Sedgwick Post identified only two assets of the Estate, neither
3 of which were commercial assets let alone commercial value of Sedgwick's publicity rights. The
4 evidence introduced at trial showed that the probate attorneys did obtain a copy of the December
5 1970 Contract from Plaintiff for the *Ciao!* film which Edie had signed during the probate
6 proceedings, but none of the probate documents filed identified any commercial rights relating to
7 the *Ciao!* film as an asset of the Estate (Exhibits 13-17), and the Probate Order closing the Estate
8 only identified the two assets that were distributed to the Defendant. (Exhibit 12.) The Probate
9 Order did not distribute any publicity rights of Edie Sedgwick to Defendant or any other person.

10 Defendant's judicial admissions and under oath testimony that were introduced by
11 Plaintiff at trial show that Plaintiff had repeatedly admitted under oath that he was not aware of
12 any commercial value that Edie Sedgwick had at the time of or as a result of her death. (Exhibits
13 154, 159.)

14 Supporting the fact that Defendant has no valid claim under section 3344.1, is
15 Defendant's testimony that prior to Sedgwick's death, the only commercial value in Sedgwick's
16 name and likeness was attributable to Plaintiff's film *Ciao! Manhattan* (Exhibit 154), which was
17 completed and produced within the following year after she died. Therefore, due to the fact that
18 Edie Sedgwick had no commercial value as of the date of her death, the Defendant as surviving
19 spouse has no claim under that section.

20 These judicial admissions by Defendant also support a finding that Defendant has no
21 factual basis for asserting that publicity rights of Edie Sedgwick not assigned to Plaintiff had any
22 commercial value as of the date of her death:

23 Based on the evidence at trial, the Court finds that Defendant's Notice of Successor-in-
24 Interest filing on February 7, 1989 (Exhibit 149.A), which filing is based on Defendant's claim
25 that Edie Sedgwick's publicity rights had commercial value at the time of and at all times after
26 her death, is, in fact, inconsistent with Defendant's filings in two other Court proceedings -- the
27 Estate of Edie Sedgwick (Exhibits 12, 14-16) and Defendant's schedule of assets filed in 2001 in
28 one of his dissolution proceedings (Exhibit 160), in which Defendant fails to identify any

1 commercial value whatsoever of Edie Sedgwick's publicity rights.

2 None of Defendant's Probate filings (Exhibits 13-17), nor the final Probate Order issued
3 in (Exhibit 12), in the Estate of Edith Sedgwick Post (Santa Barbara Superior Court case number
4 94863) identified as property of the Estate any commercial value of any publicity rights, or any
5 other commercial assets or value, of Edith Sedgwick. Defendant's claim as Successor-in-Interest
6 under Civil Code section 3344.1, is based upon his contention that the Edie Sedgwick's publicity
7 rights *existed* as of the time of her death, and that these publicity rights had commercial value at
8 the time of or because of her death, based on the language of the statute, Civil Code section
9 3344.1, and continuously thereafter. However, since no assets relating to the commercial value
10 of any of Edie Sedgwick's publicity rights, or any other commercial value of Edie Sedgwick's,
11 were identified as an asset of her Estate, none could have been distributed to Defendant in the
12 probate proceeding. The Probate Court's "Order Assigning Estate" (Exhibit 12) governing Edie
13 Sedgwick's estate defined a closed, finite, estate, distributing only the assets expressly listed
14 therein, which did not include any publicity rights or commercial value of any kind. Further,
15 Defendant *never*, at any time, made any attempt to reopen probate to identify any of Edie
16 Sedgwick's publicity rights, or any other commercial value of Edie Sedgwick's, as an asset of
17 Edith Sedgwick's Estate. Clearly, no publicity rights of Edie Sedgwick were ever transferred to
18 Defendant through the probate.

19 Defendant's failure to ever probate Edie Sedgwick's publicity rights is further noteworthy
20 in light of the comments by the USDC advising that Defendant will have a difficult time
21 prevailing on his claim under Civil Code section 3344.1, "until the issues surrounding the
22 Probate Court's Order are cleared up," but Defendant failed to ever do so. (Minute Order on
23 Sept. 14, 2014, Exhibit 158.) Regardless of Defendant's failure to ever probate Edie Sedgwick's
24 publicity rights or clarify the Court's probate order, Defendant is not a Successor-in-Interest to
25 Edie Sedgwick's publicity rights under Civil Code section 3344.1, because Edie Sedgwick was
26 not a "deceased personality" under the meaning of the section, since her publicity rights did not
27 have any commercial value at the time of, or as a result of, her death, outside of those rights
28 which had been assigned to the *Ciao!* producers.

1 Further contrary to Defendant's claim that Edie Sedgwick's publicity rights had at least
2 "some" commercial value at the time of her death or as the result of her death, is Defendant's
3 Court filing on July 7, 2001, by which Defendant filed his Schedule of Assets and Debts (Exhibit
4 160) in the matter of *Post v. Post*, Santa Barbara Superior Court Case No. 200609, Defendant's
5 dissolution proceeding with Karol Ann Post. That filing did *not* identify any assets relating to
6 Edie Sedgwick's publicity rights, or any other commercial value of Edie Sedgwick's, as an asset
7 of value in which Defendant claimed any interest. Despite claiming in 1989 to be Successor-in-
8 Interest to Edie Sedgwick, and despite claiming that she had some commercial value as of her
9 death and continuously thereafter, Defendant did not list any rights that he had as Successor-in-
10 Interest in his 2001 Schedule of Assets when he was obligated to list all his assets, separate or
11 community. (Exhibit 160.) Defendant listed other assets whose value was apparently unknown
12 to him, since he left the values blank. (*Id.*) Defendant's Schedule of Assets is evidence that
13 Defendant did not believe that he had any valid Successor-in-Interest in rights and/or that Edie
14 Sedgwick's publicity rights never had any commercial value.

15 Despite having taken the position that he did not own any commercial rights of Edie
16 Sedgwick, Defendant pursued commercial opportunities in 2004 and 2005 to exploit the images
17 of Edith Sedgwick by licensing the use of her image to third parties, and received monetary
18 compensation from such commercial activities. The evidence showed that Defendant also agreed
19 to be involved in the movie, *Factory Girl* (2007) and received compensation for his services.

20 In this case, Plaintiff presented significant evidence through the testimony of Plaintiff,
21 Paul White, and Robert Margouleff, and documentary evidence, that commercial value and
22 goodwill of Edie Sedgwick and her Publicity Rights have developed *posthumously*, including
23 through the *Ciao! Manhattan* motion picture distributed commercially since July 1972, 8 months
24 after Sedgwick's death) (Exhibits 48-61), the Stein/Plimpton book *Edie, An American Girl*
25 (Exhibits 23, 23A-Z1), the re-release of *Ciao! Manhattan* motion picture (Exhibits 62-109), the
26 2006 Painter/Weisman book *Girl on Fire* (Exhibits 5-8), all of which were published
27 significantly after the death of Edie Sedgwick. Defendant presented no evidence to dispute
28 Plaintiff's contention that the only commercial project in which Edie had ever been involved was

1 the *Ciao! Manhattan* motion picture. Similarly, Defendant presented no evidence to dispute
2 Plaintiff's contention that the name, voice, signature, photograph, or likeness of Edie Sedgwick
3 had no commercial value at the time of her death, and any commercial value that existed while
4 Edie was alive had been assigned under the *Ciao! Contract* (Exhibit 1)

5 Based on the evidence admitted at trial, Defendant had no ownership of the publicity
6 rights of Edie Sedgwick under CCP 3344.1. Defendant had no factual basis to file his claim as
7 Successor-in-Interest, and no right to license Edie Sedgwick's images for commercial purposes
8 based upon his Successor-in-Interest claim under that statute.

9 The Court finds that the filing of the successor-in-interest claim by Defendant in 1989
10 was contrary to the March 20, 1972 Probate Order (Exhibit 12) which identified the property
11 distributed to him from the Estate of Edie Sedgwick and contrary to his Schedule of Assets and
12 Liabilities that he filed under penalty of perjury in the year 2001 (Exhibit 160), in his dissolution.
13 The evidence at trial showed that Defendant only decided to exploit commercial images of Edie
14 Sedgwick after there was considerable public attention brought to Edie Sedgwick's life through
15 the publication of *An American Girl* in 1982, which was on the nation's bestseller list, and
16 Plaintiff's re-release of the movie *Ciao! Manhattan* on home video in that same year.

17 The Court finds that Defendant's testimony about the lack of commercial value that Edie
18 Sedgwick possessed as of the date of her death precludes Defendant from claiming his right to be
19 successor-in-interest under the statute. Based on Defendant's testimony, Defendant is estopped
20 from asserting that Edie Sedgwick was a "deceased personality" under Code of Civil Procedure
21 section 3344.1. Therefore, Defendant's claim of 100% ownership of the assets of Edie's
22 commercial value pursuant to CCP 3344.1 fails (Exhibit 149.A), and the Court finds that
23 Defendant is not entitled to be Successor-in-Interest to Edith Sedgwick under Code of Civil
24 Procedure section 3344.1.

25 Defendant testified that he planned to continue to claim being Successor-in-Interest to
26 Edie Sedgwick and to have 100% of the Publicity Rights in Edie Sedgwick. Defendant further
27 testified that his rights limited Plaintiff's rights with respect to Edie Sedgwick. Defendant also
28 admitted that he had received some \$100,000 in revenues licensing Edie Sedgwick's Publicity

1 Rights. (Exhibit 165.) Plaintiff testified that Defendant's claims and activities as purported
2 Successor-in-Interest had caused him harm and would continue to cause him harm.

3 The Court finds that since the facts in this case do not demonstrate that Edie Sedgwick
4 had any commercial value as of the date of her death, Defendant cannot claim any legal basis for
5 filing the Successor-in-Interest claim with the California Secretary of State under CCP 3344.1,
6 and Defendant should be further precluded from engaging in unauthorized commercial activities,
7 including licensing the use of Edie's likeness and image.

8 **JUDGMENT TO BE ENTERED**

9 In accordance with the foregoing, good cause for the reasons stated herein, the Court
10 finds that Plaintiff is entitled to the following relief on his First Amended Complaint herein
11 through entry of Judgment in favor of Plaintiff and against Defendant as follows:

12 1. The Court finds that Plaintiff DAVID WEISMAN is entitled to a declaratory judgment
13 against Defendant Michael Post declaring as follows:

14 A. That Defendant Michael Post is not a valid Successor-In-Interest to Edith
15 Sedgwick, aka Edie Sedgwick ("Sedgwick") under Civil Code section 3344.1, has no rights
16 under Civil Code section 3344.1 as Successor-In-Interest to Sedgwick, and that any past or future
17 filing with the California Secretary of State or any other person or entity or agency claiming to
18 be Successor-In-Interest to Sedgwick is null and void;

19 B. That Defendant Michael Post has no rights to or interest in the name, voice,
20 signature, photograph, or likeness, in any manner, ("Publicity Rights") of Sedgwick; and

21 C. That Defendant Michael Post has no Rights adverse to the rights of Plaintiff, as
22 the successor to all rights of the Producer under that certain contract dated December 18, 1970
23 between Court Pictures as Producer and Sedgwick as Artist, with respect to the motion picture,
24 *Ciao! Manhattan* ("Ciao! Contract").

25 2. The Court further finds that Plaintiff David Weisman is entitled to injunctive relief in the
26 form of a permanent injunction against Defendant Michael Post, enjoining Defendant Michael
27 Post, and his agents, servants, and employees, and all persons acting under, in concert with, or
28 for, him from the following:

