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June 25, 2012

## Via ECF SYSTEM

Molly Dwyer, Clerk of Court  
United States Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, California 94103-1518

Re: Larson v. Warner Bros. Entertainment Inc. et al., Appeal No. 11-55863

Dear Ms. Dwyer:

Appellant/Cross-Appellee Laura Siegel Larson submits this FRAP 28(j) letter in connection with her Motion to Strike Appellees' Supplemental Excerpts of Record and Portions of Principal and Response Brief (Dkt. No. 42) and her Response to Appellees' Motion for Judicial Notice (Dkt. No. 52).

As in this action, DC Comics attempted to inject dozens of extra-record documents into the record on appeal in the related matter of *DC Comics v. Pacific Pictures Corporation et al.* (Appeal No. 11-56934). DC Comics tried to do this by a motion to supplement the record, and by requesting judicial notice of extra-record documents in the footnotes of its Supplemental Excerpts of Record. In an order dated June 22, 2012, this Court swiftly denied DC Comics' motion to supplement, and struck DC Comics' offending answering brief and supplemental excerpts of record. Appeal 11-56934, Dkt No. 27. A copy of this order is attached.

Respectfully submitted,

  
Marc Toberoff

Toberoff & Associates, P.C.  
Counsel for Plaintiff-Appellant  
Laura Siegel Larson

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

JUN 22 2012

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

DC COMICS,

Plaintiff - Appellee,  
v.PACIFIC PICTURES CORPORATION;  
et al.,

Defendants - Appellants.

No. 11-56934

D.C. No. 2:10-cv-03633-ODW-RZ  
Central District of California,  
Los Angeles

## ORDER

The appellee's motion to supplement the record on appeal with "documents recently produced by defendants or otherwise relevant to the ongoing district court proceedings" is denied. *Kirshner v. Uniden Corp.*, 842 F.2d 1074 (9th Cir. 1988).

The Clerk shall strike the appellee's previously filed answering brief and supplemental excerpts of record, which included the proposed supplementation to the record.

The appellee shall file a substitute answering brief and supplemental excerpts of record on or before July 23, 2012. The court has received the appellants' notice of joint reply brief. The joint optional reply brief is due within 35 days after service of the substitute answering brief.

The appellee's proposed supplemental excerpts of record includes requests for judicial notice. The appellee is informed that any renewed requests for judicial notice should be made in the form of separate filings.

The court has received the appellee's unopposed motion to seal a portion of the proposed supplemental excerpts of record, as well as Exhibit O to the declaration appended to the instant motion, under seal. The instant motion includes a copy of the district court's May 23, 2012 order granting the appellee's motion to seal the noted material in that court. Accordingly, the motion to seal is granted pursuant to Ninth Circuit Rule 27-13(b) as to the exhibit to the motion. The Clerk shall destroy the volume of proposed supplemental excerpts of record comprising pages SER 47 through SER 51.

For the Court:  
MOLLY C. DWYER  
Clerk of the Court

Teresa A. Haugen, Deputy Clerk  
9th Circuit Rules 27-7, 27-10