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

BY _____

JENNIFER P. GARNER, ESQ.
(Application for Pro Hac Vice Status Pending)
AMERICAN FEDERATION OF MUSICIANS
OF THE UNITED STATES AND CANADA, AFL-CIO
1501 Broadway, Suite 600
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Attorneys for Plaintiff American Federation of Musicians

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

**AMERICAN FEDERATION OF
MUSICIANS OF THE UNITED STATES
AND CANADA, AFL-CIO, a labor
organization,**

Plaintiff,

vs.

**NBC UNIVERSAL FOUNDATION,
A California corporation, UNIVERSAL**

) CASE NO. **CV 12-8450** - (AM)
) COMPLAINT FOR: (FFM)
) **1) BREACH OF LABOR
AGREEMENT
[29 U.S.C. . § 185];**
) **2) DECLARATORY
RELIEF**

1	CITY STUDIOS, LLC,)	[28 U.S.C. § 2201];
2	a Delaware limited liability)	
3	company, UNIVERSAL CITY)	3) INJUNCTION
4	STUDIOS PRODUCTIONS LLLP,)	
5	a Delaware limited liability)	[29 U.S.C. § 185; 28 U.S.C. §
6	limited partnership,)	2201]
7	TWENTIETH CENTURY FOX)	
8	FILM CORPORATION, a Delaware)	
9	corporation, and FOX MUSIC,)	
10	INC., a Delaware corporation,)	
)	
	Defendants.)	
)	

11
12 Plaintiff AMERICAN FEDERATION OF MUSICIANS OF THE UNITED
13 STATES AND CANADA, AFL-CIO, alleges:

14 **I.**

15 **JURISDICTION AND VENUE**

16 1. This Court has original jurisdiction pursuant to Section 301(a) of the
17 Labor Management Relations Act (29 U.S.C. § 185), as this is a suit for violation of
18 a labor agreement. An actual justiciable controversy exists among the parties, upon
19 which power is vested in this Court to render a declaratory judgment pursuant to 28
20 U.S.C. § 2201.

21 2. Venue is proper in the Central District of California pursuant to 29
22 U.S.C. § 185, as both parties reside and do business within this District, the labor
23 agreement upon which this action is based was breached within the geographical
24 boundaries of this District, and because Plaintiff's duly authorized officers and
25 agents are engaged in representing and acting for its employee members in this
26 District.

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II.

PARTIES

3. Plaintiff American Federation of Musicians of the United States and Canada, AFL-CIO ("AFM"), is a labor organization within the meaning of the National Labor Relations Act, 29 U.S.C. § 152(5). The AFM is the representative agent for purposes of collective bargaining regarding the wages, hours and conditions of employment for professional musicians, including those engaged in Los Angeles County in the recording of phonorecords, motion picture underscores, music sound tracks for theatrical motion pictures and television films, and music for videotaped live television programs. The AFM maintains its headquarters in New York, New York, and a principal office in Los Angeles, California.

4. Defendant NBC Universal Foundation is a California corporation engaged in the global development, production, distribution and marketing of information and entertainment media. Defendant NBC Universal Foundation maintains its principal place of business in Los Angeles County and is an employer in an industry affecting commerce within the meaning of the National Labor Relations Act, 29 U.S.C. § 152(2).

5. Defendant Universal City Studios LLC is a Delaware limited liability corporation authorized to do business in Los Angeles County, California. Defendant Universal City Studios LLC maintains a principal office in Los Angeles County and is an employer in an industry affecting commerce within the meaning of the National Labor Relations Act, 29 U.S.C. § 152(2).

6. Defendant Universal City Studios Productions LLLP is a Delaware limited liability limited partnership authorized to do business in Los Angeles County, California. Defendant Universal City Studios Productions LLLP maintains a principal office in Los Angeles County and is an employer in an industry affecting commerce within the meaning of the National Labor Relations Act, 29 U.S.C. § 152(2).

1 attached hereto as Exhibit 1. A true and correct copy of the March 1, 2010
2 Memorandum of Understanding is attached hereto as Exhibit 2.

3 12. Fox is the original producer of the comedy television film series *The*
4 *Simpsons*. Fox engaged the professional services of AFM musicians in the
5 recording of music to accompany *The Simpsons* in accordance with and subject to
6 the terms of the Agreement.

7 13. Without notice to the AFM, Universal obtained recorded music sound
8 track from *The Simpsons* for use in connection with a roller coaster attraction at its
9 Universal Studios Theme Park in Hollywood (the "Park"). On information and
10 belief, the AFM alleges such use includes the public performance, broadcast,
11 transmission, or other exploitation of musical content from the series during the pre-
12 show, in the queue lines, and/or as part of the ride itself, including to accompany
13 new animation, all without authorization of the AFM.

14 14. Article 8 of the Agreement governs new uses of music sound track
15 recorded for a television film, and is expressly made applicable to any use
16 whatsoever other than to accompany the film for which the music was originally
17 prepared. These extensive provisions include a broad restriction on new uses,
18 specific new use exceptions, methods for calculating fees for particular categories of
19 new uses, a notice and assumption of liability procedure for the licensing of content
20 for certain new uses, and other rules. Article 8 states in full detail as follows:

21 "(a) The Producer agrees that all music sound track already recorded,
22 or which will be recorded prior to the expiration of this Agreement, will
23 not be used at any time for any purpose whatsoever except to
24 accompany the picture for which the music sound track was originally
prepared, with the following exceptions:

25 (1) Recording hereunder for any picture which is part of a
26 series of television motion pictures may be reused in scoring for any
27 one or more other pictures of such series which are produced for
28 broadcasting during the same broadcasting season for which said first
picture was produced; it being understood, however, that no such
recording may be reused in pictures of any other television program

1 series or in pictures of the same television program series produced for
2 broadcasting during a subsequent broadcasting season. The term
3 'broadcasting season,' as used herein, refers to periods of not more than
4 fifty-two (52) weeks and shall have the same meaning as that generally
5 understood in the television industry. Recording hereunder for a so-
6 called "pilot program" may be reused in other motion pictures in the
7 series of which the pilot program becomes a part, but such reuse shall
8 be limited to the first broadcasting season of such series.

9 (2) Music recorded for any picture may be used for any
10 trailers advertising the same picture and may be used for sales
11 presentations and audience testings.

12 When a trailer is made before the picture is scored, the
13 Producer may either: (i) use other music sound track previously scored
14 under agreements with the Federation, provided prior advance notice is
15 given to the Federation specifying the reasons for the use of such music
16 sound track; or (ii) record the sound track for such trailer under the
17 Federation's Television and Radio Commercial Announcements
18 Agreement. The sound track scored for the picture may be substituted
19 for use in the trailer.

20 (3) Acetate copies of prescore recordings may be made for
21 necessary rehearsing by artists, directors and/or for the edification of
22 company executives only.

23 (4) If any prescored musical numbers are, for any reasons,
24 deleted from the picture for which they were designated and such
25 deletion is done before the picture is released, the Producer shall have
26 the right to re-register such work with the Federation Representative for
27 a subsequent production; the intent of this being that the Producer shall
28 have the right to use all prescored numbers in one released production.

(5) Portions of the music sound track from a motion picture
may be reused in accordance with the provisions of Article 8A hereof.

(b) (1) (i) When sound track is dubbed for phonograph records
or radio or television commercial announcements, Producer shall be
responsible, or shall require its buyer, licensee or other authorized
transferee ('Licensee') to become responsible, for: (A) the payment to

1 those musicians who rendered services in making the original sound
2 track used of an amount equal to the scale wages provided in the then-
3 effective Sound Recording Labor Agreement (previously known as the
4 Phonograph Record Labor Agreement) or the Television and Radio
5 Commercial Announcements Agreement, as applicable, plus pension
6 contributions, or, in the case of musicians employed under the 'multi-
7 tracking rates,' if the sound track is used in a phonograph record, the
8 applicable payments in accordance with the provisions of Paragraph
9 15(a)(2)(iii) hereof (plus pension contributions); and (B) the other
10 additional payments, if any, applicable to such phonograph record or
11 commercial announcement use, as is provided in the then-effective
12 Sound Recording Labor Agreement or Television and Radio
13 Commercial Announcements Agreement, as applicable.

14 (ii) Fifteen Percent (15%) Discount for Certain
15 Soundtracks

16 The Producer or its Licensee is entitled to a fifteen
17 percent (15%) discount from the applicable rates in subparagraph
18 (b)(1)(i)(A) above for soundtrack records which: (i) use 45 minutes or
19 more of music originally recorded for the motion picture; and (ii)
20 utilize 80 or more musicians (excluding orchestrators and music
21 preparation musicians) for whom payment is due under this Article
22 8(b)(1), provided that the following conditions are met:

23 (A) The following logo or credit must be
24 provided on the jacket or other packaging accompanying the record:

25 (1) The AFM logo or credit to 'American
26 Federation of Musicians.'

27 (2) The instrumental musicians who
28 performed on the largest recording session from which a cue is
extracted for the soundtrack record must be credited by name and
instrument (the largest session is the one utilizing the most musicians;
if more than one has the identical 'largest' number, the Producer or its
Licensee will identify from which session the credits will be
determined). Such musicians may be grouped by instrumental
categories.

1 (3) The Leader/Conductor, Orchestra
2 Manager, Orchestrator(s), Librarian, and Music Prep
3 Service/Supervising Copyist must be credited by name and position.

4 (4) Any inadvertent error or omission with
5 regard to credits required under subparagraphs (b)(1)(ii)(A)(2) and (3)
6 above will not be deemed a violation of this Article 8(b)(1)(ii) provided
7 that the Producer or its Licensee has made a reasonable effort to
8 comply with those provisions.

9 (B) An 'organization name credit' that has been
10 approved by the AFM must be placed on the front or back cover in a
11 type size that is not less than fifty percent (50%) of the type size used
12 for the composer credit unless no applicable organization name credit
13 exists; provided that the entity that owns the organization name has
14 agreed to hold harmless and indemnify the Producer and/or its Licensee
15 from and against any action arising out of the authorized use of such
16 organization names.

17 (C) The Producer or its Licensee must provide the
18 AFM with 75 copies of the commercially released soundtrack recording
19 as soon as practicable upon its release.

20 (D) If the Producer or its Licensee fails to satisfy
21 any of the foregoing requirements, the special rates in this Article
22 8(b)(1)(ii) will not apply and the Producer or its Licensee will be
23 required to make payment for the soundtrack record in accordance with
24 Article 8(b)(1)(i).

25 (2) The Producer shall be responsible for making the
26 foregoing payments referred to in subparagraph (b)(1) above unless and
27 until the Producer has provided the Federation with either: (i) evidence
28 or an extract of the provision in the license agreement in which the
Licensee has agreed to make those payments; or (ii) an assumption
agreement under which the Licensee has assumed the obligation to
make such payments. (No proprietary information contained in the
license agreement need be provided to the Federation.) Upon giving
notice to the Federation on or prior to the delivery to a Licensee who is
a party signatory to the Sound Recording Labor Agreement or
Television and Radio Commercial Announcements Agreement, as

1 applicable, of the necessary musical elements required to prepare a
2 soundtrack album, Producer shall be relieved of further obligation
3 under subparagraph (b)(2).

4 (3) The assumption agreement referred to in subparagraph
5 (b)(2) above shall be in the following form:

6 'The undersigned, (insert name of buyer, licensee or other authorized
7 transferee) herein for convenience referred to as the "Buyer," hereby
8 agrees with (insert name of Producer that (identify title, length and
9 identification number of each recording covered by agreement) is
10 subject to the AFM Basic Television Film Agreement of 2002 with
11 respect to the provisions of Article 8(b) thereof which requires that,
12 when sound track is dubbed for a phonograph record or a radio or
13 commercial announcement, the following payments shall be made to all
14 musicians who rendered services in making the original sound track:
15 (i) scale wages (plus pension contributions) calculated in accordance
16 with the then-effective Sound Recording Labor Agreement or
17 Television and Radio Commercial Announcements Agreement, as
18 applicable, except that payments to musicians employed under the
19 'multi-tracking' provisions of the AFM Basic Television Film
20 Agreement shall be calculated in accordance with those provisions; and
21 (ii) the other additional payments applicable to such phonograph record
22 or radio or television commercial announcement use as set forth in the
23 then-effective Sound Recording Labor Agreement or Television and
24 Radio Commercial Announcements Agreement, as applicable,
25 including but not limited to payments to the Sound Recording Special
26 Payments Fund and the Music Performance Trust Funds. Said Buyer
27 hereby agrees, expressly for the benefit of such musicians, to make said
28 payments required thereby. It is expressly understood and agreed that
the rights of Buyer to dub such music sound track for phonograph
records or radio or television commercial announcements or to sell
such phonograph records or radio or television commercial
announcements containing such dubbed music sound track shall be
subject to and conditioned upon payment to the musicians as provided
in Article 8(b) of said Basic Agreement, and it is agreed that the
Federation, the Sound Recording Special Payments Fund and the Music
Performance Trust Funds ('the Funds'), as applicable, shall be entitled
to seek injunctive relief and damages against Buyer in the event such
payments are not made.

1 'Buyer shall be liable to make the payments described above but only
2 based upon rights actually acquired by Buyer and only for the period it
3 holds such rights.

4 'The undersigned agrees to keep or have access to complete records
5 showing the number of phonograph records, tapes and other devices
6 subject to payment under the provisions of this agreement which have
7 been sold during the applicable reporting periods, the dates of initial
8 release for sale thereof, the manufacturer's suggested retail price
9 thereof and the component unites thereof, and the excise and sales
10 taxes, if any, and the Federation and/or the Sound Recording Special
11 Payments Fund and/or the Music Performance Trust Funds, as
12 applicable, shall have the right at all reasonable times to inspect such
13 records. The undersigned shall give the Federation prompt written
14 notice of the date on which the phonograph record containing such
15 dubbed music sound track covered hereby is first released for sale. An
16 inadvertent failure to comply with said requirement of notice shall not
17 constitute a default by the undersigned hereunder, provided such failure
18 is cured promptly after notice thereof from the Federation.

19 'Buyer further agrees that in the event of a sale, transfer, license or
20 assignment of the right to dub sound track from the motion picture for
21 phonograph records, Buyer shall obtain from the purchaser, transferee,
22 licensee or assignee an Assumption Agreement covering the rights
23 disposed of in the form set forth herein and shall provide an executed
24 copy of such Assumption Agreement to the Federation. Upon delivery
25 of such Assumption Agreement, Buyer shall not be further liable to the
26 Federation or the Funds for the keeping of any records related to or the
27 payments required based upon the rights covered under the Assumption
28 Agreement and the Federation and the Funds agree to look exclusively
to the purchaser, transferee, licensee or assignee executing such
Assumption Agreement for compliance with the provisions of Article
8(b)(1). In the event Buyer fails to deliver such Assumption
Agreement, it shall continue to be liable for the payments required
under Article 8(b)(1).'

It is understood that additional provisions may be
included in form Assumption Agreements, so long as such additional
provision(s) do not vary or alter the terms of the foregoing Assumption
Agreement.

1
2 Producer agrees to give notice to the Federation
3 within thirty (30) days of each sale, transfer or license of such dubbing
4 rights, with the name and address of the Buyer or assignee, and to
5 deliver to the Federation an executed copy of each assumption
6 agreement entered into by the Producer. An inadvertent failure on the
7 part of the Producer to comply with any of the provisions of this
8 subparagraph (b) shall in no event constitute a default by the Producer
hereunder or a breach of this Agreement, provided that such failure is
cured promptly after notice thereof from the Federation.

9 Upon delivery of such assumption agreement,
10 Producer, or any subsequent owner obtaining the execution of such an
11 assumption agreement, shall not be further liable to the Federation or to
12 the Funds for the keeping of any such records or the payments required
13 hereunder insofar as they relate to the dubbing of music sound track for
14 phonograph records, and the Federation and the Funds agree to look
15 exclusively to the party last executing such an assumption agreement
for the keeping of such records and compliance with payment
obligations.

16 (c) The Producer further agrees to register identification of picture
17 and music sound track with the Federation Representative.

18 (d) It is agreed that persons employed under this Agreement shall
19 not be required or permitted to record music sound track for general
20 usage or for any purpose whatsoever except as provided herein.

21 (e) It is agreed that persons employed under this Agreement will not
22 be required or permitted to use music sound track for any purpose in
23 violation of the terms herein provided.

24 (f) The Producer is not restricted from continuing the established
25 industry practice of exchanging so-called 'stock shots.'

26 (g) No orchestra or part thereof shall be permitted to augment music
27 recordings in the same session in which the original recordings are
28 made. The above is not intended to prohibit the Producer from making
musical bridges, replacements or other special musical effects for the
purpose of musical punctuation, matching a picture action or other

1 special effects, such as reverberation where the tracks are staggered
2 several sprocket holes or frames to give sound effects not obtainable
3 with more musicians. It shall not be the intention of the Producer to
4 program a recording call specifically for augmenting music tracks as a
means of eliminating musicians.

5 (h) The sound track of television motion pictures shall be governed
6 by the sound track regulations set forth in this Article 8, except as
7 modified by the provisions of Paragraph 15(a) of the 'WAGE
8 SCALES, HOURS OF EMPLOYMENT AND WORKING
CONDITIONS,' attached hereto.

9
10 (i) The Producer agrees that the substance and intent of Article 8
11 hereof shall be incorporated in all agreements made by the Producer for
12 licensing, leasing, lending, giving, selling, utilizing or other disposition
13 of music sound track containing the recorded music made by members
of the Federation, or scenes or shots containing pictures of members of
the Federation performing on musical instruments or conducting."

14
15 15. Article 8A of the Agreement limits the permissible reuses of any
16 portion of the music sound track of a motion picture without additional
17 compensation to four specifically defined circumstances, and imposes payment
18 obligations for other reuses of a motion picture sound track or production number.
19

20 Article 8A states in full detail as follows:

21
22 "Notwithstanding anything to the contrary in Article 8 and except as
23 provided in subparagraph (e) below, no additional compensation shall
24 be payable for the reuse of any portion of the music sound track of a
motion picture in the following circumstances:

25 (a) When used for promotional, trailer, news or review
26 purposes. For purposes of this subparagraph, a "promotional" use shall
27 be for the purpose of advertising or publicizing the specific motion
28 picture or serial or series from which the sound track is taken
(including the filming of musicians engaged in the recording of such
sound track). The term "promotional," as used herein, shall also

1 include "the making of..." or "behind-the-scenes"-type programs. As
2 used in this subparagraph (a), the term "news" means regularly-
3 scheduled news programs and special news programs which are not
4 pre-planned and which are broadcast within twenty-four (24) hours
5 after the event which gave rise to the program. It is understood that
6 obituary programs are deemed to be "special news programs" even if
7 pre-planned.

8 Upon learning of any unauthorized use of either "the making
9 of..." or "behind-the-scenes"-type promotional programs, the parties
10 will jointly discuss appropriate steps to be taken to collect monies for
11 such unauthorized use.

12 (b) When used as a so-called "stock shot," as that term is
13 customarily understood in the industry - (*i.e.*, shots excluding dialogue
14 or identifiable characters).

15 (c) When used for purposes of recapping the story to date in
16 the context of a serial, multi-part program, episodic series, unit series or
17 anthology.

18 (d) When used as a flashback in a context of a serial, multi-
19 part program, episodic series, unit series, one-time show or anthology,
20 except that this shall not apply to programs comprised primarily of
21 flashbacks.

22 (e) (1) For any use of any portion of a production number
23 with the accompanying footage from a motion picture, or for the use of
24 up to two (2) minutes of music sound track from a motion picture
25 without the accompanying footage, which use is not within the
26 exceptions provided for in subparagraphs (a)-(d) above, the Producer
27 shall pay the following aggregate one-time-only sum for each motion
28 picture to the musician or musicians determined by the Federation to be
entitled to such compensation and prorated among such musicians as
determined by the Federation:

(i) one (1) minute or less of sound track -
\$1,500;

1 (ii) for each thirty (30) seconds or portion thereof
2 in excess of one (1) minute - \$750.

3 (2) For the use of any other music sound track with the
4 accompanying footage from a motion picture not covered under
5 subparagraph (e)(1) above, which use is not within the exceptions
6 provided for in subparagraphs (a)-(d) above, the Producer shall pay the
7 following aggregate one-time-only sum for each motion picture to the
8 musician or musicians determined by the Federation to be entitled to
9 such compensation and prorated among such musicians as determined
10 by the Federation:

11 (i) one (1) minute or less of sound track - \$750;

12 (ii) for each thirty (30) seconds or portion thereof
13 in excess of one (1) minute - \$375.

14 (f) The provisions of this Article apply to the uses specified
15 above after February 15, 2002 of a portion of the music sound track
16 from a motion picture recorded under this Agreement or any
17 predecessor Agreement thereto; provided, however, no payment shall
18 be required hereunder for the use of any portion of the music sound
19 track from a motion picture if the collective bargaining agreement
20 under which such music was recorded contained no restrictions on the
21 reuse of such sound track or if such collective bargaining agreement
22 permitted the reuse of such material without additional compensation.

23 (g) The actual production company which produces the
24 program or motion picture containing the excerpted portion of the
25 music sound track requiring payment is obligated to make the payment
26 required under this Article, provided the company is signatory to this
27 Agreement. The Producer shall otherwise remain liable for the
28 payment due.

16. Universal's use of music sound track from *The Simpsons* at its Park
does not fall within any of the new use exceptions enumerated in Article 8 of the
Agreement and, thus, is not an authorized new use under the Agreement.

1 17. Universal contends, and the AFM denies, that Universal's use of the
2 sound track is a "promotional" reuse permissible without additional compensation as
3 provided in Article 8A, subparagraph (a), of the Agreement. The AFM alleges that
4 Universal's use of the sound track is a completely new use for purposes other than
5 to accompany the film for which the music was originally prepared, and which is
6 not authorized by this Agreement or any other understanding.

7 18. Fox contends, and the AFM does not have any basis to dispute, that
8 Fox transferred some or all of its intellectual property rights in *The Simpsons* to
9 Universal.

10 19. Article 13 of the Agreement provides:

11 "This Agreement shall be binding upon the Producer, upon its
12 successors, and shall be applicable to any company in which Producer
13 has a twenty-five percent (25%) or more financial interest, engaged in
14 the production of television motion pictures, provided such company at
15 such time does not have a collective bargaining agreement or
16 agreements covering the employee classifications subject to this
17 Agreement."

18 IV.

19 FIRST CLAIM FOR RELIEF

20 (Breach of Labor Agreement actionable under 29 U.S.C. § 185)

21 20. The Plaintiff AFM incorporates and realleges each and every allegation
22 in paragraphs 1 through 19 as if restated and realleged here in full.

23 21. Defendants Universal and Fox are individually, jointly and severally
24 liable for breach of Article 8 of the AFM Television Film Agreement arising as a
25 result of the unauthorized use of recorded music sound track from *The Simpsons*
26 television film series in connection with an attraction at Universal's Hollywood
27 Park.

28 22. As a result of the Defendants' breach of the Agreement, Plaintiff has
suffered a loss of its contractual rights and harm to its collective bargaining rights.
As a further result of the Defendants' breach, Plaintiff's members have suffered

1 economic damages and damage to their contractual rights and collective bargaining
2 rights.

3 V.

4 **SECOND CLAIM FOR RELIEF**

5 **(Declaratory Relief pursuant to 28 U.S.C. § 2201)**

6 23. The Plaintiff AFM incorporates and realleges each and every allegation
7 in paragraphs 1 through 22 as if restated and realleged here in full.

8 24. An actual, present and justiciable controversy exists between the AFM
9 and Universal regarding the parties' respective rights and responsibilities under the
10 Agreement. Universal alleges that its use of music from *The Simpsons* is
11 "promotional" in nature and, thus, is a reuse that is permissible without additional
12 compensation in accordance with Article 8A. The AFM denies that this use is
13 "promotional," and alleges that the use of the music is an entirely new use that does
14 not fall within any of the exceptions defined in Article 8 and, thus, is unauthorized.

15 25. Declaratory relief is necessary and appropriate so that the parties may
16 know the rights, obligations and other legal relations that will govern their future
17 conduct under the Agreement. The AFM seeks a determination that the use of
18 recorded music sound track from *The Simpsons* television film series at Universal's
19 Hollywood Park is a new use that is not authorized by the Agreement, and is not a
20 "promotional" reuse as such term is used in the Agreement.

21 VI.

22 **THIRD CLAIM FOR RELIEF**

23 **(Injunction)**

24 26. The Plaintiff AFM incorporates and realleges each and every allegation
25 in paragraphs 1 through 25 as if restated and realleged here in full.

26 27. Defendant Universal will continue to breach the Agreement unless
27 enjoined by an Order from this Court. Thus, the AFM seeks injunctive relief
28 enjoining Universal from publicly performing, broadcasting, transmitting,
exhibiting, or otherwise exploiting music recorded under the Agreement to

1 accompany *The Simpsons* television series at its Universal Studios Hollywood
2 Theme Park, unless expressly authorized by the AFM.

3 **VII.**

4 **ARBITRATION PROCEDURE UNAVAILABLE**

5 28. The Plaintiff AFM incorporates and realleges each and every allegation
6 in paragraphs 1 through 27 as if restated and realleged here in full.

7 29. The Agreement contains no grievance and arbitration procedure or
8 other alternative means of resolving disputes. Thus, the AFM is presenting the
9 matter for judicial determination by this District Court.

10 **VIII.**

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff AFM prays for judgment in its favor and against
13 the Defendants NBC Universal Foundation, Universal City Studios, LLC, Universal
14 City Studios Productions LLLP, Twentieth Century Fox Film Corporation, and Fox
15 Music, Inc., and the entry of an award as follows:

16 a) for a determination that Fox and Universal are individually, jointly and
17 severally liable for breach of contract arising from the unauthorized use of music
18 sound track recorded under the AFM Basic Television Film Agreement;

19 b) for economic damages to the musicians employed in the recording of
20 music for *The Simpsons* television film series in an amount to be determined at trial;

21 c) for a declaration of the parties' rights and other legal relations under the
22 Agreement, including a declaration that the use of music sound track recorded for
23 *The Simpsons* television film series in connection with an attraction at Universal's
24 Hollywood Park is a use that is not authorized by the Agreement;

25 d) an injunction barring Universal from further public performance,
26 broadcast, transmission, exhibition or other exploitation of music recorded for *The*
27 *Simpsons* television series unless expressly authorized by the AFM;

28 e) reasonable attorneys' fees, costs of suit, and interest;

f) such other and further relief as the Court may deem just and proper.

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Dated: October 1, 2012

Respectfully Submitted,
LEVY FORD & WALLACH

By: /s/ Lewis N. Levy
LEWIS N. LEVY, Esq.
DANIEL R. BARTH, Esq

and

AMERICAN FEDERATION OF
MUSICIANS

By: /s/Jennifer P. Garner
JENNIFER P. GARNER
(Admission *pro hac vice* pending)

Attorneys for the Plaintiff
AMERICAN FEDERATION OF
MUSICIANS OF THE UNITED
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