

1 MITCHELL SILBERBERG & KNUPP LLP
ROBERT H. ROTSTEIN (SBN 72452), rxr@msk.com
2 AARON M. WAIS (SBN 250671), amw@msk.com
EMILY F. EVITT (SBN 261491), efe@msk.com
3 11377 West Olympic Boulevard
Los Angeles, CA 90064-1683
4 Telephone: (310) 312-2000
Facsimile: (310) 312-3100
5

6 Attorneys for Defendants
FX Networks, LLC and
Pacific 2.1 Entertainment Group, Inc.
7

FILED
Superior Court of California
County of Los Angeles

AUG 29 2017

By Marlon Gomez Executive Officer/Clerk
Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES — CENTRAL DISTRICT

10
11 OLIVIA DE HAVILLAND, DBE, an
individual,

12 Plaintiff,

13 v.

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

17 Defendant.
18

CASE NO. BC 667011

Date: September 29, 2017
Time: 8:30 a.m.
Location: Dept. 42
Judge: Honorable Holly E. Kendig

Reservation Number: 170727238249

**DECLARATION OF TIMOTHY
MINEAR IN SUPPORT OF
DEFENDANTS FX NETWORKS, LLC
AND PACIFIC 2.1 ENTERTAINMENT
GROUP, INC.'S MOTION TO STRIKE
PLAINTIFF OLIVIA DE HAVILLAND'S
THIRD AMENDED COMPLAINT
PURSUANT TO CALIFORNIA'S ANTI-
SLAPP STATUTE, CODE CIV. PROC.
§ 425.16 AND MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION**

[Notice of Motion, Motion and Memorandum
in Support Thereof; and Declarations of Ryan
Murphy, Michael Zam, Stephanie Gibbons,
James Berkley, and exhibits to each; Notice
of Lodging and manually lodged exhibits
filed concurrently]

File Date: June 30, 2017
Trial Date: None set

ORIGINAL



09/29/17
Mitchell,
Silberberg &
Knupp LLP

1 by” credit on four episodes (Episode 2: “The Other Woman”; Episode 3: “Mommie Dearest”;
2 Episode 4: “More or Less”; and Episode 6: “Hagspolitation”).

3 6. In or around March 2016, we crafted the story arc for the first season of *Feud* using
4 the *Best Actress* screenplay as our jumping-off point, particularly for the first two episodes. We
5 built the rest of the season based on our research into the history of the Crawford-Davis feud. For
6 example, before we started writing, we read the non-fiction books *Bette & Joan: The Divine Feud*
7 (*The Divine Feud*), by Shaun Considine, and *Dark Victory: the Life of Bette Davis*, by Ed Sikov,
8 which are considered definitive accounts of the relationship between Crawford and Davis. We
9 also read Crawford’s and Davis’ autobiographies before we started writing. We began actual
10 writing in or around April 2016, continued through production, and finished the last script at the
11 beginning of February 2017. *Feud* premiered on FX on March 5, 2017.

12 7. *Feud* tells the story of the rivalry between Crawford and Davis, principally by
13 focusing on the making of the 1962 motion picture *What Ever Happened to Baby Jane?* (“*Baby*
14 *Jane*”), starring Crawford and David, who at the time were in the twilight of their careers. *Baby*
15 *Jane* was the first film in which Crawford and Davis acted together. As a device to tell the story
16 of *Baby Jane*’s production and the Crawford-Davis feud, we writers on the project created
17 imagined interviews conducted at the 1978 Academy Awards. In these interviews, actresses
18 Olivia de Havilland and Joan Blondell discuss Crawford and Davis, after which the story flashes
19 back to events relevant to their rivalry. The idea to use imagined 1978 Academy Award
20 interviews as a framing device came from the *Best Actress* screenplay, which employed this
21 device and portrayed Olivia de Havilland as one of the interviewees.

22 8. During the writing process, we continued to conduct research into events and
23 individuals portrayed in *Feud*. Through the research process, we learned more about Davis and
24 Crawford, as well as about other characters in *Feud*, including de Havilland. In addition to the
25 books mentioned above, our research drew upon the wealth of material available online. Our
26 Internet research turned up articles and online video clips of the historical figures portrayed in
27 *Feud*. Because the actual facts of the rivalry between Crawford and Davis were so compelling and
28 dramatic, they formed the core of our series.

08/31/2017
Mitchell
Silberberg
&
Knupp LLP
9209409.3/42040-00023

1 9. Our writing process was dynamic. Ryan would often suggest a subject for a
2 plotline. In response, we would decide which of our interviewees – de Havilland or Blondell –
3 would introduce that subject. We would conduct research and look for source material in the
4 public record that would support our depiction of dramatic events in *Feud*. Where we could, we
5 would find a specific quote that we could incorporate into the dialogue.

6 10. *Feud* is a classic *docudrama* – in other words, a dramatized retelling of history. In
7 creating this docudrama, we wove together a dramatic narrative that filled in gaps in the historical
8 record by imagining private moments between the show’s characters. Drawing from our extensive
9 research, we created fictional scenes that we believed could have happened, based on our
10 understanding of the characters and their publicly reported relationships. Thus, although *Feud* is
11 firmly rooted in actual fact, it is also a creative work. *Feud* is not a documentary and does not
12 purport to be one.

13
14 **Researching the Oliva de Havilland Character**

15 11. Although Crawford and Davis were the main characters in *Feud*, we did extensive
16 historical research on the supporting characters as well. The Olivia de Havilland character, who
17 was portrayed by actress Catherine Zeta-Jones, was no exception. The de Havilland character in
18 *Feud* was written to be a minor role. Indeed, Zeta-Jones, who played the de Havilland character,
19 was not credited as a series regular; she received “special guest star” credit in those episodes in
20 which she appeared.

21 12. We relied on many sources as support for the dramatic veracity of scenes in which
22 the de Havilland character appeared. The book *The Divine Feud* discusses Olivia de Havilland
23 and her close friendship with Bette Davis. We also read a number of news articles about Ms. de
24 Havilland, most notably an Associated Press article titled “De Havilland breaks silence on sibling
25 feud,” recounting an interview with Ms. de Havilland in 2016, the year she turned 100. We also
26 read a 2016 Vanity Fair article titled “Olivia de Havilland and the Most Notorious Sibling Rivalry
27 in Hollywood.” Both of these articles addressed Ms. de Havilland’s storied feud with her sister,
28 Joan Fontaine. Other articles that we reviewed included “Golden girl: The divine Olivia de

1 Havilland” (UK *Independent*, 2009) and “100 years of shade: Olivia de Havilland, Joan Fontaine,
2 and the story of Hollywood’s bitterest feud.” (UK *Telegraph*, 2016). We also watched video clips
3 of Ms. de Havilland appearing on talk shows in the 1970s, namely her appearance on the *Merv*
4 *Griffin Show* in 1973, her appearance, alongside Bette Davis, on Davis’ episode of *This is Your*
5 *Life* in 1971, and her appearance on the *Dinah!* television show in 1977. Copies of the
6 aforementioned sources are attached as exhibits to the Declaration of James Berkley, which I
7 understand is being filed concurrently with my declaration. I have reviewed pertinent exhibits to
8 the Berkley Declaration, and can confirm that Exhibits 2, 6-8, 11, 19, 21, 24, 26, 30-33, 43-48 are
9 copies of the sources on which we writers relied in creating *Feud* and writing the scripts for
10 individual episodes.

11

12 **Depictions of the de Havilland Character and Supporting Research**

13 13. The de Havilland character appears in six of the eight episodes of *Feud*. She does
14 not appear in Episodes 3 and 6. Her dialogue and scenes in each episode were carefully
15 researched and crafted, as described below.

16 14. In *Feud*, we made sure not to put the de Havilland character in places where Ms. de
17 Havilland did not actually appear in reality. For example, in *Feud*, the de Havilland character
18 travels from Paris to Los Angeles to support her friend Bette Davis at the 1963 Academy Awards.
19 According to our research, this occurred in real life. Likewise, in *Feud*, director Robert Aldrich
20 travels to Switzerland to persuade the de Havilland character to assume Crawford’s role in *Hush*
21 *Hush Sweet Charlotte*. Again, research revealed that such an incident actually occurred.

22 15. Many of the de Havilland character’s scenes take place during imagined interviews
23 at the 1978 Academy Awards. Research indicates that Ms. de Havilland attended the 1978
24 Academy Awards. Although, to my knowledge, Ms. de Havilland was not actually interviewed at
25 the 1978 Academy Awards, her dialogue for the imagined interviews was based on a number of
26 actual interviews that she had given over the years. In some instances, as discussed below, the de
27 Havilland character’s lines were taken directly from Ms. de Havilland’s interviews.

28

Mitchell
Silberberg
Knupp LLP

1 **a. Episode 1:** The episode opens with an imagined 1978 interview with the de
2 Havilland character, who provides an overview of the rivalry between Joan Crawford and
3 Bette Davis, as well as a bit of background about each actress. The facts about Crawford,
4 Davis, and their rivalry were based on the writing team's background research for the
5 show, including our reading of *The Divine Feud* and Crawford's and Davis'
6 autobiographies. The laudatory manner in which the de Havilland character discusses
7 Davis – who she refers to in Episode 1 as “my dear friend Bette” and describes as “quite
8 frankly [] the greatest actress Hollywood had ever known” – was inspired by interviews
9 Ms. de Havilland gave in 1973 on the *Merv Griffin Show* and in 1977 on the *Dinah!*
10 television show, in which she called Davis “simply remarkable,” characterized Davis as
11 having “astounding talent” and as having “the career that I most admired and that I wanted
12 for myself.” See Berkley Decl., Exhibit 2 (at 0:07-1:36), Exhibit 6 (Disc no. 6 at 38:59-
13 49:12). We chose to have the de Havilland character introduce the feud between Crawford
14 and Davis because we knew from our research that Ms. de Havilland was aware of it and
15 had commented on it publicly. For instance, during a 1965 tour promoting *Hush Hush*
16 *Sweet Charlotte* (after she had assumed Crawford's role in the film), Ms. de Havilland
17 quipped about Joan Crawford during a joint interview with Davis. See Berkley Decl.,
18 Exhibit 19 at pp. 407-08. Finally, we believed that the de Havilland character was perfect
19 for introducing the theme of the show – “Feuds are never about hate. Feuds are about
20 pain.” – because of Ms. de Havilland's own well-documented feud with her sister, Joan
21 Fontaine.

22 **b. Episode 2:** In an imagined 1978 interview, the de Havilland character expresses
23 outrage that Crawford and Davis were being manipulated and that their rivalry was being
24 fueled by the men around them – including men at the studio. Ms. de Havilland's
25 opposition to the historic studio system is well-documented. (Back then, studios would
26 sign actors to lengthy exclusive personal service contracts and exert complete control over
27 a young actor's career.) In 1943, she took Warner Brothers to court to get out of her
28 contract and won. Ms. de Havilland has spoken about her struggles against the studio

1 system in a number of interviews, including with the UK's *Independent* newspaper in
2 2009, with *Screen Actor* magazine, and on the *Merv Griffin Show* in 1973. See Berkley
3 Decl., Exhibit 6 (Disc no. 6 at 40:00-41:25, 47:38-48:40), Exhibits 7-8. In this episode, the
4 de Havilland character also comments briefly and favorably about the "Women's Lib"
5 movement. Ms. de Havilland has spoken publicly about the sexism that was present
6 during her time in Hollywood, including in her interview with the Associated Press. See
7 Berkley Decl., Exhibits 30-31.

8 *c. Episode 4:* In an imagined 1978 interview, the de Havilland character discusses
9 the success of *Whatever Happened to Baby Jane?*. She explains that the film's success
10 was significant because it was a picture starring two women, and that women in the
11 industry were hopeful that *Baby Jane* "signaled a sea change. But it didn't turn out that
12 way." As noted above, Ms. de Havilland has spoken about the sexism during her time in
13 Hollywood. In her 1978 imagined interview in this episode, the de Havilland character
14 also briefly mentions that Crawford had trouble dealing with the success of *Baby Jane*,
15 whereas Davis embraced it, which was also based on our research.

16 *d. Episode 5:* This is the episode in which the de Havilland character appears most
17 prominently. Specifically, she is portrayed both during an imagined 1978 interview and in
18 the show's "live action" at the 1963 Academy Awards:

19 *i. Imagined 1978 Interview:* The de Havilland character begins the
20 first interview scene in Episode 5 by explaining how the feud between Crawford and Davis
21 came to a head at the 1963 Oscars. Echoing a theme from her earlier imagined interview,
22 the de Havilland character blames the studios, publicists, and reporters for fueling the
23 rivalry between Davis and Crawford. The de Havilland character then analogizes the
24 press's coverage of the Davis-Crawford feud to their fueling of her own long-reported
25 rivalry with her sister, Joan Fontaine. The de Havilland character says coolly, "A feud
26 implies continuing hostile conduct between two parties. I can't remember an instance
27 where I instigated hostile behavior." This statement about Fontaine was taken nearly
28 verbatim from the interview Ms. de Havilland gave to the Associated Press in 2016. See

1 Berkley Decl., Exhibits 30-31. The de Havilland character then talks about her alleged
2 refusal to accept Fontaine's congratulations when she won the Academy Award for best
3 actress in 1947, and says that she simply did not see Fontaine. Our writing staff was
4 familiar with the incident, and we chose to have the de Havilland character deny snubbing
5 her sister because it was in keeping with her public comments downplaying any animosity
6 between them. More broadly, we were aware of the decades-long media coverage of a
7 rivalry between Ms. de Havilland and Fontaine, and we had read numerous articles about
8 it, including in the 2016 Associated Press article, the 2016 Vanity Fair article, and the 2016
9 UK *Telegraph* article. See Berkley Decl., Exhibits 30-33. Notably, the relationship
10 between Ms. de Havilland and Fontaine was often referred to as a "feud" by the press. The
11 first imagined interview scene ends with the de Havilland character describing Crawford's
12 and Davis' reactions to Davis' Academy Award nomination and Crawford's lack thereof –
13 again based on the writing team's research on Crawford and Davis.

14 ii. *Imagined 1978 Interview*: After a scene portraying Crawford's
15 actions upon not being nominated for best actress, the episode cuts back to a short
16 imagined interview with the de Havilland character. In a voice tinged with sadness and
17 regret, the de Havilland character opines, "I believe if Bette had said to even one reporter
18 that she regretted Joan not getting a nod, all the unpleasantness would have gone away."
19 But, the de Havilland character explains empathetically, Davis was nervous.

20 iii. *Call Between Davis and de Havilland (1963)*: The de Havilland
21 character's 1978 imagined interview fades to a 1963 telephone call between the de
22 Havilland character and the Davis character. The de Havilland character begins the call by
23 mentioning a script she has been reading for a film called *Lady in a Cage*. Ms. de
24 Havilland actually appeared in the film *Lady in a Cage* in 1964, and we were familiar with
25 the film and its trailer. See Berkley Decl., Exhibit 24. The Davis character urges the de
26 Havilland character to come support her at the Academy Awards. For her part, the de
27 Havilland character advises Davis not to fuel the press coverage of her rivalry with
28 Crawford. The de Havilland character says, "I know the impulse well. But, two words,

1 no comment!” The Davis and de Havilland characters then proceed to discuss their feuds
2 with their respective Joans – Crawford and Fontaine. The de Havilland character says,
3 “You know what my bitch sister has taken to telling the press? That I broke her collarbone
4 when we were children. Can you imagine?” The story of Ms. de Havilland purportedly
5 breaking Fontaine’s collarbone was widely reported in articles such as the 2016 UK
6 *Telegraph* article, “100 years of shade: Olivia de Havilland, Joan Fontaine, and the story of
7 Hollywood’s bitterest feud.” *See* Berkley Decl., Exhibit 32. We decided to have the de
8 Havilland character refer to Fontaine as her “bitch sister” in her private conversation with
9 Davis for two primary reasons: First, in a 2016 interview with the Associated Press, Ms.
10 de Havilland called her sister “Dragon Lady.” In that interview, Ms. de Havilland stated,
11 “Dragon Lady, as I eventually decided to call her, was a brilliant, multi-talented person,
12 but with an astigmatism in her perception of people and events which often caused her to
13 react in an unfair and even injurious way[.]” She went on to say, “If Dragon Lady were
14 alive today (for my birthday), out of self-protection I would maintain my silence!” *See*
15 Berkley Decl., Exhibits 30-31. Thus, we believed it was realistic for the de Havilland
16 character to refer to Fontaine using a derogatory term (and we thought “bitch” was more
17 mainstream and would be better understood by the modern audience than “Dragon Lady”).
18 Second, we chose to have the de Havilland character use the word “bitch” because we were
19 aware of a conversation Ms. de Havilland reportedly had with director Robert Aldrich in
20 which she said, “you know how much I hate to play bitches. They make me so unhappy.”
21 *See* Berkley Decl., Exhibit 19 at p. 403. Additionally, we had seen “outtake” or “bloopers”
22 reels of Ms. de Havilland swearing, saying “oh Christ, son of a bitch!” and “son of a
23 bitch!” when she messed up a line while shooting a film. *See* Berkley Decl., Exhibits 43-
24 48.

25 iv. *Imagined 1978 Interview:* The episode cuts back to the imagined
26 1978 interview. Discussing Davis, the de Havilland character says, “Bette was never
27 easy.” Elaborating on their relationship, she explains that because she also had two
28 Oscars, “I wasn’t competition to her, I suppose. I was never a threat. In her mind, I was

1 always Melanie Wilkes to her Scarlett O'Hara. Of course, I really was Melanie Wilkes."
2 These last lines are an allusion to Ms. de Havilland's widely celebrated role in the
3 legendary 1939 film *Gone With the Wind*. The discussion of the relationship between Ms.
4 de Havilland and Davis was based on an interview that Ms. de Havilland gave on a 1971
5 episode of *This is Your Life* celebrating Davis. See Berkley Decl., Exhibit 11. In it, Ms. de
6 Havilland candidly, but lovingly, describes the jealousy she felt playing Davis' lady-in-
7 waiting, when she was used to playing the leading lady opposite Errol Flynn.

8 v. *Conversation at Davis' House (1963)*: In the de Havilland
9 character's next scene, she has traveled to Los Angeles to support Davis and present the
10 award for best picture at the 1963 Academy Awards. This actually happened, which we
11 knew from sources including *The Divine Feud* and *Dark Victory*. See Berkley Decl.,
12 Exhibit 19 at p. 366, Exhibit 21 at pp. 347-48.

13 vi. *Red Carpet (1963)*: The de Havilland character walks the red carpet
14 at the Academy Awards with Davis and tells a reporter, "I travelled here to be with my
15 dear friend, Bette. I'm here to see her be the first actress to win three Oscars. She's the
16 greatest, and the industry owes her this!" The de Havilland character's line was closely
17 adapted from what Ms. de Havilland reportedly told the press about the 1963 Oscars,
18 which she attended with Davis: "Bette deserves to win. She's the greatest and the industry
19 owes her this." See Berkley Decl., Exhibit 19 at p. 365.

20 vii. *Conversation With Davis in Frank Sinatra's Dressing Room (1963)*:
21 Backstage at the 1963 Academy Awards, the de Havilland character gives the Davis
22 character a private pep talk in Frank Sinatra's dressing room, where Ms. de Havilland and
23 Davis reportedly spent most of the real Oscar night in 1963. See Berkley Decl., Exhibit 21
24 at p. 348. The de Havilland character praises Davis, tries to cheer her up, and reminds her
25 how much help Davis provided at the beginning of her own career. The de Havilland
26 character's remarks were inspired by Ms. de Havilland's own comments, such as her praise
27 for Davis on the *Merv Griffin Show* in 1973. At the end of their heart-to-heart, the Davis

1 character asks, "Where's the booze?" and the de Havilland character jokes, "I think Frank
2 must've drunk it all...."

3 viii. *Conversation at Davis' Home, Post-Awards (1963)*: The de
4 Havilland character returns home with the Davis character and expresses shock that Davis
5 did not win best actress. After the 1963 Academy Awards, Ms. de Havilland and Ms.
6 Davis reportedly returned to Davis' house to reflect on the evening. See Berkley Decl.,
7 Exhibit 21 at p. 348.

8 e. *Episode 7*: In Episode 7, the de Havilland character also appears both during an
9 imagined 1978 interview and in the show's "live action" (though not as extensively as in
10 Episode 5):

11 i. *Call with Aldrich and Davis (1964)*: The de Havilland character
12 appears at the end of Episode 7, when Davis and director Robert Aldrich are trying to
13 replace Crawford, who is refusing to appear for work on the film, *Hush Hush Sweet*
14 *Charlotte* ("*Hush Hush*"). The Aldrich character calls the de Havilland character, who is
15 in Switzerland, while the Davis character listens in. The de Havilland character says she is
16 flattered, but turns down the part in *Hush Hush*. She explains that she has only just arrived
17 in Switzerland for the season, and also that she is not interested in doing another horror
18 film because the one she did previously left her feeling humiliated. See Berkley Decl.,
19 Exhibit 19 at p. 403, Exhibit 24. There is then a quick cut to a recreated scene from the
20 trailer of *Lady in a Cage*, a 1964 film in which Ms. de Havilland appeared. Finally, the de
21 Havilland character explains that she is not interested in replacing Crawford in *Hush Hush*
22 because she would be playing the villainess: "Oh no, I don't do bitches. They make me so
23 unhappy. You should call my sister." The de Havilland character's line, which I wrote,
24 was a near-verbatim quote of what Ms. de Havilland reportedly really said to Aldrich:
25 "Darling, you know how much I hate to play bitches. They make me so unhappy." See
26 Berkley Decl., Exhibit 19 at p. 403. Additionally, as discussed above, Ms. de Havilland
27 spoke critically about her sister, Fontaine, calling her "Dragon Lady," and we had seen

1 “blooper” reels of Ms. de Havilland cursing “Oh Christ son of a bitch!” when she messed
2 up a line. See Berkley Decl., Exhibits 30-31, 43-48.

3 ii. *Imagined 1978 Interview*: The de Havilland character, in the 1978
4 imagined interview, explains that after the phone call in which she turned down the part in
5 *Hush Hush*, she was surprised to find Aldrich at her house in Switzerland after taking
6 “three planes, a train, a taxi up a goat trail just to get to see me.” The de Havilland
7 character explains that Aldrich changed her mind about the part in *Hush Hush*. We closely
8 based the description of Aldrich’s visit to de Havilland’s house in Switzerland on the
9 account of that actual event in *The Divine Feud*. See Berkley Decl., Exhibit 19 at p. 403.

10 iii. *Arrival on Set (1964)*: As Episode 7 ends, the de Havilland
11 character arrives on the set of *Hush Hush*. She is greeted by Aldrich and an excited Davis,
12 who rushes to hug the de Havilland character. Shortly thereafter, they pose for publicity
13 photos, holding bottles of Coca Cola, in front of a Coke machine. The scene was inspired
14 by a photograph of Davis, Aldrich, and Ms. de Havilland posing on set with bottles of
15 Coca Cola. See Berkley Decl., Exhibit 26. And *The Divine Feud* also reported that Ms. de
16 Havilland and Davis toasted with Cokes to celebrate the departure of Pepsi queen Joan
17 Crawford. See Berkley Decl., Exhibit 19 at p. 406.

18 iv. *Imagined Interview (1978)*: Interspersed with the de Havilland
19 character’s arrival on the *Hush Hush* set and the Coca Cola publicity shoot is a brief 1978
20 imagined interview scene, in which she is asked if she feels guilty about ending
21 Crawford’s career. The de Havilland character responds thoughtfully, underscoring a
22 theme of *Feud*: “Time did that all on its own. As it does to us all.”

23 f. *Episode 8*: At the end of the episode, the de Havilland character is portrayed
24 briefly, backstage at the 1978 Academy Awards. She has a short exchange with Davis,
25 and then she, Davis, and others gather to watch the annual in-memoriam tribute to the
26 actors and actresses who died over the past year. After Crawford’s picture flashes across
27 the screen for a few seconds, the de Havilland character asks, “That’s it?” This scene is
28 based on an account in *The Divine Feud*, which reported that Davis, Ms. de Havilland, and

1 others gathered backstage at the 1978 Academy Awards and watched the in-memoriam
2 tribute that included Joan Crawford. See Berkley Decl., Exhibit 19 at p. 460.
3

4 **Allegations of Ms. de Havilland's Lawsuit**

5 16. I understand that, in the present lawsuit, Ms. de Havilland alleges that *Feud* has
6 unfairly portrayed her as a gossip. However, the de Havilland character was scrupulously written
7 to be nuanced, a consummate professional, and consistent with the historical record and Ms. de
8 Havilland's real-life statements; we certainly did not intend to disparage Ms. de Havilland. The
9 writing team watched several interviews of Ms. de Havilland speaking publicly about her
10 relationship with other actors, and notably about Bette Davis. The de Havilland character's
11 comments about Davis were inspired by Ms. de Havilland's actual remarks, which at times lightly
12 criticized or admitted jealousy of Davis, but which overall conveyed warmth, admiration, respect
13 and deep friendship.

14 17. Likewise, we were careful to keep the de Havilland character's comments about her
15 sister, Joan Fontaine, consistent with the historical record. Based on our research, we understood
16 that Ms. de Havilland was for a long time very measured in the public comments she made about
17 her sister and avoided publicly criticizing Fontaine. However, following Ms. Fontaine's death in
18 2013, Ms. de Havilland has spoken about her relationship with her sister, even publicly admitting
19 in 2016 that she calls Fontaine "Dragon Lady."

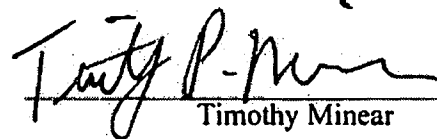
20 18. Because of our awareness of Ms. de Havilland's guarded attitude toward publicly
21 discussing Fontaine, as well as our understanding of the widely reported animus between the two
22 sisters, we drew a deliberate distinction between *Feud's* portrayal of the de Havilland character in
23 *public* – in the imagined 1978 interview – and its portrayal of the de Havilland character in *private*
24 – in her candid conversations with Davis (and even Aldridge). In public, the de Havilland
25 character refuses to speak ill of her sister and denies that there is even a feud with Fontaine.
26 Furthermore, consistent with Ms. de Havilland's actual restrained approach, the de Havilland
27 character in *Feud* decries gossip and counsels her friend Davis to say "no comment" rather than
28 speaking about Crawford. By contrast, in private conversations with her close friend, Davis, the

1 de Havilland character is freer with her remarks about Fontaine and makes a few pointed
2 comments about her sister. But this does not make the de Havilland character a hypocrite – it
3 makes her human. And as discussed above, this depiction is consistent with the actual record and
4 Ms. de Havilland’s own most recent comments.

5 19. I also understand that, in this lawsuit, Ms. de Havilland has alleged that *Feud*
6 inaccurately portrayed her as using vulgar language. There are two instances in *Feud* where the de
7 Havilland character uses the word “bitch.” As discussed above, the de Havilland character’s line
8 in Episode 7 – “I don’t do bitches. They make me so unhappy.” – was based nearly verbatim on
9 an actual phone call that Ms. de Havilland reportedly had with director Robert Aldrich. Because
10 there was historical evidence that Ms. de Havilland had used the word “bitch” in at least one
11 private conversation, and we had seen “bloopers” reels of her cursing “Oh Christ son of a bitch!”
12 when she messed up a line, we were comfortable also having her say “bitch” in her private
13 conversation with Davis in Episode 5. Notably, neither of these scenes depicts the de Havilland
14 character swearing publicly.

15
16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed this 28th day of August, 2017, at Los Angeles, California.

19
20
21 
22
23
24
25
26
27
28

Timothy Minear