

PERFORMING ARTS LEGACY PROJECT

*A project of the Research Center for Arts and
Culture/The Actors Fund*



**The Actors Fund,
for everyone
in entertainment.**

THE PERFORMING ARTS LEGACY GUIDE TO CLEARING RIGHTS FOR THE PERFORMING ARTIST

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Note: This Guide is meant to assist performers in the Performing Arts Legacy project as they document their legacies. It is designed to identify various potential legal pitfalls you may encounter in creating your PAL website and NOT to provide you with any specific legal advice. Before using any third party's materials, we strongly recommend that you consult an attorney.

NOTE: We have provided some annotations **in red below** to highlight and summarize for performers several of the basic legal issues described in this Guide. However, we strongly recommend that you carefully read and become familiar with the full text of this Guide.

I. INTRODUCTION

Navigating legal issues often proves very challenging for performers as they seek to document and archive their career legacies. The goal of this Guide is to provide some of key legal issues that performers may need to consider and address, in an effort to protect them from legal disputes, as they pass along the lessons of their experience and careers. This Guide is meant to educate performers in The Performing Arts Legacy project (PAL) at The Actors Fund on a general level; specific questions relating to your own personal website will likely require your consultation with a lawyer.

As actors, there are many sets of competing legal rights connected to the work you do. If your performance or likeness has been recorded or fixed on any medium – print, film, video, audio, still photos, digital media, etc. – in any way, then you should be aware that using any of those materials on a public website as part of the PAL project may require that you first obtain permission to do so from various parties.

II. UNDERSTANDING COPYRIGHT LAW AND HOW IT MAY IMPACT ON YOUR PAL WEBSITE

A. WHAT IS COPYRIGHT?

The biggest responsibility when it comes to archiving and displaying works a performer has participated in on his or her personal PAL website is to comply with copyright law. Understanding copyright law and how it may impact on your PAL website can be quite complicated.

Copyright law is designed to protect original works of authorship fixed in a tangible medium of expression. Copyright generally lasts for 70 years after the death of the author, but this can vary if a work is “made-for-hire” (as discussed below), or if the work was first publicly distributed before 1978 (when the current U.S. Copyright Law took effect). It is essential for you to gather all relevant facts about the work you wish to post, so that you can determine what permissions will be required. You should always initially assume the works you encounter (e.g., photos, news articles, video and audio recordings) are protected by copyright, unless you have been told definitively that they are not. [As discussed below, copyright has expired for all works published in the U.S. before 1923. If a work was published in the U.S. before January 1, 1923 then that work is in the public domain and may be used freely.] When an individual wants to use another’s copyrighted work, he/she must obtain permission (preferably in writing) from the copyright holder before such use. Only the copyright owner of the right(s) involved (or someone with the legal authority to make a decision on the owner’s behalf) can grant permission under United States Copyright Act. However, you should be aware that the copyright owner is not

always the original creator. As described below, a creator/artist can be hired to create something for which he/she does not retain ownership rights, an original copyright owner can gift or will rights to someone, or an original copyright owner can assign, sell or license rights to others.

As a general matter of US Copyright Law, the person who creates a copyrightable work is the owner of the copyright to that work. However, often the original creator is not the legal owner of the copyright. For example, when a work is created by an employee in the scope of his/her employment, that work is often deemed a “work made for hire”; in such event, the employer will be deemed the “author” for copyright purposes and own the copyright. Also, when a person is hired as an independent contractor to create, or contribute to creating, a work which falls within certain specific categories listed in the US Copyright Act (such as a motion picture or other audiovisual work), and both parties enter into an express written agreement specially ordering or commissioning the work, such work may also be deemed a “work made for hire”; in such event, the employer is again deemed the “author” for copyright purposes and owns the copyright. In many other cases, even though the original writer/creator may initially own the copyright to his/her work (like a book or play), the writer/creator is often required to grant certain rights (and sometimes to assign the entire copyright itself) to a producer, movie studio or other company. One way to try to determine who owns the rights to a particular work is to order a search of the U.S. Copyright Office where copyright ownership is registered and various licenses, assignments and transfers may be filed. In addition, you may need to do some careful detective work by contacting the individual artists (or their estates), and producers, financiers and/or distributors who are known to have been involved with the subject’s work or by seeking the advice of an attorney. This process is rarely easy or clear-cut, there is no master list of copyright owners. You should also feel free to reach out to one of the rights groups mentioned in the attached appendices for assistance.

As a general matter, in order to have copyright protection a work must meet three basic requirements. First, the work must be an original work of authorship, meaning the author/creator must have created the work without copying another's work entirely. Second, the work must meet a minimum requirement for creativity. Third, the work must be fixed in a “tangible medium”, meaning it must be in physical form, such as paper, film, CD, DVD, etc. Even computer memory can suffice.

Copyright protects all kinds of creative endeavors, including pictorial, graphic, sculptural, literary, musical (including melody and lyrics), dramatic, pantomime, choreographic, sound recording, architectural, and audiovisual works including motion pictures.

Copyright holders control five basic exclusive rights to their works: (1) They have the right to make copies of their work and to reproduce it in various formats; (2) They have the right to make derivative works (that is, to create new works based on or derived from the original work (such as producing a film based on a book); (3) They have the right to publicly distribute their work; (4) They have the right to publicly perform their work. Sound recordings have a narrower performance right, which extends only to certain digital transmissions. (5) They have the right to publicly display their work. A copyright owner also has the right, on an exclusive or non-exclusive basis, to assign, license or sell, to any extent, to any person, any or all of the five

rights. Owning a physical copy of a work is not the same as owning the copyright and does not convey to you any of the above five rights.

You probably have specific items in mind you wish to post, so we will go through some of the more common ones as examples.

The biggest hurdle when it comes to archiving and displaying works on your PAL website is copyright. Determining copyright ownership and when/how to secure permissions can be very complicated.

Only the copyright owner (or an individual with the legal authority to make a decision on the owner's behalf) is permitted to grant permission under U.S. Copyright law. The copyright owner is very often not the original creator nor a performing artist (like you) who may have appeared in an audiovisual work.

Before trying to assess the copyright ownership of a work, it must be determined that such work generally falls into one of the following copyrightable categories: pictorial, graphic, sculptural, literary, musical, lyrical, dramatic, pantomime, choreographic, motion picture, sound recording, architectural, and audiovisual works.

In addition, to be eligible for copyright protection a work must meet three basic requirements. a) The work must be an original work of authorship, meaning an author must have created the work without copying another's work entirely. b) It must be fixed in a "tangible medium", meaning it must be a physical work; it cannot simply be an idea. and c) the work must meet a minimum requirement for creativity and originality.

Copyright holders have five basic exclusive rights to their work. They have the right to

- (1) Make copies of their work; to reproduce it in various formats.
- (2) Make derivative works (that is, to create new works based on or derived from the original work, such as producing a film based on a book)
- (3) Publicly distribute their work.
- (4) Publicly perform their work.
- (5) Publicly display their work.

A copyright owner also has the right, exclusively or non-exclusively, to license or sell, to any extent, to any person, any or all of the five rights.

As of now, United States law allows you to provide links to materials for which you do not have copyright licenses. This means you can usually simply post a link to where the material is located. However, you should make every effort to confirm that the link is to a well-known reputable website and not to a website which routinely posts unauthorized copies of copyrighted works.

B. EXAMPLES OF OBJECTS IN NEED OF CLEARING RIGHTS

As we discussed above, not every creation is protected by copyright. Below, we briefly discuss a few common examples of situations that you will likely come across as you document your

legacy. It is always good practice to consult with a lawyer or ask for permission to use certain works. A sample letter for requesting a license appears in the attached Appendices.

You might think that if you are in a photograph, video or sounding recording you are entitled to post it freely. That is not the case. Simply because the work shows your likeness or features your voice does not mean that you have any right to use it. It is always a good idea to identify the copyright holder and/or track down information on the copyright status, or to consult with an attorney, to determine if a license is required before you make any use of the work.

1. Still Photographs

Photographs are common items that often require a license to use. The photograph most commonly belongs to the photographer or to the company which commissioned it. Requesting information from various parties associated with a photograph, or consulting with an attorney, will be critical to determining if a license is required for the use of a particular photograph.

2. Film and Video

The core question to be addressed in cases of film, video or other forms of audiovisual footage is who owns the rights to that footage. This question becomes even more layered depending on the nature of the footage. There may be multiple levels of rights holders in one piece of footage whose permissions will all need to be secured. For example, whether or not the footage is from the audiovisual recording of an actual live performance of a stage play or from a film, video or other form of audiovisual adaptation of a play, one must determine who owns the rights to the actual film/video footage and who owns the rights to the underlying play or script produced in the film or video. If the footage is of a musical (live or not), there may be additional clearances needed from the composer/lyricist of the underlying musical. Rights to the actual film/video footage, for example, may be owned by a production company, financier, Hollywood studio, distributor or other third party. You should be aware that videos of some plays and musicals are archived at the New York Public Library for the Performing Arts and you may be able to link to them (see section on Links).

The question you must answer is - who owns the rights to the footage you want to use? This can be confusing to figure out, depending on the nature of the footage. For example, if you have film or video footage of a play, you have to find out 1) who owns the rights to the actual film/video footage and 2) who owns the rights to the underlying play and/or script. And if the footage is of a musical, you also need to know if rights need to be cleared from the composer/lyricist. ***Before you attempt to clear rights to post a piece of video or film to your PAL website see if you can link to an existing clip online.***

In the case of a project originally made as a film, TV show or digital production, the right to grant the permission you require is most likely held by a single entity – e.g., a distributor, financier or production company. Alternatively, they may be held by different individuals or companies.

3. Newspaper Articles, Reviews, Clippings and Posters

It is possible that you saved a column or article that featured you or a production you were in. Though the article is in your physical possession and includes your name and other information, the article is not your property. Permission must be requested for use of such material. Though these articles have authors, the author likely does not own the content to the article he/she wrote. As discussed above, companies often hire writers on the condition that the company owns the copyright in such content. Newspaper articles are often examples of situations where the article by the writer/journalist is deemed a work made for hire and the newspaper owns the copyright.

What about advertisements such as a movie poster in which your name or likeness appears? The copyright is likely owned by either the film's copyright owner or the distributor which commissioned the poster. And when a theatre company places an advertisement for an upcoming performance in a local newspaper, the content of that advertisement likely belongs to the theatre company.

What about a performance review? A performance review is in the similar category as an article written for a magazine or newspaper. It is often a work made for hire in which case the review belongs to the newspaper or magazine publishing the review and not to the individual reviewer. However, sometimes reviewers or columnists own the copyrights to their own written pieces and syndicate them to local newspapers around the country for publication; in those cases, permission may need to be secured from the original writer as the copyright owner.

Linking to an article or review without copying any of the content is one way to lead your website viewers to the information without copying the work and violating copyright. We will discuss this in detail later.

Just because a review or article is in your physical possession and includes your name, likeness or other information, doesn't mean you have the legal right to post it to your PAL site. Permission likely will need to be secured for use of such material. The original writer/reviewer/ journalist often does not own the content of the article he/she wrote; permission will likely need to be secured from the newspaper/magazine in which it first appeared. So, again, ***if you can't link to it***, the best place to start seeking rights is the original publication.

How about play or film posters? A poster is an advertisement for the underlying work. It was created for, and is most likely owned by, the company that produced the film, TV show or play or is distributing it. ***If you can't link to it online***, then start with the original production company or the distributor.

Linking to a work without copying any of the content is probably the best way to make the information available without the time-consuming task of securing copyright permissions.

4. Music

Copyright in music can be quite confusing. A recorded piece of music will often have two separate copyrights. One is for the musical composition and covers the music and lyrics. The other is for the sound recording of the performance of that musical work. Thus, in some circumstances publicly playing the recording without permission can violate both copyrights. Publicly playing the notes of the musical composition on an instrument and singing the lyrics without permission could violate only the copyright in the musical composition.

Usually public performance of musical compositions is licensed by the Performing Rights Organizations, e.g., ASCAP or BMI. Sound recordings do not have a right of public performance except for digital transmissions of the work. Certain types of digital transmissions, e.g., webcasting where the user cannot select the material to be transmitted, are licensed under a statutory license. This means that the use doesn't have to be cleared in advance, but the statutory rate must be paid to an organization known as Sound Exchange. Where the digital transmission is "on demand" the license must be obtained from the record company that owns the rights. It is likely that you may want to post a video of you singing a song from a musical you were in. If the offering is on YouTube, you can link to it (see below for Links). If not, the performances will likely involve "small" (a/k/a "nondramatic") rights, and so could be licensed by ASCAP/BMI (See appendix for Rights organizations that may assist you in acquiring licenses to reproduce works). A license could be obtained from the music publisher of the songs in question as well.

Music rights can be confusing. Any piece of music will have two separate copyright protections: that of the musical composition and that of the sound recording. The musical composition covers the music and lyrics of the composition, but not the recorded performance of the work, which is separately protected. So, playing the notes on an instrument and singing the lyrics without permission can violate one copyright and playing a recording without permission can violate another copyright.

For example, you may want to post a video of you singing a song from a musical you were in. The easiest way would be to find a **clip online - on YouTube, etc., - that you can link to**. If not, use of a clip will likely involve a special form if rights, known as "small (a/k/a "nondramatic") rights", and may be licensed by either ASCAP or BMI (See appendix for Rights organizations). Or a license could be obtained from the music publisher of the songs in question.

5. Scripts and Notes

A script and the associated notes can also be protected by copyright. The script for a film or TV program may be owned either by the screenwriter (probably only if the script has not yet been produced), or, more likely, by the studio/producer that produced the film or other audiovisual production based on such script. In the case of a live stage play, the playwright usually retains

the copyright (although there is no guarantee). If a film/TV script or print version of a play contains handwritten notes (even if they are on the margins of the script/play) from a third party (e.g., producer, director or performer), those notes are likely owned by the copyright owner of the film/TV show or by the third party who provided the notes, if he/she didn't already assign his/her rights to those notes to a third party.

If you have written notes in the margins of a film/TV script or a play where you provided services as an actor or director, you'll need to determine whether or not you own those notes, provided those notes as a work made for hire or assigned your rights to those notes. Notes by a third party are likely owned by that third party or the production company that engaged that third party.

6. Contracts

While it's theoretically possible to protect a contract by copyright, it's more likely that if you post a copy of a contract on your page, you may encounter claims of breach of confidentiality. As discussed further in III (F) below, many contracts have a paragraph as to the confidentiality of the terms within. You should first look at the contract for this kind of provision. If there is none, only then should you consider clearing any copyright issues.

Posting contracts to your website is probably not a good idea. Before you post any pages from the agreement, you should first carefully review the contract to see if confidentiality terms prevent this; if so, you'll need to go to the issuer of the contract for permission.

C. POSSIBLE EXCEPTIONS TO CLEARING RIGHTS

Copyright does not protect the titles of books, plays or movies. In addition, facts are not copyrightable or protectable, so you are free to describe true incidents you experienced or historical facts without the need to seek any copyright permissions. However, you should be careful not to simply copy material from any works of non-fiction, since the way that certain facts are organized and presented may be sufficiently original and creative to secure copyright protection.

In general, copyright does not protect the use of *titles* of books, plays or movies. In addition, facts are not copyrightable, so you are free to describe true incidents you experienced or historical facts without the need to seek any copyright permissions. But don't simply copy passages from any non-fiction work since some of that material may be covered by copyright and require permissions.

Additionally, as discussed above, not every creation is protected by copyright. Items such as ticket stubs might fall outside of the scope of protection or may be used under the fair use

doctrine.(See below.) Copyright protection is only for a specified number of years. Some works have outlived their copyright protections and are now in the public domain, a concept that we will discuss further below. Some other works may also have found their way into the public domain by intentional acts or unintentional acts by the original copyright holders.

1. Linking to Materials

Fortunately, as of now, United States laws allow websites to link to materials for which they do not have copyright licenses. This means you can simply share where the material is located so viewers can be directed to it. ¹Attorneys expect these rules to evolve as technology evolves. As noted above, you should make every effort to confirm that the link is always to a well-known reputable website and not to a website which routinely posts unauthorized copies of copyrighted works. (See Appendices for Helpful Links.)

2. Public Domain

The public domain includes works that are not protected by copyright laws. Works in the public domain can be used by you without permission (unless aspects of a work are protected by another body of law, such as trademark law or right of privacy/publicity).

There are different ways that works can arrive in the public domain. Works will be in the public domain when: the copyright term has expired, either because the copyright owner failed to properly renew the copyright (note that renewal is an old requirement, and is no longer required for works), or the work has enjoyed the full copyright term. In addition, the copyright owner may have deliberately or inadvertently placed the work into the public domain. Some works, such as works of the U.S. government, are not entitled to copyright protection, so they are always in the public domain.

Copyright has expired for all works published in the U.S. before 1923. If a work was published in the U.S. before January 1, 1923 then that work is in the public domain and may be used by you freely. If you wish to use materials from works which (a) existed before 1923 in unpublished form but were later published in the U.S. after January 1, 1923 or (b) were created after January 1, 1923, we strongly recommend that you seek the advice of legal counsel before doing so since the law is very complex with respect to which of those works are currently in the public domain and which are still protected by copyright in the U.S.

While creators or copyright owners can also dedicate a work to the public domain, you should never assume that a work first published in the U.S. after 1922 is in the public domain: it is best to look for a clear statement by the copyright holder inviting people to use the work freely without the need of permission (therefore putting it into the public domain) and to consult a lawyer before relying on the public domain concept.

¹ Examples are playbill.com/vault and You Tube. Work can be linked, but not embedded or copied.

Further, while each individual work in the public domain may be freely used by the public, certain aspects of collections of those same works may be protected by copyright law. Once again, it is best to consult a lawyer before relying on the public domain concept.

The public domain involves works that are not currently protected by copyright law in the United States. Works in the public domain can be used in the U.S. without permission so long as no other rights are involved (e.g., trademark rights or rights of privacy/publicity).

There are different ways that works can arrive in the public domain. Works will be in the public domain when: the copyright term has expired, the copyright owner has failed to properly renew the copyright, the copyright owner deliberately or inadvertently places the work in the public domain or the work is not protected under copyright law.

Never assume that a work first published in the U.S. after 1922 is in the public domain; it is best to consult a lawyer before relying on the public domain concept.

3. Fair Use

Fair Use is a legal doctrine that enables unlicensed use of copyright-protected works in certain circumstances. It should be emphasized that fair use is a defense. That means, if you are sued for copyright infringement, once you are in court you may bring forth the defense of fair use. Even prior, should someone send you a cease and desist letter, your attorney could choose to argue fair use in an effort to dissuade someone from bringing a lawsuit. So it is never a good idea to depend on Fair Use when deciding how to use a work protected by copyright without thorough legal analysis and advice specific to your circumstances. If you believe something you are doing falls under fair use, you should consult a lawyer before relying on that determination. Courts have very complicated analyses when it comes to Fair Use that many attorneys spend their careers understanding and navigating.

Fair Use is a legal doctrine that enables use of copyright-protected works in certain circumstances without permission. It should be emphasized that fair use is a legal defense. That means, if you are sued for copyright infringement, once you are in court you may bring forth the defense of fair use. So, it is not a good idea to depend on Fair Use when deciding how to use a work protected by copyright, unless you have been so advised by a copyright lawyer.

The provisions of the U.S. Copyright Law governing Fair Use only provide general guidelines. The exact text of the doctrine is as follows:

The fair use of a copyrighted work, including uses such as reproduction as copies or phonorecords or by any other means, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

“(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”²

Courts weigh all four of the factors set forth above (as well as other factors they determine are relevant) in deciding whether or not use of a work is a Fair Use, but there is no formula or clear set of guidelines that you can follow to be guaranteed Fair Use protection. It is for these reasons that we strongly recommend that you consult a lawyer before relying on the Fair Use defense in connection with your PAL website.

4. Creative Commons

If a photograph or work is offered licensing through CC then that photograph or work can be used for free but the user must follow the stipulations in the license. Many YouTube videos are marked as CC also. Go to the Creative Commons Website to see the types of licenses available and to search for the materials you wish to use:

<https://search.creativecommons.org/>

The Creative Commons (CC) provides licenses that allow works to be freely available to the public for legal use, sharing, repurposing, and remixing. A Creative Commons license (“CC license”) is a copyright license in which a copyright holder of a work can provide a specifically formatted license to govern the permissible use and reproduction of their existing work. Different CC licenses allow different types of uses, sometimes with conditions. Under this structure, the owner of a copyrighted work can even choose to enter the work into the public domain by relinquishing all rights.

Essentially, the CC license allows the licensor to retain the copyright while others use the copyrighted work within the boundaries of the CC license that the copyright owner selects. Furthermore, these licenses ensure that the licensor (owner of the copyright) receives credit for the work. CC licenses are applicable globally.

Essentially, the CC license allows the licensor to retain the copyright while others use the copyrighted work within the boundaries of the CC license. These licenses ensure that the licensor (owner of the copyright) receives credit for the work.

² 17 U.S. Code § 107 - Limitations on exclusive rights: Fair use

III. FURTHER CONSIDERATIONS

A. CREDITING A WORK

It must be noted that crediting the author/copyright owner of a work does not protect you from a claim of copyright infringement. You cannot simply credit an author/copyright owner and use a copyrighted work freely. However, when you do negotiate with a copyright owner for a license to use a work, you should ask what type of credit information is required to go along with the work. Many licensors have standard copyright credit lines they require to go along with any work they license for use.³

Crediting the author of work on your PAL website does not permit you to use that work without the permission of the copyright owner.

B. DECEASED AUTHOR

Once a copyright owner dies, his/her copyright usually passes to the beneficiaries of his/her estate. The mere death of a copyright owner does not generally place the copyright in the public domain.

If you use a copyrighted work owned by someone who has died, someone else may very well now own the copyright.

C. REGISTERED WORK

Some works and licenses/assignments are registered with the Copyright Office. So a search of the Copyright Office records may make it easier for you to identify the current copyright owner of a work. Registration merely provides certain procedural benefits but does not represent any judgement by the U.S. government that a particular work is currently protected by U.S. Copyright Law.

Some works and licenses/assignments are registered with the Copyright Office, so a search of the Copyright Office records may make it easier for you to identify the current copyright owner of a work. But copyright registration does not represent a determination that a particular work is currently protected by U.S. Copyright Law.

D. INTERNATIONAL WORKS

There is no such thing as an “international copyright.” As a general matter, each country has its own copyright laws that affect copyrights and violations in that country. However, international treaties make the works of one country’s nationals protected in another country, and provide for certain minimum levels of protection. The most significant conventions governing the protection provided by one country to another country’s nationals include: The Berne Convention for the

³ These commonly include Name of Author, Name of Work, Date of Creation, the © copyright symbol and the Copyright Owner.

Protection of Literary Artistic Works (“Berne Convention”); the TRIPS portion of the WTO Agreement; the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. There are also a number of bilateral agreements. For guidance on use of materials only created, published and distributed outside of the U.S., you should seek help from an attorney.

To use works only created, published and distributed outside the U.S., consult an attorney.

E. PRIVACY/PUBLICITY/DEFAMATION

If you wish to include on your PAL website any materials where other people (living or dead) are identifiable (by use of their names, performances, likenesses, or other identifiers), you need to be careful not to be infringing upon any of their rights, including rights of privacy or publicity or defamation. The laws in these areas vary from state to state so it is important for you to consult with an attorney if you plan to include on your PAL website material which, among other things, (a) might be embarrassing to someone or bring them into disrepute, or (b) reflects private information about that person that the public has no right to know, or (c) could be viewed by someone as infringing his/her right to control the commercial use of his/her identity. In addition, a lawyer can give you guidance regarding when it is permissible to include a person’s photograph, image or performance on your PAL website without permission and when you’ll need to secure permission before doing so

The rights of publicity and privacy and rights against defamation are **separate from copyright**. While copyright protects a copyright holder’s *property* rights in their work, privacy and publicity rights and rights against defamation protect the *personal interests* of the people who you may be identifying by name or image in materials on your PAL website. We recommend that you consult with an attorney prior to using materials on your PAL website which feature other people.

F. EMPLOYMENT AND CONFIDENTIALITY AGREEMENTS

You should be careful to follow the requirements of the confidentiality or non-disclosure provisions in any agreements you have signed in connection with the PAL website. These kinds of provisions may prevent you from talking about certain aspects of your employment or certain terms of the agreements themselves.

Be aware that agreements you have signed may contain confidentiality or non-disclosure provisions that prohibit your discussion or use of certain information or materials from those agreements.

IV. RIGHTS ORGANIZATIONS and Licensing Departments

There are several groups that represent large numbers of authors that can be helpful in searching for rights owners and securing rights. The major groups for this are: ASCAP (American Society of Composers, Authors, and Publishers), BMI (Broadcast Music Inc.), SESAC (Society of European Stage Authors and Composers), and ARS (Artists Rights Society). (See Appendices.)

In addition, there are licensing departments for film stills and clips, and for likenesses. Contacts for these as of November 1, 2017, are listed in an Appendix.

See Appendix for information about Rights Organizations.

APPENDIX A.

Organizations Helpful in Securing Rights and Licensing

There are several groups that represent large numbers of authors which can be helpful in searching for rights owners and securing rights. They allow people hoping to secure a license to contact them rather than hunting down the actual author. Below are some of the many licensing companies, be sure to search for one before pursuing a particular author.

American Society of Composers, Authors, and Publishers (ASCAP): Licenses works from songwriters, composers, and music publishers.

Contact: <https://www.ascap.com/>

Broadcast Music Inc. (BMI): Licenses works from songwriters, composers, and music publishers.

Contact: <https://www.bmi.com/>

Society of European Stage Authors and Composers (SESAC): Licenses works from songwriters, composers, and music publishers.

Contact: <https://www.sesac.com/>

Artists Rights Society (ARS): Licenses works by visual artists.

Contact: <http://www.arsny.com/>

Allied Artists: Licenses only from post-1980 Allied Artists Pictures library.

Contact: <http://alliedartistsofamerica.org/>

HBO Archives: Licenses the use of video clips from their in house productions and sporting events as well as the famous MARCH OF TIME newsreel series (produced by the publishers of *Time* and *Life* from 1935-1967) and the Universal newsreels.

Contact: <http://www.hboarchives.com/>

Disney Consumer Products: Licenses the use of movie stills, video clips and audio clips from titles in the Walt Disney Pictures, Buena Vista Pictures, Touchstone Pictures, Hollywood Pictures, Miramax Films and Dimension Films libraries.

Contact: <http://www.disneyconsumerproducts.com/>

MGM Clip+Still: Licenses the use of movie stills, video clips and audio clips from titles in the post-1982 MGM, post-1996 Samuel Goldwyn Films, United Artists, Orion, Polygram and Cannon libraries.

Contact: <http://www.mgmstills.com/>

Paramount Clip Licensing: Licenses the use of movie stills, video clips and audio clips from titles in the Paramount Pictures, Republic Pictures, Rysher Entertainment, Spelling/Worldvision, and Viacom Productions libraries.

Contact: <http://www.paramount.com/filmcliplicensing/>

Samuel Goldwyn Films: Licenses the use of movie stills, video clips and audio clips from titles in the Samuel Goldwyn Sr., pre-1996 Samuel Goldwyn Jr., and portions of the Rodgers & Hammerstein film libraries.

Contact: <http://www.samuelgoldwynfilms.com/contact/>

Sony Pictures Entertainment Clip & Still Licensing: Licenses the use of movie stills, video clips and audio clips from titles in the Columbia Pictures, TriStar Pictures, Screen Gems, and Sony Pictures Classics libraries.

Contact: <http://www.sonypictures.com/corp/cliplicensing.html>

20th Century-Fox Licensing and Merchandising: Licenses the use of movie stills, video clips and audio clips from titles in the Twentieth Century Fox, Fox 2000 Pictures, Fox Searchlight Pictures, and Fox Animation Studios libraries.

Contact: <http://www.newscorp.com/management/20home.html>

Universal Studios Media Licensing: Licenses the use of movie stills, video clips and audio clips from titles in the Universal Pictures, Universal/International Pictures and International Pictures libraries.

Contact: <http://www.universalclips.com/>

Warner Bros. Licensing Department: Licenses the use of movie stills, video clips and audio clips from titles in the Warner Bros., First National Pictures, pre-1982 MGM, pre-1948 RKO and Turner Entertainment libraries.

Contact: <http://www.warnerbros.com/studio/services/clip-and-still-licensing>

Screen Actors Guild: SAG-AFTRA - The place to start when attempting to contact a living performer about getting permission to use their image or likeness; in most cases, SAG-AFTRA can put you in contact with the star's agent or other legal representative.

Contact: <http://www.sagaftra.org/>

CMG Worldwide: Licenses the image and likeness of dozens of deceased classic movie stars and other celebrities.

Contact: <http://www.cmgww.com/>

The Roger Richman Agency: Another major firm licensing the image of dozens of deceased Hollywood legends.

Contact: <http://www.therichmanagency.com/>

Global Icons: Representing the estates of deceased stars like Bing Crosby, Marlene Dietrich and Greta Garbo.

Contact: <http://globalicons.com/>

MODA Entertainment: Coordinates licensing for the likes of Gary Cooper, Lauren Bacall, Humphrey Bogart, Betty Garrett, Joel McCrea, Alan Ladd, Celeste Holm, Frances Dee, John Garfield, Robert Mitchum and Patricia Neal.

Contact: <http://www.modaentertainment.com/>

Greenlight Rights: Manages personality rights for a few deceased celebrities, including Steve McQueen and Mae West.

Contact: <http://www.greenlightrights.com/>

Examples of other individual estates or licensing representatives:

- Association Chaplin: <http://www.charliechaplin.com/>
- The Sammy Davis Jr. Estate: <http://www.sammydavis-jr.com/>
- The Errol Flynn Estate: <http://errolflynnestates.com/>
- The Estate of Jackie Gleason: P.O. Box 2138, Friday Harbor, WA 98250
- The Audrey Hepburn Children's Fund: <http://www.audreyhepburn.com/>
- Elvis Presley Enterprises: <http://www.elvis.com/licensing/>
- The Three Stooges - C3 Entertainment Inc.: <http://www.threestooges.com/>
- (John) Wayne Enterprises: <http://wayneenterprises.com/>

APPENDIX B. HELPFUL LINKS

Online Resources for Career Information

- [Internet Theatre Database](#)
- [Internet Movie Database](#)
- [Internet Book Database](#)
- [Lortel Archives](#)
- [The Broadway League](#)
- [Playbill archives](#)
- [LaMama Archives](#)
- [Wikipedia](#)
- [YouTube](#)
- [Getty](#)
- [Channel 13](#)
- [Google](#)
- [NY Times](#)
- [SAG-AFTRA](#)
- [Actors' Equity \(AEA\)](#)

APPENDIX C.

Template Letter Requesting Rights Prior to Launch (USE YOUR PERSONAL LETTERHEAD)

Today's Date

Dear _____,

I am a performer who appeared [on stage, screen, etc] in the _____. I understand that your company is the rights holder for this work. I am writing to obtain your permission to display _____, in which I performed, on a new website created in conjunction with the PERFORMING ARTS LEGACY project (the "PAL Project"). This Project was created by the nonprofit Research Center for the Arts and Culture at The Actors Fund in New York City. The initial goal of the Project is to help older performers document their legacies. This pilot phase includes seventeen New York City-based actors age 62 and older whose careers represent local, national and international theatre, Broadway, off, off-off-Broadway, regional theatre, dinner theatre, film, TV and more.

The longer term goal of the Project is to create a public-facing website early in 2019 where older performers may document and share their own legacies with old and young performers, scholars, teachers, researchers and others. The site will be educational, for non-commercial purposes, and will be a service to the performing community.

Joan Jeffri, the project's director, is happy to discuss the project further at any time, and a more complete summary is attached to this request.

I also attach a summary of the materials for which I am asking for a non-exclusive, royalty-free license to display this material on The Actors Fund's PERFORMING ARTS LEGACY website (performingartslegacy.org). I am greatly appreciative of your consideration of my request to use this only for this website and for the benefit of representing this important legacy.

Thank you for helping us. Please feel free to contact me with additional questions or Joan Jeffri, the Director of the RCAC at

Research Center for Arts and Culture
The Actors Fund
729 Seventh Avenue, 10th floor
New York, NY 10019
212-221-7300 x 187 Direct: 917-281-5987
www.artsandcultureresearch.org<<http://www.artsandcultureresearch.org>>
jjeffri@actorsfund.org<<mailto:jjeffri@actorsfund.org>>,
rcac@actorsfund.org<<mailto:rcac@actorsfund.org>>
cell 646-643-8044

Many thanks for your consideration.

Sincerely, [Your Signature] [Print your name]



*Research Center for
Arts & Culture*

Joan Jeffri, Director

The Research Center for Arts and Culture at The Actors Fund is creating the **PERFORMING ARTS LEGACY PROJECT**, an initiative to document the work of performing artists age 62 and over. By digging deeper into the histories and memories of those workers on whom the industry was built, it can recognize these performers' life review with dignity as they keep on keeping on. And, it can identify, empathize with and celebrate aging.

Over a two year period, with seventeen older professional actors in NYC, the **PERFORMING ARTS LEGACY PROJECT** is developing an online platform to capture performers' legacies through: 1) a series of oral histories, 2) the online documentation platform to capture memorabilia, experiences, videos, reviews, etc, and 3) a Captured Life Review Process that records the performer as s/he reviews his/her lifetime of career-related materials. This will be made available nationally with local community involvement through a new web platform with guides to use the platform, clear the rights to materials, upload oral histories, and capture life review. It will also be a regular program at The Actors Fund.

Young performers interview older ones for a series of oral histories, and young professionals, and advanced students in theatre, arts, health and aging work together with the actors to map their legacies. The actors represent a wide experience—from classical theatre to Broadway, off and off-off Broadway, regional theatre, television, movies and performance art, and range from their 60s to their 90s.

The digital legacies will be housed at an open source digital archive, as well linked to related performers' unions and libraries.

The PERFORMING ARTS LEGACY PROJECT

- **Will provide** material for performing arts training programs, to give young performers a more realistic idea of the realities of a professional performing career.
- **Will be** a model to counter negative stereotypes of aging, rampant in performing arts industries, and embrace Intergenerational Learning, as we know that the close attention of people across generations brings validation, more confidence, a sense of their place in the world, and satisfaction that their creations and their individuality can last beyond their lifetimes.
- **Will provide** a model for positive aging: Dr. Gene Cohen demonstrated that engagement in the arts results in reduced medications, fewer doctor visits, less loneliness and depression.

In addition, as performers review their lives, The Actors Fund can be instrumental in supporting life-related needs such as financial literacy, end-of-life documents, counseling, substance abuse and access to Medicare, Medicaid and health care.

The Actors Fund is a national organization that assists performers and entertainers in need, crisis or transition. The RCAC offers data, information and programs in service of artists and the arts.

