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Judge rules 'Happy Days' cast lawsuit can go forward

From wire service reports

Posted: 07/20/2011 10:12:24 AM PDT

Updated: 07/20/2011 10:13:22 AM PDT

A \$40 million breach-of-contract lawsuit filed on behalf of five members of the "Happy Days" cast -- alleging CBS owes the actors for merchandise sales related to the comedy series -- can move forward with some revisions, a judge ruled today.

Anson Williams, Don Most, Marion Ross, Erin Moran and the estate of Tom Bosley say in the Los Angeles Superior Court lawsuit filed April 19 that the merchandise includes comic books, T-shirts, lunch boxes, greeting cards and DVDs.

Lawyers for CBS moved to dismiss the case, partly on grounds some of the allegations were filed too late.

Judge Elizabeth Allen White ruled that the claim had enough details, but that two fraud claims and a third cause of action, alleging conversion, did not. However, instead of dismissing those allegations she gave the plaintiffs 30 days to file an amended complaint.

Attorney Jon Pfeiffer, on behalf of the plaintiffs, said after the hearing that today's rulings were a "bump in the road." He said he recently learned that there actually not just one but instead three agreements between his clients and CBS.

Pfeiffer also said that Henry Winkler, who played the role of Fonzie in the show and is not a plaintiff in the suit, was paid for the same things that the plaintiffs are now seeking compensation.

The attorney said he expects CBS to mount challenges to the revised complaint as well, then start discussing ways to resolve the case if those motions are denied.

The complaint gives several examples in which cast members' images allegedly were used without compensation, including slot machines. The performers were to be paid 5 percent from the net proceeds of merchandising if a sole image was used and 2.5 percent if they were in a group, while the studio could deduct 50 percent off the top, according to the suit.

The cast of "Happy Days," which also included Ron Howard as Richie Cunningham, became "iconic characters of timeless Americana," the suit states. "Families all across America would gather around the television and be captivated by the Cunninghams and their friends' adventures during the 1950s."

Although the show ended nearly three decades ago after a 10-year run, it has had "a lasting effect on Americans as well as American television and is still an integral part of pop culture even today," the complaint says.



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