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'Happy Days' & CBS Merchandise Trial Set For July 17

By DOMINIC PATTEN | Tuesday June 5, 2012 @ 6:48pm PDT

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Happy Days' Mrs. C., Joanie, Potsie and Ralph will get their day in court July 17. Judge Elizabeth Allen White today denied a motion from CBS to dismiss a merchandise lawsuit from the actors from the iconic 1970s show. Marion Ross, Erin Moran, Anson Williams and Don Most, plus the widow of Tom Bosley, say the series' distributor owes them money and have sued for \$10 million. Henry Winkler and Ron Howard, who played the Fonz and Ritchie Cunningham on the series, are not a part of the suit. After starting off being about slot machines and fraud, the core of the case has become payments from DVD sales. Today, White ruled that she wouldn't grant CBS' request for summary judgment because the "defendants have not met their initial burden of showing that plaintiffs are not entitled to merchandising royalties for the use of their likeness on DVD sets sold to consumers." The jury trial is estimated to last 10 days. A final status conference is set for July 12.



The actors filed their multimillion-dollar breach of contract complaint April 19, 2011 ([read it here](#)) after a friend told Ross about *Happy Days*-themed slot machines she saw at a casino. Ross and the other actors contacted CBS about them and the use of their images on them. The distributor of *Happy Days*, which ran from 1974-1984, said it paid everything to the actors that it was supposed to. CBS also added that SAG agreements cover DVD royalties and the use of the actors' images. CBS referred to the suit as "a garden-variety breach of contract action, nothing more." The actors' attorney Jon Pfeiffer sees it as something more. In court documents, the lawyer claims CBS has not provided accurate accounting on *Happy Days* merchandising revenue. Pfeiffer also says his clients have not received financial statements from CBS on *Happy Days* merch sales. CBS has said that's not true but, at the same time, since the actors filed their suit, the distributor sent each one of them a check for \$10,000 for merchandise royalties. Those checks have not been cashed and are being held by Pfeiffer until the case is resolved.

This is the second TV series-related case for White this year. The judge presided over former *Desperate Housewives* star Nicollette Sheridan's wrongful termination case against ABC and the show's executive producer Marc Cherry. That case ended in a [mistrial](#) March 19 after the jury was deadlocked. Last week, the Court of Appeals [stayed](#) the scheduled September 10 retrial pending an August 9 hearing where White needs to make her argument why the case should go forward.

Ross, Moran, Williams and Most are represented by Pfeiffer of Santa Monica's Pfeiffer Thigpen FitzGibbon & Ziontz.

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