

1 GLENN D. POMERANTZ (SBN 112503)
 glenn.pomerantz@mto.com
 2 MUNGER, TOLLES & OLSON LLP
 355 South Grand Avenue, Thirty-Fifth Floor
 3 Los Angeles, California 90071-1560
 Telephone: (213) 683-9100
 4 Facsimile: (213) 687-3702

5 KELLY M. KLAUS (SBN 161091)
 kelly.klaus@mto.com
 6 ACHYUT J. PHADKE (SBN 261567)
 achyut.phadke@mto.com
 7 ADAM I. KAPLAN (SBN 268182)
 adam.kaplan@mto.com
 8 MUNGER, TOLLES & OLSON LLP
 560 Mission Street, Twenty-Seventh Floor
 9 San Francisco, California 94105-2907
 Telephone: (415) 512-4000
 10 Facsimile: (415) 512-4077

K. LEE MARSHALL (SBN 277092)
 klmarshall@bryancave.com
 ROGER MYERS (SBN 146164)
 roger.myers@bryancave.com
 ALEXANDRA C. WHITWORTH (SBN
 303046)
 alex.whitworth@bryancave.com
 BRYAN CAVE LLP
 560 Mission Street, Suite 2500
 San Francisco, California 94105
 Tel: (415) 675-3400 /Fax: (415) 675-3434

*Attorneys for Defendant National Association
of Theatre Owners*

11 *Attorneys for Defendants Motion Picture
 Association of America, Inc., The Walt Disney
 12 Company, Paramount Pictures Corporation,
 Sony Pictures Entertainment Inc., Twentieth
 13 Century Fox Film Corporation, Universal City
 Studios LLC, and Warner Bros. Entertainment
 14 Inc.*

15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**

17 TIMOTHY FORSYTH, individually and on
 behalf of a class of similarly situated
 18 individuals,

19 Plaintiff,

20 vs.

21 MOTION PICTURE ASSOCIATION
 OF AMERICA, INC., et al.,

22 Defendants.
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Case No. 3:16-cv-00935-RS

**DEFENDANTS' REQUEST FOR
 JUDICIAL NOTICE IN SUPPORT OF
 [1] SPECIAL MOTION TO STRIKE
 PURSUANT TO CALIFORNIA ANTI-
 SLAPP STATUTE, CAL. CIV. PROC.
 CODE § 425.16 ET SEQ., OR, IN THE
 ALTERNATIVE, [2] MOTION TO
 DISMISS PURSUANT TO FED. R. CIV.
 P. 12(b)(6)**

Date: June 9, 2016
 Time: 1:30 pm
 Place: Courtroom 3, 17th Floor
 Judge: Hon. Richard Seeborg

1 Defendants Motion Picture Association of America, Inc. (“MPAA”); The Walt Disney
 2 Company, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Twentieth Century
 3 Fox Film Corporation, Universal City Studios LLC, and Warner Bros. Entertainment Inc.
 4 (collectively the “Studio Defendants”); and National Association of Theatre Owners (“NATO,”
 5 and collectively with the MPAA and the Studio Defendants, “Defendants”) respectfully submit
 6 this request that the Court take judicial notice, pursuant to Federal Rule of Evidence 201, of the
 7 content of the three websites identified below, as exemplified by the screenshots in Exhibits 1–3
 8 attached hereto. This Request for Judicial Notice (“Request”) is filed in support of Defendants’
 9 Motions (1) to Strike the Complaint in its Entirety Pursuant to California’s Anti-SLAPP Statute,
 10 Cal. Civ. Proc. Code § 425.16 *et seq.*, or (2) to Dismiss the Complaint Pursuant to Fed. R. Civ. P.
 11 12(b)(6).¹

EXHIBIT	DESCRIPTION
1	Screenshots of Common Sense Media Website, https://www.common sense media.org/ (last visited April 28, 2016)
2	Screenshot of Smoke Free Movies Website, http://smokefreemovies.ucsf.edu/ (last visited April 28, 2016)
3	Screenshot of Scenismoking Website, http://www.scenismoking.org/ (last visited April 28, 2016)

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 19 Federal Rule of Evidence (“Rule”) 201 provides that a “court may judicially notice a fact
 20 that is not subject to reasonable dispute because it ... can be accurately and readily determined
 21 from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). The Court
 22 may consider facts subject to judicial notice at the dismissal stage without converting the motion
 23 into one for summary judgment. *Mullis v. U.S. Bankr. Ct.*, 828 F.2d 1385, 1388 (9th Cir. 1987).

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 26 ¹ Although motions to strike under California’s anti-SLAPP statute may rely on extrinsic
 27 evidence, Defendants’ anti-SLAPP motion, filed jointly with Defendants’ Rule 12(b)(6) motion,
 28 does not do so and therefore is governed by Rule 12 standards. *Choyce v. SF Bay Area Indep.
 Media Ctr.*, 2013 WL 6234628, at *5 (N.D. Cal. Dec. 2, 2013); *Rogers v. Home Shopping
 Network, Inc.*, 57 F. Supp. 2d 973, 980 (C.D. Cal. 1999).

1 Rule 201 “permit[s] the court to take judicial notice of facts contained in websites,”
2 including their contents. *United States v. Kane*, 2013 WL 5797619, at *8 (D. Nev. Oct. 28, 2013);
3 *see also O’Toole v. Nothrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) (“It is not
4 uncommon for courts to take judicial notice of factual information found on the world wide web.”)
5 (citations omitted). “[A] court may take judicial notice of publicly available ... web pages that
6 ‘indicate what was in the public realm at the time, not whether the contents of those articles [or
7 web pages] were in fact true.’” *Tarantino v. Gawker Media, LLC*, 2014 WL 2434647, at *1 n.1
8 (C.D. Cal. Apr. 22, 2014) (quoting *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592
9 F.3d 954, 960 (9th Cir.2010)); *Kane*, 2013 WL 5797619, at *9 (same).

10 Defendants respectfully request that the Court take judicial notice of the content of three
11 websites that discuss the attributes of particular movies, as exemplified by the screenshots in
12 Exhibits 1–3. This Request does not ask the Court to take notice of the truth of any statement in
13 these websites or in Exhibits 1–3, but rather to take judicial notice that the content of these
14 websites is “in the public realm.” *Tarantino*, 2014 WL 2434647, at *1 n.1. The content of the
15 websites and exemplar screenshots and the fact that this content is publicly available on the
16 internet “is not subject to reasonable dispute,” because the Court can go to these websites and
17 readily determine the same. *See Fed. R. Evid. 201(b); see e.g., Hendrickson v. eBay, Inc.*, 165 F.
18 Supp. 2d 1082, 1084 n.2 (C.D. Cal. 2001) (“[T]he Court takes judicial notice of www.eBay.com
19 and the information contained therein pursuant to Federal Rule of Evidence 201.”). Plaintiff has
20 no reasonable basis on which to object to Defendants’ limited Request.

21 Exhibit 1 consists of screenshots from the website of an entity known as Common Sense
22 Media, which identifies itself as “the nation’s leading independent non-profit organization
23 dedicated to empowering kids to thrive in a world of media and technology.”
24 <https://www.common sense media.org/> (last visited April 29, 2016). Exhibit 2 is a screenshot from
25 a website called “Smoke Free Movies,” which is maintained by University of California, San
26 Francisco’s Center for Tobacco Control Research and Education.
27 <http://smokefreemovies.ucsf.edu/> (last visited April 29, 2016). Exhibit 3 is a screenshot from a
28 website called “Scenesmoking.org,” which was established by the non-profit Breathe California of

1 Sacramento-Emigrant Trails. This website hosts a searchable movie database, called “Thumbs
2 Up! Thumbs Down!”, which reviews movies based on the tobacco imagery therein.
3 <http://www.scenesmoking.org/> (last visited April 29, 2016).

4 For the foregoing reasons, Defendants respectfully request that the Court take judicial
5 notice of the contents of (1) the Common Sense Media website, (2) the Smoke Free Movies
6 website, and (3) the Scenesmoking website, as exemplified by the screenshots in Exhibits 1–3.

7 DATED: April 29, 2016

MUNGER, TOLLES & OLSON LLP

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9

By: /s/ Kelly M. Klaus
 KELLY M. KLAUS

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Attorneys for MPAA and Studio Defendants

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BRYAN CAVE LLP

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By: /s/ K. Lee Marshall
 K. LEE MARSHALL

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Attorneys for NATO

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In accordance with Civil Local Rule 5-1(i), the filer attests that each of the above
signatories have concurred in the filing of this document.

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DATED: April 29, 2016

By: /s/ Kelly M. Klaus
 KELLY M. KLAUS

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