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10 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
11

12 SIMON STEPHENSON, an individual,
13 Plaintiff,

14 vs.

15 ALEXANDER PAYNE, an individual,
DAVID HEMINGSON, an individual,
16 MARK JOHNSON, an individual,
GRAN VIA PRODUCTIONS LLC,
17 MIRAMAX, LLC, HONEST
SCHOLAR PRODUCTIONS, LLC,
18 MIRAMAX DISTRIBUTION
SERVICES, LLC, FOCUS FEATURES
19 LLC, UNIVERSAL PICTURES
HOME ENTERTAINMENT LLC,
20 NBCUNIVERSAL MEDIA, LLC, and
DOES 1-10 inclusive,

21 Defendants.
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CASE NO.

COMPLAINT FOR:

1. Copyright Infringement; and
2. Violations of 17 U.S.C. § 1202.

JURY TRIAL DEMANDED

1 Plaintiff Simon Stephenson hereby alleges against Defendants Alexander
2 Payne, David Hemingson, Mark Johnson, Gran Via Productions LLC, Honest
3 Scholar Productions, LLC, Miramax Distribution Services, LLC, Miramax, LLC,
4 Focus Features LLC, Universal Pictures Home Entertainment LLC, NBCUniversal
5 Media, LLC, and DOES 1-10 inclusive (together, “Defendants”) as follows, on
6 personal knowledge as to his own acts and on information and belief where so
7 stated:

8 NATURE OF THE ACTION

9 1. In 2012 and early 2013, Simon Stephenson drew on his experiences as
10 a pediatrician to write a screenplay, *Frisco*. Later that year, thirty-nine film
11 executives named it among their favorite unproduced screenplays, placing it third on
12 the 2013 Black List, an annual ranking of Hollywood’s most highly regarded
13 unproduced screenplays. Stephenson and his agents sought out Alexander Payne to
14 direct *Frisco*, and the screenplay was sent to him twice. Payne read it in 2013 and
15 again in 2019. Payne passed on both occasions, but in 2022, he finally made
16 Stephenson’s screenplay. Under Payne’s direction, Stephenson’s children’s hospital
17 became a boarding school, the cynical pediatrician became a cynical teacher, and the
18 precocious patient became a precocious pupil. The film earned its credited
19 screenwriter career-defining Academy Award and BAFTA nominations, and the
20 Writers Guild Award for Original Screenplay. Unfortunately, that credited
21 screenwriter was not Stephenson, and the film was not called *Frisco*. It was called
22 *The Holdovers*.

23 2. *Frisco* tells the story of Jeff Willis, a dispirited doctor at a children’s
24 hospital who is in trouble with his boss for offending a congresswoman parent, and
25 Amy, the precocious and semi-abandoned teenage patient Willis gets stuck looking
26 after. Their uneasy relationship begins at the hospital and deepens during a trip to
27 San Francisco, as Amy’s unwanted company and youthful vitality pull Willis out of
28 the life in which he has become trapped. Valerie, a pharmaceutical representative at

1 the conference, joins them on their trip and encourages Willis to go easy on the
 2 teenager. Back at work, the two say a restrained goodbye, and the now emboldened
 3 Willis loses his job when he refuses to placate a pair of aggrieved parents. At the
 4 end of the screenplay, changed by Amy, Willis sets out to fulfill an ambition,
 5 deferred since college and rooted in their shared interest in the Beat Generation: to
 6 drive across America and find “the pearl.”

7 3. *The Holdovers* tells the story of Paul Hunham, a dispirited teacher at a
 8 boarding school who is in trouble with his boss for offending a senator parent, and
 9 Angus, the precocious and semi-abandoned teenage pupil he gets stuck looking
 10 after. Their uneasy relationship begins at the school and deepens during a trip to
 11 Boston, as Angus’s unwanted company and youthful vitality pull Paul out of the life
 12 in which he has become trapped. Mary, the school’s cook, joins them on their trip
 13 and encourages Paul to go easy on the teenager. Back at the school, the now
 14 emboldened Paul loses his job when he refuses to placate a pair of aggrieved
 15 parents, and the two say a restrained goodbye. At the end of the film, changed by
 16 Angus, Paul sets out to fulfill an ambition, deferred since college and rooted in their
 17 shared interest in the ancient world: to go to Carthage and finish his monograph.

18 4. Stephenson does not claim ownership of the premise of a cantankerous
 19 adult and a difficult teenager who become stuck together. What he alleges is a rarer
 20 and more sophisticated act of taking: that his particular expression of that premise—
 21 his characters, his scenes, their construction, and their order—were meticulously
 22 transposed into *The Holdovers*, with surface cosmetic details changed. Screenplays
 23 are often called the blueprint for a film. The Defendants built their film using *Frisco*
 24 as their blueprint.

25 5. Contemporaneous correspondence shows that, after reading *Frisco* in
 26 2013, Payne reportedly “loved the writing”.¹ More recently, speaking at the

27 _____
 28 ¹ (McNulty email of Oct. 24, 2013 at Exhibit A); see Section B, *infra*.

1 Sarajevo Film Festival in August 2024, Payne dismissed Stephenson’s allegations as
2 “the stupidest thing in the world.” Invoking Marcel Pagnol’s 1935 French-language
3 film *Merlusse*, Payne declared: “That’s where I stole it from – I didn’t steal it from
4 that guy.”² But Payne’s admitted theft from *Merlusse* does not excuse his copying
5 *Frisco*.

6 6. The credited screenwriter of *The Holdovers* is David Hemingson and
7 *The Holdovers* is his first produced feature film. Hemingson received a full producer
8 credit on the film, which *Variety* noted was “a rarity for a screenwriter, let alone a
9 first-timer.”³ The film’s director, Alexander Payne, has won two Academy Awards
10 for screenwriting. By both men’s accounts, Payne contributed disproportionately to
11 the writing of *The Holdovers*. He supplied the premise, selected among proposed
12 storylines, redirected the story, proposed sending the characters on a road trip, and
13 rewrote portions of the script.

14 7. The drafts themselves demonstrate Payne’s involvement went further
15 still. Five markers of typing and one of software, each measurable in the previous
16 screenplays of both men, separate Payne’s hand from Hemingson’s. On every one of
17 them, each draft of *The Holdovers* that Stephenson has obtained is typed in Payne’s
18 style rather than Hemingson’s: the May 2021 Draft, on which, on information and
19 belief, the Film’s financing was agreed; the September 2021 Draft, on information
20 and belief, the draft in use as the Film entered pre-production; and, even the 2023
21 Awards Draft circulated to voters, in which Hemingson’s habits first begin to
22

23 ² Alexander Payne, Deadline, Aug. 21, 2024,
24 [https://deadline.com/2024/08/alexander-payne-the-holdovers-plagiarism-](https://deadline.com/2024/08/alexander-payne-the-holdovers-plagiarism-accusations-1236044671/)
25 [accusations-1236044671/](https://deadline.com/2024/08/alexander-payne-the-holdovers-plagiarism-accusations-1236044671/) (“Deadline”).

26 ³ Tatiana Siegel, *Alexander Payne’s ‘The Holdovers’ Accused of Plagiarism by*
27 *‘Luca’ Writer (EXCLUSIVE)*, *Variety* (Mar. 9, 2024),
28 [https://variety.com/2024/film/news/the-holdovers-accused-plagiarism-luca-writer-](https://variety.com/2024/film/news/the-holdovers-accused-plagiarism-luca-writer-1235935605/)
[1235935605/](https://variety.com/2024/film/news/the-holdovers-accused-plagiarism-luca-writer-1235935605/).

1 appear, and only there in the newly added text.

2 8. On information and belief, Payne prepared or substantially revised each
3 draft of *The Holdovers*.

4 9. A director's revisions to a screenplay are common. What *The*
5 *Holdovers* drafts show is not. Even the opening pages that Hemingson says he wrote
6 in two days and never changed are typed in Payne's style, and the May Draft never
7 once marks a pause with "beat," as Hemingson does thirty-nine times in his two
8 other publicly available screenplays. Who shaped the text matters here because
9 Payne is the person who twice received *Frisco*.

10 10. The copying of *Frisco* extends from the overall story down to the
11 construction and nuance of individual exchanges. Forty-six incidents correspond
12 across the works, with twenty-four occurring in the same order. Within those scenes,
13 the characters encounter the same obstacles, answer with the same retorts, and arrive
14 at the same reversals. Even the verbal devices recur: a question that traps the man
15 into playing "Dad," a joke about the teenager's failing body answered by a medical
16 emergency, and the teenager's wish to see the city voiced in a matching three-part
17 anaphora, in a conversation Hemingson has said he "reverse engineered." The
18 timing also tracks: pivotal events fall on corresponding story days, and *The*
19 *Holdovers* skips forward at the point where *Frisco* skips forward, leaving its
20 calendar at odds with its own dialogue.

21 11. The transposition in *The Holdovers* was performed with precision, but
22 an early draft of the script left behind a telltale detail. In *Frisco*, the doctor and
23 teenager travel to San Francisco for a medical conference. When they get to the
24 conference, the hotel is full because of the conference, prompting a discussion of a
25 suite instead of a single room. In the May 2021 draft of *The Holdovers*, the teenager
26 likewise seeks a hotel room, discusses a single room and then a suite, telling the
27 hotel he is coming to town **"for a medical conference":**
28

(Figure – Medical conference line in May draft of *The Holdovers*.)

Angus talks on a PAY PHONE.

40.

ANGUS

Well if you don't have a single room, I'll take a junior suite. I understand it's the holidays, but it's kind of an emergency. I'm coming into the city for a medical conference.

12. No medical conference figures in *The Holdovers*' story: its adult protagonist is a teacher, and neither he nor the teenager is traveling to attend a medical conference. The explanation belongs to *Frisco*'s plot, and its presence in the May 2021 *The Holdovers* script is evidence that the script was unlawfully copied. Its subsequent removal—while the lines surrounding it remained—is consistent with that copying then being concealed.

13. The “medical conference” fragment is not the only remnant of *Frisco* in *The Holdovers*. A comparison of the earlier drafts shows the minor cosmetic details most likely to reveal *Frisco* being removed, while other revisions bring the screenplay substantively ever closer to it. The three drafts Stephenson has obtained allow that process to be traced from one draft to the next. The earlier drafts—which on information and belief tell even more of the story—remain in Defendants' possession.

14. The Copyright Act reserves to the owner the right to authorize works in which the original is “recast, transformed, or adapted.” 17 U.S.C. §§ 101, 106(2). Defendants invaded that right by transposing *Frisco* into *The Holdovers* without Stephenson's permission. Miramax, producer of *The Holdovers*, knows perfectly well that a change of scenery does not make a screenplay original. Its remake of *Shall We Dance?* moved the story from Tokyo to Chicago and turned an accountant into a lawyer. Miramax called it a remake and credited the original filmmaker, Masayuki Suo. But when Defendants took Stephenson's work, they neither obtained

1 his permission nor gave him credit.

2 15. Consider the institutional confrontations that frame both stories. Early
3 in both works, the man is summoned to his supervisor, praised for his ability, and
4 criticized for his treatment of a child whose parent is a politician. He answers with
5 an insult about the family's intelligence; and appeals to his boss by first name:
6 *Frisco*: "Come on, Margaret." *The Holdovers*: "Come on, Hardy." The supervisor
7 invokes the institution's interests, and the teenager later turns the man's precarious
8 professional position into leverage over him. Near the end of both works, the man is
9 summoned again and faces his supervisor and a pair of aggrieved parents seeking a
10 specific concession. His answers harden into provocation; the supervisor rebukes
11 him with a single word—his name: "Jeff"; "Hunham!" Emboldened by his time with
12 the teenager, the man stays true to his morals at the cost of his job. Once the
13 consequence is announced and he is asked what he will do next, the man tentatively
14 returns to the ambition established earlier: *Frisco*: "I might drive across the United
15 States"; *The Holdovers*: "Maybe I'll start in Carthage."

16 16. Between those bookends, the similarities become still more particular.
17 Failed efforts to reach or obtain help from the teenager's mother figure leave the
18 pair together. The next day, the sixth story day of both works, a hotel-booking
19 exchange encounters the same obstacle—a single room is unavailable—then turns to
20 a suite, with the teenager offering to pay. The teenager then rejects the man's
21 authority in an argument that runs through the same steps in both works, and a
22 medical emergency forces him to exercise that rejected authority. On that same story
23 day, at a check-in—before the emergency in *Frisco*, afterward in *The Holdovers*—
24 the teenager takes over, invents a marriage or former marriage between the man and
25 the teenager's mother figure, and ends the scene calling the man "Dad," leaving him
26 no opportunity to refuse the role. The emergency proves manageable, the teenager is
27 discharged that evening making woozy demands of the man, and the man ends the
28 day with a large whisky. Nothing in either premise requires those events to share a

1 day, and *Merlusse* contains none of them.

2 17. Later, at the end of a celebratory meal, the teenager lists the sights or
3 activities she or he wants to experience, in the matched anaphora described above;
4 the man refuses—*Frisco*: “It’s too late now”; *The Holdovers*: “It’s out of the
5 question”—the woman intervenes, and the man relents. During the ensuing outing,
6 the pair visit a place associated with their shared intellectual interest, where
7 enthusiasm meets deflation and gives way to personal barbs. On the last night in the
8 city, an alcohol-related episode likewise develops through corresponding exchanges:
9 a proposed food or drink with a memorable name “Jaegerbomb” or “Cherries
10 Jubilee,” a question about it, an answer omitting its alcohol content, an approving
11 response, the man’s order of the item for the minor, a staff member’s refusal to
12 serve it that ends with the group leaving, the man’s disapproval softening, and an
13 image of the group together in the dark, gazing at a light. Back home, the man who
14 begins by policing the teenager’s conduct ends by joining in the rule-breaking and
15 standing up to the adults he once accommodated. The supposed caretaker has
16 learned from his charge how to reclaim his own life.

17 18. These correspondences extend across every category of expression the
18 Ninth Circuit examines in assessing substantial similarity: plot, themes, dialogue,
19 mood, setting, pace, characters, and sequence of events. The character parallels
20 reach beyond the central pair to the adult confidante, the unrequited love, the
21 exasperated supervisor, and even the unseen politician whose complaint threatens
22 the man’s job. Their encounters develop the same central theme: a neglected
23 teenager’s vitality challenges a weary adult’s surrender to disappointment. The
24 comedy unfolds under the shadow of a young person’s death, and the man’s
25 eventual renewal gives each ending its bittersweet force.

26 19. Defendants took *Frisco*’s protected expression: its scenes, their internal
27 construction, and the particular exchanges and dramatic details that give them life.
28 They also took *Frisco*’s selection and arrangement of those elements, characters and

1 devices, in the same order and on the same story days, which is protected even
 2 where a single element, on its own, would not be. *Metcalf v. Bochco*, 294 F.3d 1069,
 3 1074 (9th Cir. 2002). Changing names, professions, and locations did not make
 4 Stephenson’s writing Defendants’ own.

5 20. Nearly a century ago, *Sheldon v. Metro-Goldwyn Pictures Corp.*
 6 addressed a similar course of conduct: Defendants failed to acquire the rights to a
 7 play and then carried its dramatic sequences into a film they claimed was drawn
 8 from a different source. 81 F.2d 49, 50–56 (2d Cir. 1936). The film renamed its
 9 characters, opened in a different city, and moved incidents from one scene to
 10 another. Judge Learned Hand nonetheless found infringement due to the
 11 “parallelism of incident” across three scenes. Of one scene, he wrote: “Surely the
 12 sequence of these details is pro tanto the very web of the authors’ dramatic
 13 expression; and copying them is not ‘fair use.’” Nor did it matter that the film also
 14 drew on other sources: “no plagiarist can excuse the wrong by showing how much
 15 of his work he did not pirate.” *Id.* at 56.

16 21. *The Holdovers* grossed more than \$48 million in worldwide box office,
 17 before bringing in many tens of millions more in downstream distribution.⁴ Its
 18 screenplay won the Writers Guild Award for Original Screenplay and received
 19 Academy Award and BAFTA nominations in that category. Hemingson received the
 20 credit and the accolades. Stephenson received nothing. He brings this action to
 21 recover for the unauthorized use of his work and Defendants’ profits from it.

22 PARTIES

23 22. Plaintiff Simon Stephenson is an individual residing in Los Angeles,
 24 California. Stephenson is an established screenwriter and author whose credits on
 25

26 _____
 27 ⁴ Box Office Mojo, *The Holdovers* (2023),
 28 https://www.boxofficemojo.com/title/tt14849194/?ref_=bo_se_r_1 (\$48,613,483
 worldwide).

1 films include Pixar's *Luca*, *Paddington 2*, and *The Electrical Life of Louis Wain*.
2 Stephenson is the author and copyright owner of the original feature-length
3 screenplay *Frisco*, the copyrighted work at issue in this action.

4 23. Defendant Alexander Payne is an individual residing in Omaha,
5 Nebraska, but spends a considerable amount of time in Los Angeles, California,
6 including during the time period at issue in this Complaint. Upon information and
7 belief, Payne owns a home in Topanga Canyon, California. Payne is a filmmaker,
8 screenwriter, producer, and director whose credits include *Election*, *About Schmidt*,
9 *Sideways*, *The Descendants*, *Nebraska*, and *The Holdovers*. Payne directed *The*
10 *Holdovers* and participated in the Film's development and production.

11 24. Defendant David Hemingson is an individual residing in Los Angeles,
12 California. Hemingson is a television writer and producer who, before *The*
13 *Holdovers*, had never had a feature screenplay produced. He received sole
14 screenwriting credit for the Film.

15 25. Defendant Mark Johnson is an individual residing in Los Angeles,
16 California. Johnson is a motion-picture producer and was a producer of *The*
17 *Holdovers*. Johnson reviewed and provided input on drafts of *The Holdovers*
18 screenplay during its development, received drafts before principal photography,
19 and participated in the Film's development and production.

20 26. Plaintiff is informed and believes and on that basis alleges that
21 Defendant Gran Via Productions LLC ("Gran Via") is a limited liability company
22 organized under the laws of California, with its principal place of business in Los
23 Angeles, California. Gran Via is Johnson's production company. On information
24 and belief, Johnson acted through Gran Via in developing and producing *The*
25 *Holdovers*, and Gran Via received, reproduced, and distributed drafts of the
26 screenplay.

27 27. Plaintiff is informed and believes and on that basis alleges that
28 Defendant Honest Scholar Productions, LLC ("Honest Scholar") is a limited

1 liability company organized under the laws of Delaware, with its principal place of
2 business in Los Angeles, California. On information and belief, Honest Scholar was
3 the production entity for *The Holdovers*. Copyright Office records identify Nobrose
4 Development, LLC as the claimant on the January 2022 registration for *The*
5 *Holdovers* screenplay and reflect a subsequent recorded transaction concerning *The*
6 *Holdovers* from Nobrose to Honest Scholar in December 2022. The records further
7 reflect a subsequent transaction from Honest Scholar to Miramax Distribution
8 Services, LLC.

9 28. Plaintiff is informed and believes and on that basis alleges that
10 Defendant Miramax Distribution Services, LLC (“Miramax”) is a limited liability
11 company organized under the laws of the State of Delaware, with its principal place
12 of business in Los Angeles, California.

13 29. Plaintiff is informed and believes and on that basis alleges that
14 Defendant Miramax, LLC (“Miramax Parent”) is a limited liability company
15 organized under the laws of the State of California, with its principal place of
16 business in Los Angeles, California. Miramax and Miramax Parent financed and
17 produced *The Holdovers*.

18 30. Plaintiff is informed and believes and on that basis alleges that
19 Defendant Focus Features LLC (“Focus”) is a limited liability company organized
20 under the laws of Delaware, with its principal place of business in Universal City,
21 California, and regularly conducts significant ongoing business in Los Angeles,
22 California. Plaintiff is further informed and believes and on that basis alleges that
23 Focus distributed the motion picture *The Holdovers* (the “Film”) for theatrical
24 exhibition in the United States.

25 31. Plaintiff is informed and believes and on that basis alleges that
26 Defendant Universal Pictures Home Entertainment LLC (“UPHE”) is a limited
27 liability company organized under the laws of Delaware, with its principal place of
28 business in Universal City, California, and regularly conducts significant ongoing

1 business in Los Angeles, California. Plaintiff is further informed and believes and
2 on that basis alleges that UPHE distributed the Film for home entertainment in the
3 United States, including through digital releases and the sale of Blu-ray and DVD
4 editions.

5 32. Plaintiff is informed and believes and on that basis alleges that
6 Defendant NBCUniversal Media, LLC (“NBCUniversal”) is a limited liability
7 company organized under the laws of Delaware, with its principal place of business
8 in New York, New York, and regularly conducts significant ongoing business in the
9 State of California and in the County of Los Angeles. Plaintiff is further informed
10 and believes and on that basis alleges that NBCUniversal operates the Universal
11 Filmed Entertainment Group (“UFEG”) as a division, and acting through UFEG,
12 participated in arranging and licensing the Film for streaming exhibition.

13 33. The true names and capacities, whether individual, corporate, or
14 otherwise, of the Defendants named herein as DOES 1 through 10, inclusive, are
15 presently unknown to Plaintiff, who therefore sues these Defendants by such
16 fictitious names. Plaintiff will seek leave to amend this Complaint to allege the true
17 names and capacities of DOES 1 through 10, inclusive, when Plaintiff has
18 ascertained such information. Plaintiff is informed and believes, and on that basis
19 alleges, that each Defendant named herein as DOES 1 through 10, inclusive, has
20 participated in some or all of the acts or conduct alleged in this Complaint and is
21 liable to Plaintiff by reason thereof.

22 34. Plaintiff is informed and believes, and on that basis alleges, that each
23 Defendant participated in, authorized, controlled, benefited from, or otherwise
24 contributed to the creation, production, reproduction, distribution, licensing,
25 promotion, or exploitation of *The Holdovers*.

26 **JURISDICTION AND VENUE**

27 35. This Court has subject-matter jurisdiction under 28 U.S.C. §§ 1331
28 and 1338(a) because this action arises under the Copyright Act, including 17 U.S.C.

1 §§ 106, 501, 1202, and 1203.

2 36. Defendants engaged in acts in California relating to the acquisition,
3 development, production, distribution, or licensing at issue in this action. Plaintiff's
4 claims arise out of or relate to those acts. The California-based Defendants also
5 reside or maintain their principal places of business in California as alleged above.

6 37. Venue is proper under 28 U.S.C. § 1400(a) as to the copyright claims
7 because Defendants reside or may be found in this District, and under 28 U.S.C. §
8 1391(b)(2) as to the related claims because a substantial part of the events giving
9 rise to those claims occurred in this District.

10 **FACTUAL BACKGROUND**

11 **A. Stephenson's Creation and Ownership of *Frisco*.**

12 38. Before writing *Frisco*, Stephenson was a pediatrician. Drawing in part
13 on that experience, he wrote *Frisco* in 2012-2013.

14 39. By January 2013, Stephenson had completed a second draft of the
15 script.

16 40. When *Frisco* began to circulate in Hollywood in August 2013, senior
17 figures at major talent agencies, management companies and studios wrote to
18 Stephenson and his representatives to praise it. Later that year, thirty-nine film
19 executives voted *Frisco* third on the annual Black List, the industry's ranking of its
20 most highly regarded unproduced screenplays.

21 41. At all relevant times, recipients of *Frisco* understood that the
22 screenplay was being circulated for commercial purposes and that Stephenson
23 expected compensation if the screenplay or its protected content were used. Neither
24 its circulation nor its recognition gave Defendants permission to take its protected
25 expression for another film. Stephenson never authorized Defendants to reproduce,
26 adapt, distribute, publicly perform, or otherwise exploit *Frisco* or a derivative work
27 based on it.

28 42. On March 4, 2024, the United States Copyright Office registered the

1 first draft of *Frisco* as an unpublished dramatic work under Registration No.
2 PAU004214821, identifying Stephenson as the work's author and copyright
3 claimant and 2012 as its year of creation. On September 25, 2026, the United States
4 Copyright Office additionally registered the changes made in the 2013 draft as
5 Registration No. TXu 2-566-622, identifying Stephenson as the work's author and
6 copyright claimant and 2013 as its year of creation.⁵

7 **B. Payne Received and Praised *Frisco* Years Before Developing *The***
8 ***Holdovers*.**

9 43. In 2013, Stephenson and his representatives sought to bring *Frisco* to
10 the screen with Payne as its director or producer. On August 28, 2013, Verve (a
11 prominent talent and literary agency based in Los Angeles) agent Bryan Besser
12 emailed Stephenson and others: "We gave FRISCO to Alexander Payne's producing
13 partner Jim Burke whom we took to lunch yesterday."⁶ The screenplay submitted
14 was the January 20, 2013 draft ("2013 Draft"). Its title page identified *Frisco* and its
15 author, Simon Stephenson.

16 44. The submission reached its intended reader. On January 6, 2014,
17 Stephenson's agent, Geoff Morley of United Talent Agency ("UTA"), reported that
18 he had spoken about *Frisco* directly with Burke (Payne's producing partner) who
19 had informed him that "Payne did like it but was not interested in prod or directing
20 it."⁷

21 45. Separately, on October 24, 2013, Tom McNulty, a producer who had
22 been attached to help get *Frisco* into production, reported a conversation with
23 Payne's agent at CAA, Craig Gering. Describing the director's decision to pass on
24

25 ⁵ This second registration was made to ensure the copyright extended to all the
26 material at issue.

27 ⁶ (Besser email of Aug. 28, 2013 at Exhibit B.)

28 ⁷ (Morley email of Jan. 6, 2014 at Exhibit C.)

1 the project, McNulty relayed Gering's message that Payne—and another of Gering's
2 director clients—had “both loved the writing.”⁸

3 46. Through two of Payne's representatives—his agent and his producing
4 partner—Payne thus communicated a response to the *Frisco* screenplay he had read.
5 Neither the submission nor Payne's receipt of it authorized Payne to adapt its
6 protected expression into a different film.

7 **C. Paul Giamatti Receives a Copy of *Frisco*.**

8 47. In 2016, Stephenson's agents at UTA submitted *Frisco* to another UTA
9 client, actor Paul Giamatti. The hope was that Giamatti would play the lead role of
10 Jeff Willis in *Frisco*. Stephenson's agent reported that Giamatti “likes this a lot, as
11 do his reps,” though he had “a couple of things competing for the hiatus slot.”⁹
12 Giamatti went on to play the lead role in *The Holdovers*.

13 48. Plaintiff does not allege that Giamatti participated in any copying.
14 Giamatti's serious interest in the role of Willis is highlighted as further evidence of
15 both the quality and value of the *Frisco* screenplay and the similarity between the
16 two roles.

17 **D. Payne Receives *Frisco* Again While Developing *The Holdovers*.**

18 49. In late 2019, Payne received *Frisco* a second time, through an entirely
19 separate professional channel. Producer John Woodward obtained Stephenson's
20 permission to submit the project to Payne on behalf of Netflix, after another Payne
21 project at Netflix had fallen through.

22 50. As with the 2013 Draft sent to Payne, the draft of *Frisco* submitted to
23 him in 2019 (the “2019 Draft”) also identified its title, *Frisco*, and Simon
24 Stephenson as its author. Again, Stephenson did not authorize any person to remove,
25 alter, replace, or conceal that identifying information.

26 _____
27 ⁸ (McNulty email of Oct. 24, 2013 at Exhibit A.)

28 ⁹ (Thuan email of Nov. 3, 2016 at Exhibit D.)

1 51. Following the 2019 Draft submission, Woodward informed Plaintiff
2 that “Alexander [Payne] has now read but says it is not quite what he is looking
3 for.”¹⁰

4 52. The 2019 Draft was materially identical to the 2013 Draft Payne had
5 received. It added a short title sequence; it made Willis “in his mid to late fifties”
6 rather than “in his late forties or early fifties,” with matching edits to the jokes about
7 his age in the longboard scene; and it made minor spelling and wording changes.
8 Every scene, every speech and the order of events are otherwise unchanged.

9 53. Because the two drafts are materially identical, the *Frisco* material in
10 the drafts of *The Holdovers* could have been taken from either one.

11 **E. The Drafts of *The Holdovers* Came Through Payne.**

12 54. Plaintiff is in possession of three drafts of *The Holdovers*: one dated
13 May 6, 2021 (the “May Draft”); one dated September 16, 2021 (the “September
14 Draft”); and the screenplay Defendants released publicly for the 2023 awards
15 campaign (the “Awards Draft”).¹¹

16 **1. Payne’s Role In Drafting *The Holdovers*.**

17 55. David Hemingson is the credited screenwriter of *The Holdovers*.
18 Nonetheless, by Defendants’ own admission, the film’s director, Alexander Payne,
19 conceived the film, chose its story, directed its structure, and rewrote Hemingson’s
20 pages.

21 56. Hemingson has repeatedly dated Payne’s first, unsolicited approach to
22 him to approximately August 2018, some five years after Payne first received
23

24 _____
25 ¹⁰ (Woodward email of Dec. 6, 2019 at Exhibit E.)

26 ¹¹ Citations to “Fr.” are to the Second Draft of *Frisco*, dated January 20, 2013; to
27 “May,” “Sept.” and “Aw.” to the May, September and Awards Drafts of *The*
28 *Holdovers*; to “Film” to timecodes in the Film. References to “Beats” are to the
twenty-four beats set out in the Substantial Similarity section.

1 *Frisco*.¹²

2 57. Payne has a writing credit on all but one of his seven other feature
3 films, and has won two Academy Awards in the Best Adapted Screenplay category.
4 *The Holdovers* is Hemingson's first produced feature film.

5 58. Payne concedes that he supplied the premise for *The Holdovers*: "I
6 called up the writer David Hemingson and said . . . would you consider writing a
7 feature script for me based on an idea I'm going to give you?"¹³

8 59. Hemingson's own first version of *The Holdovers*, "*Five Porcelain*
9 *Fingers*," was very different from *Frisco* and the 2021 drafts of *The Holdovers*. It
10 centered on the relationship between a teacher and his former girlfriend, who had
11 lost her hand in a car crash. Per Hemingson, Payne "was like, 'this is not the
12 movie.'"¹⁴ Payne's note, as Hemingson reports it, was "I'm more interested in the
13 kid."¹⁵

14 60. Payne suggested the road trip the characters take: "he [Payne] literally
15 said like, hey, would it be fun if they went on the road?"¹⁶

16
17 ¹² David Hemingson, The Screenwriting Life podcast, episode 178, at 27:34, Feb. 8,
18 2024, [https://talkhouse.com/178-the-holdovers-writer-david-hemingson-on-finding-](https://talkhouse.com/178-the-holdovers-writer-david-hemingson-on-finding-humanity-in-our-characters)
19 [humanity-in-our-characters](https://talkhouse.com/178-the-holdovers-writer-david-hemingson-on-finding-humanity-in-our-characters) ("Screenwriting Life"); David Hemingson,
20 *Conversations with the Artist*, late 2023,
<https://www.youtube.com/watch?v=wFjfllytpjhA> ("Conversations with the Artist").

21 ¹³ Alexander Payne, interview, AwardsWatch, Nov. 10, 2023
22 [https://awardswatch.com/interview-alexander-payne-on-creating-the-holdovers-and-](https://awardswatch.com/interview-alexander-payne-on-creating-the-holdovers-and-making-it-good-til-the-last-drop/)
23 [making-it-good-til-the-last-drop/](https://awardswatch.com/interview-alexander-payne-on-creating-the-holdovers-and-making-it-good-til-the-last-drop/).

24 ¹⁴ David Hemingson, Script Apart podcast, episode 91, Feb. 1, 2024,
25 [https://www.scriptapart.com/episodes/episode-91-the-holdovers-david-hemingson-](https://www.scriptapart.com/episodes/episode-91-the-holdovers-david-hemingson-interview)
interview ("Script Apart").

26 ¹⁵ David Hemingson, Write On podcast, Nov. 10, 2023,
27 <https://blog.finaldraft.com/write-on-the-holdovers-writer-david-hemingson>.

28 ¹⁶ Script Apart.

61. Payne likewise concedes that he prompted the female third character, who has no analogue in *Merlusse*, the film Payne claims as his model: “I just asked David, ‘Who cooks for the boys who are holding over?’”¹⁷

62. Payne also concedes he “put some classical jokes in there.”¹⁸ *The Holdovers*’ classical material occurs at the same points as *Frisco*’s Beat Generation material and plays the same role in the narrative, as discussed below.

63. Payne gave Hemingson notes act-by-act as the writing was in progress. As Hemingson describes it: “that collaboration was pretty much I’d send him [Payne] an act at a time and he’d have thoughts.”¹⁹

64. Payne also enlisted producer Mark Johnson to provide input on early drafts. Hemingson has described resolving a disputed story point at the end of Act 1 “with the help of Mark Johnson.”²⁰

65. By his own admission, Payne rewrote portions of the screenplay: “He [Hemingson] would write portions of the screenplay, show them to me, you know ... just a big back and forth. I would rewrite parts and send them back to him and we wound up with a screenplay that we were both happy with.”²¹

66. Payne continued writing after Hemingson had completed a script: “He [Hemingson] wrote a script and came up with a bunch of stuff that I never would

¹⁷ Alexander Payne, The Hollywood Reporter, Jan. 16, 2024, <https://www.hollywoodreporter.com/movies/movie-features/making-of-the-holdovers-paul-giamatti-1235788162/>.

¹⁸ Alexander Payne, in conversation with Ann Hornaday, Nov. 11, 2023, <https://www.youtube.com/watch?v=StMx3gWmtcI>.

¹⁹ David Hemingson, interview, at 10:30–10:35, Dec. 2023, <https://www.youtube.com/watch?v=kAMVD6gdFSw>.

²⁰ Screenwriting Life, at 48:00.

²¹ Alexander Payne, interview, The Riverside Woodbridge, at 03:36–03:51, Feb. 8, 2024, https://www.youtube.com/watch?v=0eNMJlujE_c (“Riverside”).

1 have thought of. Then I had to get under the hood a little bit and make it more
2 personal to me.”²²

3 **2. The Files Are Typed in Payne’s Style.**

4 67. Writers leave stylistic traces, and those traces can show who prepared a
5 document.

6 68. The two men’s styles were established from their publicly available
7 screenplays. For Hemingson, two television pilots, *Whiskey Cavalier* (3rd Network
8 Draft, 2018) and *Snap* (2019).²³ For Payne, *Downsizing* (2017), *Sideways* (2004)²⁴
9 and *The Descendants* (2011). Payne wrote *Downsizing* and *Sideways* with his usual
10 co-writer, Jim Taylor. He shares credit on *The Descendants* with Nat Faxon and Jim

12 ²² Alexander Payne, The Rough Cut, Frame.io, Nov. 9, 2023,
13 <https://blog.frame.io/2023/11/09/the-rough-cut-finding-discomfort-and-joy-in-the-holdovers/> (“Rough Cut”).

14 ²³ Hemingson’s pilots are his only publicly available scripts: David Hemingson,
15 *Whiskey Cavalier* (pilot), 3rd Network Draft (Jan. 12, 2018), Script Slug,
16 <https://assets.scriptslug.com/live/pdf/scripts/whiskey-cavalier-101-pilot-2019.pdf>
17 (downloaded Oct. 25, 2026); David Hemingson, *Snap* (pilot), FOX 2nd Draft (Dec.
18 30, 2019), TV Writing, http://tvwriting.co.uk/tv_scripts/2020/Drama/Snap_1x01_-_Pilot.pdf
19 (downloaded Mar. 18, 2025). They agree with each other on every
20 marker, across two networks and a year, and with the habits in the text Hemingson
21 stated he wrote in the Awards Draft.

22 ²⁴ Alexander Payne & Jim Taylor, *Downsizing* (Production Final, Nov. 21, 2017),
23 The Daily Script, <https://www.dailyscript.com/scripts/downsizing.pdf> (downloaded
24 July 10, 2025); Alexander Payne, Nat Faxon & Jim Rash, *The Descendants*
25 (screenplay, © 2010 Willow and Oak, Inc.), Final Draft export of Nov. 2, 2011
26 (PDF metadata listing the author as Alexander Payne), archived from
27 [nycscreenwriter.org,](https://web.archive.org/web/20121224155054/http://nycscreenwriter.org:80/uploads/Descendents.pdf)
28 <https://web.archive.org/web/20121224155054/http://nycscreenwriter.org:80/uploads/Descendents.pdf> (captured Dec. 24, 2012; retrieved Oct. 25, 2026); Alexander
Payne & Jim Taylor, *Sideways* (May 29, 2003), scan of the shooting script (143
pp.); a native-text file of a different version,
<https://www.writingclasses.com/WritingMovies/Sideways.pdf>, gives the same
“UNDER BLACK” and dash results. Neither copy’s spacing is relied on.

1 Rash but has said he “started from scratch” rather than revising their draft.²⁵

2 69. *The Holdovers* is structured by story-day cards (e.g., “DAY 1 -
3 DECEMBER 18, 1970”). The May Draft has ten, every one introduced with the
4 words “UNDER BLACK.” The September Draft adds an eleventh, introduced the
5 same way. In the Awards Draft, eight of nine remain; the Christmas Day card lost its
6 introducer when the scene before it was rewritten.²⁶ (May 1–106; Sept. 1–101; Aw.
7 1–96.)

8 70. In screenwriting, text or sound presented on a black screen is
9 introduced “OVER BLACK”: the words appear over the black.²⁷ “UNDER
10 BLACK” reverses the sense of the term. A term used incorrectly, and consistently,
11 is more telling than a preference: it is a habit particular to a writer, not a choice any
12 writer might make.

13 71. Hemingson has said the day cards in *The Holdovers* were his: “fewer of
14 them in the movie than I wrote into the screenplay.”²⁸ But “UNDER BLACK”
15 appears in neither of his pilots. Where they put text on screen, the scripts use
16 “TITLE CARD:” and, in *Snap*, the correct “OVER BLACK:”.

17 72. Where “UNDER BLACK” does appear is in the screenplays of Payne
18

19 ²⁵ Anne Thompson, *Alexander Payne Talks The Descendants, Clooney, Next Black*
20 *and White Film, New Trailer*, IndieWire (Oct. 18, 2011),
21 <https://www.indiewire.com/features/general/alexander-payne-talks-the-descendants-clooney-next-black-and-white-film-new-trailer-184397> (“when I decided to do it, I didn’t overhaul it—I started from scratch. I did my own”).

22 ²⁶ The Christmas Day card: May 74, Sept. 70, Aw. 68; the Awards Draft line leading
23 into it is single-spaced. The Day 9 card in the 2021 drafts is typed “UNDER
24 BLACK--”, without the space every other card has (May 79; Sept. 75); the Awards
Draft removes it.

25 ²⁷ See Karel Segers, *Formatting Tip: Audio Over Black and Text Over Image*, The
26 Story Department, <https://thestorydepartment.com/formatting-tip-audio-over-black-and-text-over-image>.
27

28 ²⁸ WGF, at 0:27:58.

1 and Taylor. *Sideways* is built, like *The Holdovers*, on a run of day cards, and six of
 2 its eight are introduced with “UNDER BLACK”; a seventh “UNDER BLACK”
 3 introduces a sound. *Downsizing* uses “UNDER BLACK --” twice, for sounds. The
 4 inference here is easy: the “UNDER BLACK” formulation in *The Holdovers* is from
 5 Payne.

6 73. At a more granular level, the two men have consistently different
 7 typing habits. Hemingson puts one space after a period; writes a dash inside a
 8 sentence as a single hyphen, using a double hyphen only where a line is cut off, and
 9 then closed up to the word; and marks pauses with the word “beat.” Payne does the
 10 opposite on each: two spaces, the double hyphen, a space before the double hyphen
 11 where a line is cut off, and never “beat.”

12 74. With the “UNDER BLACK” error and the software each file was
 13 exported from (Section E.4), that makes six independent markers, each measurable
 14 in the public screenplays of both men. The drafts of *The Holdovers* fall on Payne’s
 15 side of every one.²⁹

20 ²⁹ Measured from the character positions in each PDF by a documented, reproducible
 21 method, which Plaintiff will produce. A gap at a line end is not counted; the May
 22 and September Drafts’ identical totals (955) are a coincidence of revision, 342 gaps
 23 removed and 342 added. By script: *Whiskey Cavalier* 669 of 674 one-space, *Snap*
 24 442 of 443; *Downsizing* 1,107 of 1,118 two-space, *The Descendants* 1,085 of 1,092.
 25 The cut-off figures combine double hyphens at the end of a line and at the start of
 26 the next; the one single hyphen in Payne’s scripts is a date range in *The*
 27 *Descendants*, and a line in *Downsizing* consisting of the dashes alone is not counted.
 28 “UNDER BLACK” in *Sideways* introduces six cards and one sound, in *Downsizing*
 two sounds; the pilots use “TITLE CARD:” and, in *Snap*, “OVER BLACK:”. The
 Awards Draft’s three “beat” pauses are at Aw. 41, 62 and 101. Dialogue
 parentheticals that mark a pause are too few in the drafts to serve as a marker and
 are not relied on: Payne writes “(then --)” and never a bare “(then)”; Hemingson
 writes “(a beat, then)” or a bare “(then)” and never “(then --)”; the May Draft has
 one “(then)” (May 54), the September Draft one “(then --)” (Sept. 95), the Awards
 Draft one of each form (Aw. 62, 88), all in text new to the draft in which they
 appear.

Marker	Hemingson	Payne	May	September	Awards	Match
Spaces after a period	one: 1,111 of 1,117 (99.5%)	two: 2,192 of 2,210 (99.2%)	two: 948 of 955 (99.3%)	two: 943 of 955 (98.7%)	two: 900 of 941 (95.6%)	Payne
Dash inside a sentence	single (70 of 70)	double (209 of 209)	double (49 of 51)	double (56 of 57)	double (53 of 58)	Payne
Double hyphen where a line is cut off	closed up (70 of 70)	spaced (135 of 135)	spaced (41 of 44)	spaced (47 of 49)	spaced (33 of 35)	Payne
“Beat” as a pause	38	0	0	0	3 (new text only)	Payne
Text on a black screen	OVER BLACK	UNDER BLACK (9)	UNDER BLACK (10 of 10)	UNDER BLACK (11 of 11)	UNDER BLACK (8 of 9)	Payne
Export software (Final Draft)	FD 9	FD 10	FD 10	FD 10	FD 12	Payne (2021)

75. The May and September Drafts – on which, on information and belief, the Film’s financing was agreed and pre-production began – follow Payne’s habits on every marker. The Awards Draft, released for the 2023 campaign, still follows them on the first five; Hemingson’s habits appear only in text added for that draft. (The sixth marker is the particular software version and, unlike the 2021 drafts, the version used for the Awards Draft is not known to be used by either Payne or Hemingson.)

76. The habits are stable within each writer. Hemingson’s two pilots, written a year apart for different networks, agree with each other on every marker; Payne’s two measured scripts, written years apart, one with Taylor and one alone, agree with each other on every textual marker, and his Downsizing was exported to PDF using the same version of Final Draft that exported The Holdovers.

77. What the public files cannot show is the machine on which the drafts

1 were typed. The native .fdx files can, and they are in Defendants’ possession
 2 (Section E.4). Plaintiff pleads these measurements as facts, reproducible by anyone
 3 from the public files, and will seek the native files in discovery to confirm whose
 4 hand they record.

5 78. The revision history shows the same thing. Through the September
 6 Draft, single-spaced sentence gaps appear only in text new to that draft: none of the
 7 489 gaps in text carried unchanged from the May Draft is single-spaced, against 7 of
 8 79 in new text. In the Awards Draft, they appear in new text (19 of 159) and, in ten
 9 places, between older sentences whose spacing that draft changed; each of those ten
 10 was two spaces in the September Draft, and each sits in a scene the Awards Draft
 11 otherwise revised. Most of the later text is still double-spaced, consistent with
 12 Payne’s own account that he kept rewriting after Hemingson had a complete script.

13 79. Every passage Hemingson has claimed as his own gives the same
 14 answer: in the 2021 drafts, each is typed in Payne’s style (the check-in, 10 of 10
 15 gaps two-space; the box scene, 6 of 6 in May and 5 of 5 in September; the opening
 16 pages, 255 of 257), and his own habit appears in them only in the Awards Draft’s
 17 revisions.

18 80. The clearest example is the near-wordless scene in which Mary (the
 19 cook) unpacks a box of her late son’s baby things, which Hemingson has called
 20 “incredibly hard to write” and “[r]ewritten the most,”³⁰ and which has no
 21 counterpart in *Frisco*. In the Awards Draft, every sentence gap in the rewritten
 22 middle passage is single-spaced (4 of 4), while every gap in the sentences carried
 23 over from the 2021 drafts on either side keeps two spaces (4 of 4). (May 96; Sept.
 24 90; Aw. 75.)

25 81. In other words, all the drafts were typed in Payne’s style, not
 26

27 ³⁰ David Hemingson, Writers Guild Foundation, Script Breakdown webinar, at
 28 1:09:47, Jan. 22, 2024, <https://www.youtube.com/watch?v=ff5VoVLWtac>
 (“WGF”).

1 Hemingson's, and in the 2021 drafts, not one marker points to Hemingson.

2 **3. The First Thirty Pages.**

3 82. Hemingson has said that "within two days, I had the first 30 pages of
4 the screenplay" and that the beginning "really hasn't changed at all since I wrote
5 it."³¹ The drafts contradict him twice. In the May Draft, those pages are typed in
6 Payne's style: 255 of their 257 sentence gaps are two-spaced, all 18 of their mid-line
7 dashes are double hyphens, they never mark a pause with "beat," and both their day
8 cards carry the "UNDER BLACK" error. (May 1–30.) And they did change: several
9 *Frisco*-derived elements in the May Draft's opening pages are gone from the
10 Awards Draft (Section F.2(C)).

11 83. Those thirty pages, typed in Payne's style, contain Beats 1 through 3 –
12 the opening montage, the summons with its "Tell him" deferral and "He says now,"
13 and the first boss meeting in fifteen matched beats, with the unseen politician parent,
14 the warning and the isolation in the dining hall (Exhibit G at Table 17 (pp. 5-8).);
15 the teenager introduced at fifteen, cursing an unseen step-parent and accused of
16 stealing from another boy; the mother's call that leaves him in the man's charge; the
17 infirmary; Mary's three friendship beats with Paul, in the order of Valerie's with
18 Willis; and, on page 30, the Day 4 card at which the two works fall into step by
19 story day.

20 84. Payne's longtime editor, Kevin Tent, puts those pages in Payne's
21 hands: "I think he [Payne] gave me the first 30 pages and he wanted to know what I
22 thought of that. He was trying to figure out what he wanted to do next."³² Elsewhere
23 Tent put the pages at "about 45 pages... up to when the boys leave."³³ On a podcast

24 _____
25 ³¹ Script Apart, at 0:30:58; WGF, at 0:23:46.

26 ³² Kevin Tent, Moviefone, Jan. 25, 2024, <https://www.moviefone.com/news/the-holdovers-interview-alexander-payne-and-kevin-tent/>.

27 ³³ Kevin Tent, The Credits, Feb. 23, 2024,
28 <https://www.motionpictures.org/2024/02/the-holdovers-oscar-nominated-editor->

1 with Payne, Tent said: “I think you had around forty-five pages written, right?”

2 Payne: “Could be. David was sharing portions of drafts with me during the process.”

3 Tent: “I remember reading forty-five pages and thinking, ‘This seems great.’ ... You
4 usually send me the script when you’re thinking seriously about something.”³⁴

5 85. On information and belief, Payne prepared or substantially revised the
6 drafts of *The Holdovers*.

7 **4. The 2021 Files Were Exported with Software Hemingson Did Not**
8 **Use.**

9 86. Final Draft saves a screenplay as an editable working file (“.fdx”) and
10 exports PDFs from it. The working file holds what a PDF does not: author
11 information, revision history, notes, and stored lists of the character names and
12 locations used. A PDF does, however, keep two things in its metadata that people
13 often do not realize it keeps: the name of the program that created it, and the name
14 of the file it was exported from.

15 87. The May and September Drafts were both exported from Final Draft
16 10. So was Payne and Taylor’s *Downsizing*. (See paragraph 90, *infra*, for metadata
17 showing use of Final Draft 10 for the May 2021 Draft.)

18 88. Hemingson’s two pilots, *Whiskey Cavalier* (2018) and *Snap* (2019),
19 were both exported from Final Draft 9. Final Draft sells only its current version,³⁵
20 and Final Draft 11 replaced Final Draft 10 on September 5, 2018. A writer still on
21 _____
22 kevin-tent-on-creating-a-70s-vibe-with-timeless-performances/ (“The Credits”).

23 ³⁴ Rough Cut.

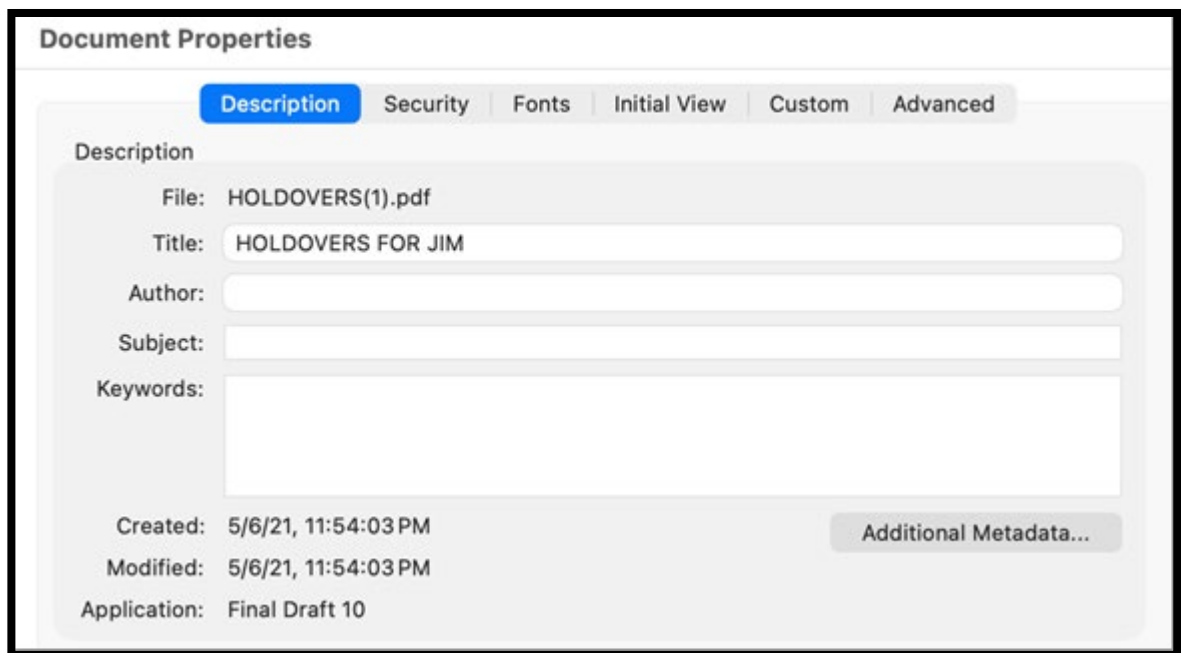
24 ³⁵ Final Draft, *Can I purchase an older version of Final Draft?*, Final Draft Help
25 Center, <https://kb.finaldraft.com/hc/en-us/articles/15573790967572-Can-I-purchase-an-older-version-of-Final-Draft> (“the only version available for purchase is” the
26 current release); Final Draft, *Which version of Final Draft can I run on which*
27 *operating system?*, <https://kb.finaldraft.com/hc/en-us/articles/15575353614996>
28 (Final Draft 10 released Q3 2016; 11, Q3 2018; 12, Q2 2021).

1 Final Draft 9 in late 2019, as Hemingson was, could not then have bought Final
2 Draft 10. The Awards Draft, released in 2023, was exported from Final Draft 12.

3 89. Plaintiff is informed and believes, and on that basis alleges, that the
4 2021 drafts were exported on a machine other than the one Hemingson used for his
5 own scripts. The native .fdx files, which would show on whose machine the drafts
6 were written, are peculiarly within Defendants' possession and control.

7 **5. The May 2021 File Was Prepared "for Jim."**

8 90. The May Draft's metadata shows it was exported from a Final Draft
9 (.fdx) file titled "HOLDOVERS FOR JIM."



21 91. A screenplay sent for a read and opinion is ordinarily sent as a PDF, not
22 as an .fdx, and exporting a PDF does not require renaming the underlying file.

23 92. The May Draft contains a section of bolded text covering the boys'
24 move into the school's infirmary (May 22–25). By the September Draft the bolding
25 is gone and the material has been split into two scenes and polished. In both drafts
26 the passages are typed in Payne's style, not Hemingson's.

27 93. In other words, the editable working file was named for someone called
28

1 Jim. Payne has at least two close associates named Jim: his regular co-writer Jim
 2 Taylor and his producing partner Jim Burke, who received *Frisco* in 2013. Neither
 3 had any crediting role in *The Holdovers*. Who “Jim” is lies peculiarly within
 4 Defendants’ knowledge. On information and belief, it was prepared for someone
 5 other than Hemingson to work on, and the bolded section, rewritten by the
 6 September Draft, marked the material he was to revise.

7 94. Plaintiff is informed and believes, and on that basis alleges, that Payne
 8 used *Frisco* in developing *The Holdovers*, and either supervised the incorporation of
 9 *Frisco* material by Hemingson or others, or incorporated it himself.

10 **F. Drafts of *The Holdovers* Contain Residue from *Frisco*.**

11 95. Beyond their own stylistic traces, a writer who transposes an existing
 12 script may leave behind traces of the original work. Copying may be proved by
 13 similarities that are probative of copying; such similarities need not be extensive and
 14 need not involve protected expression, so long as they are ones that would not be
 15 expected had the two works been created independently. *Rentmeester v. Nike, Inc.*,
 16 883 F.3d 1111, 1117 (9th Cir. 2018). Details carried over from a source and left
 17 without purpose in the copy are such similarities. The three drafts of *The Holdovers*
 18 show (1) elements of *Frisco* that the finished screenplay retains without the story
 19 that explains them; (2) surface traces of *Frisco* being removed; and (3) ongoing
 20 revisions that added further substantive *Frisco* elements. Attached as Exhibit F is an
 21 appendix charting the traces of *Frisco* through the three available drafts of *The*
 22 *Holdovers*.

23 **1. The “Medical Conference”**

24 96. A recognizable element of an original work, left orphaned in a copied
 25 work, is known as a “vestigial element.” *The Holdovers* contains a striking one.

26 97. In the May Draft, Angus, while attempting to reserve a hotel room,
 27 falsely tells the hotel employee: “Well if you don’t have a single room, I’ll take a
 28 junior suite. I understand it’s the holidays, but it’s kind of an emergency. I’m

1 coming into the city for a medical conference.” (May 40.) The “medical conference”
 2 reference appears in the dialogue without explanation and is never mentioned
 3 elsewhere in the screenplay. Neither Angus nor any other character attends a
 4 medical conference, discusses a medical conference, or travels to Boston for that
 5 purpose. (See Exhibit F at Table 1 (p. 1).)

6

7 Angus talks on a PAY PHONE. 40.

8 ANGUS

9 Well if you don't have a single
 10 room, I'll take a junior suite. I
 11 understand it's the holidays, but
 12 it's kind of an emergency. I'm
 13 coming into the city for a medical
 14 conference.

15 98. The medical-conference reference in *The Holdovers* is remarkable
 16 because *Frisco* centers on a pediatrician traveling to San Francisco to attend and
 17 speak at a medical conference, and that conference provides the reason for the trip
 18 that drives the screenplay's central events. It also explains the hotel booking: Willis
 19 and Amy find no single rooms left because of the conference, and take a named
 20 suite. (Fr. 50–51.) Angus's call follows the same steps, with the holidays standing in
 21 for the conference as the reason the hotel is full.

22 99. While subsequent drafts of *The Holdovers* delete the “medical
 23 conference” language from Angus's call, the surrounding structure of the hotel-
 24 booking sequence remains substantially unchanged. In the September and Awards
 25 Drafts, Angus still asks for a single room, describes the situation as “kind of an
 26 emergency,” and requests a junior suite; only the medical conference is gone. (Sept.
 27 39; Aw. 39; see Exhibit F at Table 2 (p. 2).)

28 100. Of all the excuses the screenplay could have given Angus, it gave him
Frisco's premise, at the same moment in the story. The inclusion of a stray “medical
 conference” reference in an otherwise unrelated screenplay, followed by its removal

1 while the surrounding dialogue and sequence remain substantially intact, supports
 2 the inference that material derived from *Frisco* was incorporated into an early draft
 3 of *The Holdovers* and later revised.

4 101. The drafts contain other medical elements that are collectively unusual
 5 in a story about a teacher and his pupils. *The Holdovers* pupils are moved into the
 6 school infirmary, so that Angus, like Amy at the same point, lives in a sickroom.
 7 (Aw. 17, 28.) In the May Draft, shortly after the move, one of the boys opens the
 8 medicine cabinet and asks, “What’s paracetamol?” That is the name used outside the
 9 United States for acetaminophen, sold in the United States as Tylenol, which Amy is
 10 herself revealed to be taking at the corresponding point in *Frisco*, in a scene set in
 11 her own hospital room. The exchange does little in the story and is gone by the
 12 September Draft. (May 26–28; Fr. 31.) The finished screenplay also styles both the
 13 headmaster and his predecessor “Dr.,” and ends the parents’ climactic meeting—
 14 where *Frisco* ends its own with Willis insulting his boss by suggesting that the
 15 parents’ herbal-vaccinating friend Jenna take over allergy—on an insult to his boss
 16 that is unaccountably medical: “penis cancer in human form.” (Aw. 102; Fr. 25,
 17 115.) Both those devices are pleaded with their *Frisco* counterparts under Dialogue.

18 2. Details of *Frisco* Removed in Revisions of *The Holdovers*.

19 102. Additional recognizable surface details of *Frisco* present in the 2021
 20 drafts are removed in later drafts. They include the following.

21 (A) A scene heading for a move that does not happen.

22 103. The sequence in which Angus makes a call carries a second trace of
 23 *Frisco*. In both screenplays, Willis/Paul catches the teenager breaking a rule tied to a
 24 hotel, and the two argue over his authority. As set out in the Substantial Similarity
 25 section, the two arguments move through the same exchanges in the same order.
 26 (Beat 7.)

27 104. By screenwriting convention, a scene heading marks a change of place
 28 or time. In *Frisco*, the caretaking argument breaks after Willis’s last word on

1 punishment (“I’d probably let you walk all over me like my actual daughters do”).
 2 The scene then cuts from the bookstore to “INT. CAB - NIGHT,” where the
 3 argument picks up again. In the May and September Drafts of *The Holdovers*, the
 4 heading “INT. HALLWAY - CONTINUOUS” appears at the same point, right after
 5 Paul’s last word on punishment (“That’s another detention!”).

6 105. At that point in *The Holdovers*, however, the action neither leaves the
 7 hallway nor moves forward in time, so no new scene heading is required, and the
 8 unexplained “INT. HALLWAY – CONTINUOUS” heading is gone from the
 9 Awards Draft. (Fr. 60; May 41; Sept. 40; Aw. 39–40; Exhibit F at Table 3 (p. 3).)

10 106. The scene heading also falls at the same turn in the argument. In each
 11 work, the argument resumes after the break and escalates from an empty threat to a
 12 real punishment. After the cut to the cab, Willis takes away the dinner out Amy was
 13 promised (“We’ll eat at the hotel”) and, when she protests, tells her she “should
 14 have thought about that before you broke curfew.” After the redundant heading,
 15 Paul moves to “Second detention. You are careening toward a suspension,” and then
 16 to the warning not to cross the Rubicon. (Fr. 53, 60; May 41–42; Sept. 40–41; Aw.
 17 40–41; *see* Beat 8(a).) The redundant heading therefore appears to be a vestige of
 18 *Frisco*’s cut to the cab.

19 (B) The skating lesson.

20 107. In *Frisco*’s “fun in the city” sequence, Willis goes from refusing to
 21 longboard to laughing on his back in six steps: told it will be fun, he refuses, is
 22 pushed into it, is told to lean (“Lean then!”), throws the instruction back (“I’m
 23 already leaning! You lean!”) and ends laughing. (Fr. 87–88.)

24 108. Both 2021 drafts of *The Holdovers* transpose the action to a Boston
 25 skating rink and have the same six steps occurring, down to “Lean forward. Like
 26 you’re falling.” / “I am fucking falling!” (May 88–89; Sept. 83–84.)

27 109. The Awards Draft plays its skating scene silently, with Paul simply
 28 watching Angus from the sidelines. (Aw. 78–79; Exhibit F at Table 4 (p. 4).)

(C) The first summons and the complaints warning.

110. Early in *Frisco*, Willis is summoned to his boss in four steps: a messenger interrupts him at work; he defers, “Tell her I’m doing rounds”; he is told, “She said to tell you to come now”; and he grudgingly gives in. (Fr. 9–10.)

111. The May and September Drafts of *The Holdovers* contain all four, including the corresponding “Tell him I’ll see him after breakfast.” / “He says now.” (May 2; Sept. 2.)

112. The Awards Draft retains the messenger, the summons and the giving in, but removes the telltale “Tell him I’ll see him after breakfast” and “He says now.” (Aw. 2; Exhibit F at Table 5 (p. 5).)

113. *Frisco*’s boss, Margaret Brown, starts to close the meeting that follows with an explicit warning that further complaints will cost Willis his contract. (Fr. 13.) At the end of the May Draft’s meeting, Woodruff delivers the same warning: “I don’t need any more static from the parents, understand?” It is gone by the September Draft (May 9; Sept. 8–9; Exhibit F at Table 6 (p. 6)), but the warning remains implicit in the meeting, and is made explicit in Paul’s later remark that he “was on thin ice already.” (Aw. 42.)

(D) Other details.

114. In at least one place, the drafts also show dialogue being reassigned from the *Frisco* analogue to a different character. In *Frisco*, Amy asks Willis when he last had fun, his reply is comically long ago, and the “fun” in question does not sound very fun. In the May Draft, it is Angus who asks Paul when he last left campus and is given a long ago time, and an activity that does not sound especially fun. By the September Draft the question is Mary’s; by the Awards Draft the time and the underwhelming description are both gone. (Fr. 61–62; May 38–39; Sept. 37; Aw. 36; Exhibit F at Table 7 (p. 7).)

115. In both 2021 drafts, as in *Frisco*, a bellman shows the pair to their hotel room and the teenager raises which bed is whose: Amy asks, “Which bedroom do

1 you want?” (Fr. 52); Angus claims one, “I call the bed by the door” (May 84), or, in
 2 the September Draft, “Uh-huh. I call that one” (Sept. 79). The scene is absent from
 3 the Awards Draft. (Exhibit F at Table 8 (p. 8).)

4 116. In *Frisco*, Amy is fifteen and Willis “in his late forties or early fifties.”
 5 In both 2021 drafts, Angus is fifteen and Paul is “50s.” The Awards Draft makes
 6 Angus seventeen and removes Paul’s age. (Fr. 2, 7; May 1, 3; Sept. 1, 3; Aw. 2, 3;
 7 Exhibit F at Table 9 (p. 9).)

8 3. Traces of *Frisco* Left in the Final Screenplay of *The Holdovers*.

9 117. The finished screenplay of *The Holdovers* retains further traces of
 10 *Frisco*: a gap in its own timeline, and a label carried over from *Frisco*.

11 (A) Story days and the ten-day gap.

12 118. Hemingson has described the day cards—the same ones that bear
 13 Payne’s idiosyncratic error—as central to his writing process. Specifically, he has
 14 stated that the “blackout cards” were intended to “show the dates to orient people in
 15 place and time” and to serve as “temporal mile markers throughout the script.”³⁶

16 119. *The Holdovers* has no cards for story Days 2 and 3. Its title cards move
 17 abruptly from Day 1, December 18, to Day 4, December 21, with December 19 and
 18 20 unmentioned and unaccounted for: the only such jump in Act 1, and the point at
 19 which the two works fall into step. From that day through Day 7, the two works
 20 present the same events in the same order on the same story days (*See Substantial*
 21 *Similarity*, Section C, Pace at ¶¶ 223-35).

22 120. In Act 3 both works skip forward twice, at corresponding points in the
 23 story. *Frisco*’s first skip follows Amy’s death and the rule-breaking, and lands on
 24 Amy’s funeral. (Fr. 110–111.) *The Holdovers* skips forward at the same point, from
 25 New Year’s Eve to January 11. Paul and Angus are presumably still stranded alone
 26 together at the school for those ten days, but the missing time passes without

27 _____
 28 ³⁶ WGF.

1 acknowledgment. (Aw. 95–97, 103.)

2 121. The screenplay’s own account of the timeline contradicts its cards. At
3 the start of the break, Paul tells the boys they will follow a school schedule for “the
4 next two weeks” (Aw. 16). On the return to school Paul, pleading for Angus, says he
5 “just spent two solid weeks with him” (Aw. 102), at the same point where Willis
6 says he “only knew her for a short time” (Fr. 112). By the cards in *The Holdovers*,
7 December 18 to January 11, it has not been two weeks. It has been twenty-four days.

8 122. Ten unaccounted-for days, and a “two weeks” the calendar contradicts,
9 are consistent with a story-day structure carried over from another screenplay and
10 fitted to a different calendar. The placing of the gap adds to that inference. *Frisco*
11 skips forward at this point for a reason of its own: Amy has died, and the story
12 jumps to her funeral. *The Holdovers* has no such reason. Paul and Angus are still at
13 the school, and the screenplay skips the same stretch anyway.

14 (B) A label—the “Handsome Man.”

15 123. Both screenplays introduce a minor character identified only as
16 “Handsome Man,” at the same point (Fr. 65; Aw. 65) in scenes built the same way.
17 While the name itself may be generic, the moment is not. In both, the protagonist is
18 drinking whiskey in a social setting and enjoying a rare moment of contentment.
19 Willis, alone at the hotel bar with “[a] big one” of Scotch, has “[a] moment of quiet
20 and peace”; Paul, handed “his glass of Jim” by Miss Crane early in her Christmas
21 party (Aw. 62), “basks in this small intimacy” with her. In both works, he then sees
22 the Handsome Man greeting or parting from women. In *Frisco*, the Handsome Man
23 is “saying goodnight to TWO WOMEN who look like they are also models”; in *The*
24 *Holdovers*, Miss Crane rushes to the door and “greet[s] him with a deep kiss.” The
25 moment collapses: Willis “laughs ruefully into his drink”; “Paul’s smile fades.” (Fr.
26 65; Aw. 65; Exhibit F at Table 10 (p. 10).)

27 124. In each, the Handsome Man occupies the place the protagonist wants
28 for himself. In *Frisco*, the Handsome Man is the model who appears beside Willis’s

own wife and daughters on a hospital billboard Willis passes every day, and Willis toasts him bitterly as the “Happy Handsome Guy, right up there on the billboard with my family.” In *The Holdovers*, the Handsome Man is the man for whom Miss Crane, on whom Paul has pinned his hopes, leaves Paul’s side. (Fr. 5, 29; Aw. 65–67.) The Handsome Man designation is in every draft, but the Awards Draft adds the specific moment of contentment that precedes the sighting, as in *Frisco*.

(C) Matched elements at different points.

125. A writer who relocates a scene he has taken changes its position but keeps its construction. Twenty-two further incidents are matched in the two works but occur at different points in them. Several are whole scenes matched move by move, among them the step-parent dialogue, the leverage, the “not in here” rule and the farewell.

4. Revisions That Move Toward *Frisco*.

126. While the details in Section F.2 were being removed, other revisions brought the screenplay closer to *Frisco*. Most began between the May Draft and the September Draft.

(A) The New Year’s Eve scene and the “not in here” rule.

127. Near the end of *Frisco*, Willis breaks a household rule: it is stated in the words “in here”; he walks through to the kitchen; he breaks it himself; the breach is completed; and the scene ends with the camera outside the room. The scene foreshadows the change in Willis that Amy has caused, and comes immediately before *Frisco*’s first skip forward in time, to Amy’s funeral. (Fr. 110–111; Exhibit F at Table 11 (pp. 11–12).)

128. The May Draft has no corresponding scene; it fades from the Boston evening straight to “NEW SEMESTER – JANUARY 11, 1971.” (May 106.) The September Draft fills that gap with a journey home, at the point where *Frisco* places its flight home, and a New Year’s Eve scene, under a new “DECEMBER 31” day card. The new scene has the rule (“You’re not deploying that in here”), the

1 explosion and the window shot. (Sept. 100–101; Fr. 97; Exhibit F at Table 11
 2 (p.12).) The scene comes before the skip forward in time that creates the ten missing
 3 days in *The Holdovers*.

4 129. The Awards Draft brings it closer to *Frisko* in two ways, adding the
 5 kitchen and having Paul break the rule himself by lighting the M-80 for Angus.
 6 (Aw. 95–96; Exhibit F at Table 11 (p. 12).)

7 (B) “Right, Dad?”

8 130. *Frisko*’s hotel check-in culminates in five steps and ends on the word
 9 “Dad”: “She’s just a crazy shopaholic, hey Dad?” (Fr. 51–52.)

10 131. The May Draft’s hospital admission has three of the five and does not
 11 end on “Dad.” The September Draft adds the ending, “We can pay cash. Right,
 12 Dad?”, and the Awards Draft adds the last missing move, the aside to Paul about the
 13 fictitious former wife: “I don’t want her dragging you to court again.” (May 44–45;
 14 Sept. 43; Aw. 43–44; Exhibit F at Table 12 (p. 13).)

15 132. Hemingson has described the idea of the check-in fraud, which bonds
 16 the two characters in a lie, as his own discovery: “I never thought of this before... I
 17 honestly stumbled across it — it was one of the light bulb moments for me in the
 18 movie.”³⁷ What he “stumbled across” is *Frisko*’s check-in fraud, which *The*
 19 *Holdovers* then conformed to in two steps.

20 (C) The step-parent in financial terms.

21 133. *Frisko*’s exchange ends with the step-parent identified and dismissed
 22 with “just,” reduced to money: “She used to be my stepmother, but my dad’s dead
 23 too now. So she’s really just the woman that is going to inherit my trust fund.” (Fr.
 24 8.)

25 134. The May Draft has only the opening of the exchange: Paul assumes a
 26 living parent, and Angus replies that his father is dead. (May 74.) The September

27 _____
 28 ³⁷ WGF.

Draft adds Paul's question ("But I thought your father...?") and a bare identification, "That's my new stepfather," with no "just" and no money. (Sept. 69–70.) The Awards Draft completes the exchange in *Frisco*'s terms, folding the identification and the dismissal into a single line: "That's just some rich guy my mom married." (Aw. 67; Exhibit F at Table 13 (p.14).)

(D) Other revisions.

135. The September Draft has Angus suggesting to a fellow holdover they visit Boston, where in the same exchange the May Draft has only "[g]o somewhere." (May 31; Sept. 30.) The Awards Draft adds the mother's broken promise to take Angus there: "You promised on the way we'd spend some time in Boston." (Aw. 15.)

136. The false name Angus gives the Cavanaughs is "Jeremy" in both 2021 drafts. (May 91; Sept. 85.) The Awards Draft renames it "Leonard," the name of a child in *Frisco*'s opening reprimand. (Aw. 80; Fr. 12; Exhibit F at Table 14 (p. 15).)

(E) The celebratory meal.

137. *Frisco* joins its mid Act 2 celebratory meal at the end ("Willis, Amy, Valerie and Danny all sit around a table at the end of a meal"), shows the group at ease ("Everybody is cracking up with laughter"), gives Willis a line in unusual good humor, and has Valerie tease him for it: "It doesn't sound so lucky, Jeff!" (Fr. 75.)

138. The May Draft opens on the end of the celebratory meal and Paul's appreciation ("This is incredible"), but no moment of ease and no tease; Mary answers by praising herself: "You're damn right." (May 77.) The September Draft adds the group at ease: "They exchange looks, a new sort of intimacy among them." (Sept. 73.) The Awards Draft turns Mary's reply into a tease of Paul's unaccustomed compliment, as in *Frisco*, and the new line begins with Valerie's first word: "It that an actual compliment?" (Aw. 71; Exhibit F at Table 15 (p. 16) (emphasis added).)

139. The line in *The Holdovers* should begin "Is." The error is consistent

1 with a new line typed over *Frisco*'s line, leaving *Frisco*'s first word in place.

2 **5. The Drafts Reduce the *Evidence* of Copying, not the Copying Itself.**

3 140. The revisions did not remove what was taken from *Frisco*. Every scene,
4 sequence and exchange alleged in the Substantial Similarity section is in the Awards
5 Draft and the film, and most were already present in the May Draft. What the
6 revisions removed was evidence of the source; what they left still shows it; and what
7 they added was more of *Frisco*.

8 141. Several of the revisions toward *Frisco* added elements set out in the
9 Substantial Similarity section. (F.4(A)–(C); Dialogue, the check-in lie, the step-
10 parent reduced to money, and the “not in here” rule.) That pattern is not consistent
11 with a screenplay developing independently of *Frisco*. It is consistent with a
12 screenplay that kept drawing on *Frisco* while removing the details most likely to
13 reveal it.

14 **G. Each Draft of *The Holdovers* Is a Separate Infringing Work.**

15 142. *The Holdovers* screenplay is reported to have been written over several
16 years and in many versions. Hemingson has described writing twenty-three or
17 twenty-four drafts, many of them partial.³⁸ Drafts were circulated as they were
18 written. Editor Kevin Tent has described receiving approximately the first forty-five
19 pages, “up to when the boys leave.”³⁹ Paul Giamatti was sent “one if not two early
20 drafts.”⁴⁰ Producer Mark Johnson, acting through Gran Via, received drafts to
21 review during development and read a complete script “well over a year” before
22
23

24 ³⁸ David Hemingson, interview, Daniel Fee33 (YouTube), at 37:34, Jan. 24, 2024,
25 <https://www.youtube.com/watch?v=aoyLrR5C0h0>.

26 ³⁹ The Credits.

27 ⁴⁰ Alexander Payne, TheWrap, Nov. 6, 2023, [https://www.thewrap.com/the-](https://www.thewrap.com/the-holdovers-alexander-payne-interview-paul-giamatti-sideways-reunion/)
28 [holdovers-alexander-payne-interview-paul-giamatti-sideways-reunion/](https://www.thewrap.com/the-holdovers-alexander-payne-interview-paul-giamatti-sideways-reunion/).

1 principal photography began in January 2022.⁴¹

2 143. Stephenson has obtained three drafts: the May Draft, the September
3 Draft, and the Awards Draft. The remaining drafts are in Defendants' possession.

4 144. Under the Copyright Act, "where the work has been prepared in
5 different versions, each version constitutes a separate work." 17 U.S.C. § 101
6 (definition of "created"). Each draft of *The Holdovers* that incorporated *Frisco*'s
7 protected expression was therefore a separate unauthorized derivative work, and
8 each copy of each draft was a separate unauthorized reproduction. (*See* Exhibit G at
9 Table 50 (p. 65).)

10 145. The May Draft, the September Draft, and the Awards Draft each
11 infringe Stephenson's copyright in *Frisco*. The Awards Draft, which corresponds to
12 the released film, is the principal comparison in this Complaint. Exhibit F charts the
13 differences among the three drafts, including passages in the earlier drafts that
14 correspond more closely to *Frisco*.

15 146. On information and belief, drafts of *The Holdovers* that predate the
16 May Draft contained still more of the *Frisco* detail that later drafts removed. These
17 include the partial drafts Hemingson has described, the pages sent to Tent, and the
18 drafts sent to Giamatti. This belief rests on, among other things: (1) the May Draft
19 already contains details that make sense only as remnants of *Frisco*, including the
20 "medical conference" line, the unnecessary hallway heading, and the summons
21 exchange; (2) each of those details was reduced or removed in later drafts, and the
22 same pattern, carried backward, indicates that earlier drafts contained more such
23 material; and (3) by every account, the screenplay reached a complete first draft
24 only after Payne received the 2019 draft of *Frisco* in late 2019.

25
26 _____
27 ⁴¹ Mark Johnson, The Hollywood Reporter, Feb. 24, 2024,
28 [https://www.hollywoodreporter.com/movies/movie-features/the-holdovers-
producer-mark-johnson-best-picture-interview-1235830691/](https://www.hollywoodreporter.com/movies/movie-features/the-holdovers-producer-mark-johnson-best-picture-interview-1235830691/).

1 147. On information and belief, drafts of *The Holdovers*, including drafts
 2 that predate the May Draft, were delivered to and reproduced by Johnson, Gran Via,
 3 Miramax, and Honest Scholar in connection with developing, financing, budgeting,
 4 casting, and producing the Film. Miramax's financing of the Film was announced in
 5 June 2021. Plaintiff is informed and believes that the May Draft, completed weeks
 6 earlier, is the draft on which that financing was agreed, and that the proceeds of the
 7 Film flow from that infringing work.

8 148. Stephenson did not know, and had no reason to know, of the
 9 unpublished drafts of *The Holdovers* until he obtained the May Draft years later.
 10 Before then he could not reasonably have known of their contents, including the
 11 *Frisco* material alleged in Section F that appears only in the drafts and not in the
 12 Film.

13 **H. *Merlusse* Does Not Account for the Similarities.**

14 149. Payne has claimed publicly that he took the premise of *The Holdovers*
 15 from Marcel Pagnol's 1935 film *Merlusse*: "I've spoken openly about the film I did
 16 steal the idea for *The Holdovers* from and it was a 1935 French film." By his own
 17 account, what Payne took was "[n]ot the story, but the same premise."⁴² He has said
 18 he does not remember *Merlusse*'s story beyond its first reel: "I actually don't even
 19 remember how the story goes after that."⁴³

20 150. For his part, Hemingson never watched *Merlusse*: "No, I really didn't
 21 study the film. I just sort of got the log line from AP, which was... teacher with
 22 wonky eye takes care of boys with nowhere to go at Christmas break, develops
 23 special relationship with one of them. That's it. That's what I had."⁴⁴

24 _____
 25 ⁴² Alexander Payne, panel with David Hemingson and Kevin Tent, at 0:57, Nov. 9,
 2023, https://www.youtube.com/watch?v=cn-irZ_C8ew.

26 ⁴³ Alexander Payne, Q&A moderated by Joe McGovern, part 1, at 2:02, Dec. 2023,
 27 https://www.youtube.com/watch?v=F3l_foCWn9Q.

28 ⁴⁴ David Hemingson, Santa Barbara Q&A, late 2023,

1 151. On Payne’s own account, *Merlusse* supplied a set-up that “could work
2 again with a completely different story.”⁴⁵ The source of a premise does not explain
3 how it was developed, and *Merlusse* cannot explain what *The Holdovers* shares with
4 *Frisco*. None of the following is in it: the politician parent and the final warning; the
5 single teenager left in the man’s sole charge after a failed call to the parent; the step-
6 parent reduced to money; the woman from his working world who travels with them
7 and intervenes for the teenager; the leverage; the journey to a nearby city; the hotel
8 with no single room, and its “medical conference”; the booking, the argument and
9 the emergency, all on a single story day; the check-in lie casting the man as father;
10 the event at which his hope is dashed and the teenager meets a sixteen-year-old; the
11 celebratory meal, the request to see the city and the man relenting; the minor served
12 alcohol and the group ejected; the second summons ending in dismissal; and the
13 deferred ambition, stated tentatively, and the drive away. *See Merlusse* (Marcel
14 Pagnol, 1935).

15 152. *Merlusse* never leaves the school, and its boys remain a group. Its
16 teacher volunteers to stay with them, and at the end he is promoted, not fired.

17 153. Defendants may have borrowed a premise from *Merlusse*, but they took
18 the architecture of their screenplay from *Frisco*.

19 **I. *The Holdovers* Achieved Commercial Success and Widespread Critical**
20 **Acclaim.**

21 154. Miramax produced and financed *The Holdovers*, which began principal
22 photography in January 2022. Johnson produced the Film through Gran Via. Payne
23 directed the Film, Hemingson received sole screenwriting credit, and Paul Giamatti
24 portrayed its lead character.

25 _____
26 <https://www.youtube.com/watch?v=baPOMP6f-k8>.

27 ⁴⁵ Alexander Payne, Deadline Contenders panel, Nov. 2023,
28 <https://www.youtube.com/watch?v=igZz8FyLSrk>.

1 155. Upon information and belief, Focus Features acquired the worldwide
2 distribution rights, excluding the Middle East, from Miramax for a reported price of
3 approximately \$30 million.

4 156. On information and belief, the distribution rights acquired by Focus
5 were conveyed through a chain of title involving Honest Scholar, Miramax
6 Distribution Services, LLC, and Focus. Recorded documents reflect a transfer
7 concerning *The Holdovers* from Nobrose Development, LLC to Honest Scholar, a
8 subsequent transfer from Honest Scholar to Miramax Distribution Services, LLC,
9 and later transfers from Miramax Distribution Services, LLC to Focus. Through
10 those transactions, Honest Scholar and the Miramax entities authorized and enabled
11 Focus's distribution and commercial exploitation of the Film.

12 157. Defendants initially released *The Holdovers* in just six domestic
13 theaters on October 27, 2023. The film did not expand into wide release until
14 November 10, 2023. Stephenson first viewed the film on November 7, 2023, when
15 he attended a screening with a friend. Immediately after the screening, Stephenson
16 told his friend that he believed the film had copied *Frisco*. It wasn't until
17 Stephenson obtained the May, September and Awards Drafts of *The Holdovers* that
18 he learned the full extent of the infringement.

19 158. Before November 7, 2023, Stephenson neither knew nor reasonably
20 should have known of Defendants' infringement. Payne had twice passed on *Frisco*,
21 giving Stephenson no reason to believe that Payne would nevertheless use its
22 protected expression in another film. Pre-release publicity described the film only in
23 general terms, revealed none of the protected expression alleged here, and
24 repeatedly attributed its premise to *Merlusse*. Moreover, *The Holdovers* transposed
25 *Frisco*'s characters, relationships, and events into a different setting, obscuring the
26 copying in the marketing and advertising materials used to promote the Film. Only
27 upon viewing the Film did Stephenson begin to recognize the substantial similarities
28 described below. But the full extent and manner of Defendants' copying was

1 discovered later still, when Stephenson obtained the three drafts of *The Holdovers*
2 screenplay and traced their appropriation of *Frisco*'s protected expression.

3 159. On information and belief, Focus exercised its worldwide distribution
4 rights (excluding the Middle East) directly or through territorial sub-distributors,
5 including in the United Kingdom, where it was released on January 19, 2024. Focus,
6 Miramax, and Honest Scholar publicly promoted the Film as an original screenplay
7 by Hemingson.

8 160. The Film generated nearly \$49 million in worldwide theatrical box-
9 office revenue.

10 161. Defendants promoted *The Holdovers* and its screenplay through awards
11 campaigns, press interviews, panel discussions, public appearances, promotional
12 materials, and other publicity that identified David Hemingson as the Film's sole
13 credited screenwriter.

14 162. *The Holdovers* was widely acclaimed by critics and recognized as one
15 of the year's outstanding films. The American Film Institute selected it as one of its
16 ten motion pictures of the year, and it received five Academy Award nominations,
17 including Best Picture and Original Screenplay.

18 163. The writing itself was a particular focus of that acclaim. Hemingson
19 won the Writers Guild Award for Original Screenplay and received Academy
20 Award and BAFTA nominations in the same category. Throughout the Film's
21 promotion and awards campaign, he received sole screenplay credit and was
22 publicly celebrated as the author of its story, characters, and dialogue.

23 164. Defendants continue to distribute and license the Film while presenting
24 its screenplay as original. Stephenson has received no writing credit, payment, or
25 participation in the proceeds from the exploitation of the work he alleges
26 incorporates protected expression from *Frisco*.

27 **J. Defendants' Ongoing Exploitation of *The Holdovers***

28 165. Since the wide-scale theatrical release of *The Holdovers* on or about

1 November 10, 2023, Defendants have reproduced, distributed, licensed, publicly
 2 performed, advertised, marketed, promoted, and otherwise commercially exploited
 3 *The Holdovers* and its underlying screenplay in the United States and internationally
 4 through streaming services, subscription and transactional video-on-demand
 5 platforms, digital rentals and purchases, television exhibition, international
 6 licensing, physical home-entertainment editions, and other downstream and
 7 ancillary markets.

8 166. **Streaming.** *The Holdovers* began streaming exclusively on Peacock,
 9 NBCUniversal's subscription streaming service, on December 29, 2023, while the
 10 Film was still in its awards campaign. On information and belief, NBCUniversal,
 11 acting through UFEG and its affiliate Focus, arranged and licensed that exclusive
 12 window. The Film was subsequently licensed to Netflix for exhibition in the United
 13 States for a period in 2024, for approximately six months during 2025 and
 14 throughout 2026.

15 167. Netflix's reported viewing data reflect approximately 1 million views
 16 of *The Holdovers* during the second half of 2024, approximately 700,000 views
 17 during the first half of 2025, approximately 2.5 million views during the second half
 18 of 2025, and approximately 1.1 million views during the first half of 2026.⁴⁶

19 168. Those reporting periods collectively account for approximately 5.3
 20 million Netflix views of *The Holdovers*.

21 169. The Netflix figures represent only one component of the Film's overall
 22

23 ⁴⁶ Netflix, What We Watched: The Second Half of 2024, Feb. 26, 2025,
 24 <https://about.netflix.com/en/news/what-we-watched-the-second-half-of-2024>;
 25 Netflix, What We Watched: The First Half of 2025, July 17, 2025,
 26 <https://about.netflix.com/en/news/what-we-watched-the-first-half-of-2025>; Netflix,
 27 What We Watched: The Second Half of 2025, Jan. 20, 2026,
 28 <https://about.netflix.com/en/news/what-we-watched-the-second-half-of-2025>;
 Netflix, What We Watched: The First Half of 2026, July 16, 2026,
<https://about.netflix.com/en/news/what-we-watched-the-first-half-of-2026>.

1 exploitation and do not account for theatrical admissions, Peacock viewing, Amazon
2 Prime viewing, other streaming platforms, television exhibitions, digital purchases
3 and rentals, physical-media sales and rentals, international licensing, airline and
4 hotel exhibition, or other ancillary markets.

5 170. **Home entertainment and digital sales.** UPHE, NBCUniversal's
6 home-entertainment division, distributed the Film on Blu-ray and DVD and, on
7 information and belief, for digital purchase and rental through platforms including
8 Amazon Prime Video and Apple TV.

9 171. **Rights holders.** On information and belief, Honest Scholar and
10 Miramax Distribution Services authorized and derive revenue from each of these
11 channels under the agreements through which Focus acquired the Film.

12 172. Upon information and belief, Defendants' ongoing distribution of *The*
13 *Holdovers* has brought them tens of millions of dollars in licensing and other
14 revenue.

15 173. Defendants' exploitation has also included the reproduction and
16 distribution of the screenplay for *The Holdovers*. During the Film's awards
17 campaign, Focus, together with Miramax and Honest Scholar, released an official
18 Awards Draft of the screenplay for review and consideration by awards voters and
19 members of the entertainment industry.

20 174. Through their continuing promotion, licensing, distribution, and public
21 performance of *The Holdovers*, Defendants have continued to hold the screenplay
22 and Film out to the public as original works authored solely by David Hemingson,
23 without identifying Simon Stephenson or *Frisco*. Plaintiff has never authorized
24 Defendants to use *Frisco* in creating, producing, reproducing, adapting, distributing,
25 licensing, publicly performing, marketing, promoting, or commercially exploiting
26 *The Holdovers* and has not received any authorship or screenwriting credit, license
27 fee, purchase price, contingent compensation, profit participation, residual payment,
28 royalty, or other remuneration arising from Defendants' exploitation of *The*

1 *Holdovers*.

2 175. Plaintiff is informed and believes, and on that basis alleges, that
3 Defendants have received and continue to receive revenue, economic benefits,
4 reputational benefits, and valuable commercial opportunities arising from their
5 reproduction, distribution, licensing, public performance, marketing, promotion, and
6 exploitation of *The Holdovers*.

7 **SUBSTANTIAL SIMILARITY**

8 176. The two works are compared below on the elements on which the
9 Ninth Circuit’s extrinsic test looks for “articulable similarities”: plot, themes,
10 dialogue, mood, setting, pace, characters and sequence of events. **Exhibit G**, which
11 sets out Tables 16-49, provides further support and visual rendering of the
12 discussion below.⁴⁷

13 177. The Ninth Circuit’s extrinsic test is well suited to a case of this kind. A
14 work that has been transposed, or recast, changes the surface detail but preserves the
15 expression beneath it: the plot, the sequence of events, the characters, the theme, the
16 pace and the mood. Those elements can be missed on a casual comparison, but they
17 are what the extrinsic test isolates.

18 178. The elements below are therefore not “random similarities scattered
19 throughout the works,” but a “pattern, synthesis, or design” that is both “particular”
20 and “coherent”: the same incidents, built the same way, organized around the same
21

22 _____
23 ⁴⁷ The complaint describes each matched scene or exchange in its principal steps.
24 The accompanying tables set out the same matches, beat by beat, with each beat
25 highlighted on the reproduced pages of both works; where a table shows more beats
26 than the steps described here, the additional beats reflect the greater detail
27 demonstrable on the page. Additionally, several passages of *Frisco* each correspond
28 to two passages of *The Holdovers*, and the tables show each correspondence
separately. Each is pleaded on its own terms: where a single source scene is split
between two scenes of a later work, both halves remain matched, and neither
correspondence depends on the other.

three through-lines, in the same order. *Litchfield v. Spielberg*, 736 F.2d 1352, 1356 (9th Cir. 1984); *Yonay v. Paramount Pictures Corp.*, No. 24-2897, slip op. at 19 (9th Cir. Jan. 2, 2026) (quoting *Skidmore as Tr. for Randy Craig Wolfe Tr. v. Led Zeppelin*, 952 F.3d 1051, 1074 (9th Cir. 2020) (en banc)).

A. Plot and Sequence of Events.

179. The two works share both a plot and a sequence of events. The plot is built from forty-six matched incidents; twenty-four of those incidents occur in the same order in both works. (See Exhibit G at Table 16 (p. 1-2)). Within each of the forty-six incidents, the similarity extends to the internal architecture and expression of the scene, not merely the abstract type of event it depicts.

180. In both works, the story is constructed from three interwoven through-lines. The central spine of each story is the relationship between Willis/Paul and Amy/Angus: imposed against Willis/Paul's wishes, marked by Amy/Angus's resistance to the man's authority, transformed by a medical emergency, deepened by shared outings in a city, and ended in a restrained farewell without an embrace, after Amy/Angus has changed Willis/Paul forever. The second through-line is the trajectory of Willis/Paul's job, placed in jeopardy early, leveraged by Amy/Angus, and lost near the end when the man refuses to placate a pair of aggrieved parents, which gives him the release he has needed. The third is the niche historical interest Willis/Paul and Amy/Angus share, which underlies the dream Willis/Paul abandoned in youth, recurs during the unlikely pair's time together, and supplies the purpose of the journey the man sets out on at the end.

181. The following twenty-four beats appear in sequence in both works.

182. **Beat 1. The opening montage.** Each work opens with a montage establishing its institution, including multiple images of decline, before either lead appears on screen. In *Frisco* the images include "abandoned gurneys" and a "faded sign." In *The Holdovers*, they include a "town in decline" and a "shuttered textile mill." Both works reprise the montage in Act 3, again without the two leads. (Fr. 1;

1 Aw. 1; Film 0:00:00–0:01:00.)

2 183. **Beat 2. Willis/Paul introduced, and the first summons.** Each work
3 begins by introducing Willis/Paul, his unsatisfactory home life, and his workplace
4 crush through the same four steps, though *The Holdovers* inverts the order of (a) and
5 (b).

6 (a) **We meet him at work, tired, unkempt and complaining**
7 **inappropriately about his young charges.** Willis grumbles
8 that everybody who comes in “only ever wants to talk to me
9 about their own problems.” Paul calls his pupils “Lazy, vulgar,
10 rancid little Philistines.”

11 (b) **We see his humble sleeping arrangements.** Willis sleeps on a
12 camp bed in a junk-filled garage. Paul’s unmade bed is in a
13 cluttered room in his staff quarters (Film 0:03:50)

14 (c) **After opening the door of his residence he encounters the**
15 **colleague he has, or will have, romantic designs on.** In *Frisco*
16 she is Susie, the hospital social worker and his separated wife,
17 who “bustles.” In *The Holdovers* she is Miss Crane, the school
18 secretary, who is “bright-eyed.” In both works, this unrequited
19 love character is the first principal character we meet after
20 Willis/Paul.

21 (d) **He is told the boss wants him, attempts to put it off, then**
22 **acquiesces.** In *Frisco*, a nurse tells Willis the boss is on the
23 phone; he answers “Tell her I’m doing rounds,” but when told
24 “She wants you to go to her office,” he “wearily trudges off.” In
25 *The Holdovers*, Miss Crane delivers the summons in the doorway
26 encounter: through the closed door, Paul calls “I’m busy right
27 now!” Told that Dr. Woodrup wants to see him, he opens the
28 door to her and says, “I’ll see him presently.” (Fr. 2–10; Aw. 2;

Film 0:03:50–0:04:29.).

184. **Beat 3. The first boss meeting.** The boss praises Willis/Paul’s ability, takes him to task over a politician’s child, and leaves him under threat if there are further complaints.

(a) **The boss praises him.** Willis is “the best pediatrician we have on staff”; Paul is “an excellent teacher.”

(b) **The talk turns to trouble with parents,** centered on a politician’s child: a Congresswoman in *Frisco*, a Senator in *The Holdovers*.

(c) **The man disparages the intelligence of the politician or the child, doubling down with hyperbole.** Willis: “It’s pretty moronic. In more advanced cultures it’s probably attempted murder.” Paul: “That boy is too dumb to pour piss out of a boot. A genuine troglodyte.”

(d) **He appeals to the boss by first name and then to a higher professional authority.** Willis: “Come on, Margaret,” and then his own role at the Congress of Allergists. Paul: “Come on, Hardy,” and then the revered former head, Dr. Green.

(e) **The boss is unmoved, and returns to the original grievance.** “Margaret looks unimpressed”: “This isn’t about hazelnuts, Jeff. It’s about complaints.” Hardy “rubs the bridge of his nose. This bullshit again,” and comes back to the original complaint: “I begged you -- begged you -- to give the kid a C-minus.”

(f) **The threat of further complaints hangs over him.** In *Frisco* it is explicit: “if we have any more complaints... Portland Children’s will not be renewing your contract.” In *The Holdovers* it is implicit, and confirmed later by Paul when he says, “I was on thin ice already” (Aw. 42).

Before the meeting in *The Holdovers* and immediately after it in *Frisco*, his isolation

1 is shown in a busy workplace dining room where he sits alone or only his chair is
 2 empty. (Fr. 10–14; Aw. 5–9; Film 0:09:05–0:11:52; Exhibit G at Table 17 (p. 5-8),
 3 fifteen matched beats.)

4 185. **Beat 4. Thrown together.** An unexpected arrival leaves Willis/Paul at
 5 risk of being stuck alone with Amy/Angus for a prolonged period of time. Willis is
 6 sitting with a mug in a train’s quiet carriage when Amy appears. Paul is sitting with
 7 a mug in the library when a helicopter arrives that will take the other boys away,
 8 leaving only Angus in his charge. Each breaks the silence with an exclamation or a
 9 curse. (Fr. 38–39; Aw. 33–34; Film 0:40:59.)

10 186. **Beat 5. The failed calls and the injured child.** Willis/Paul makes
 11 phone calls to avoid being left with Amy/Angus, the attempt founders on the mother
 12 figure’s neglect, and Amy/Angus’s hurt comes out in one line and a stare.

13 (a) **Each makes two rounds of calls, one providing information and**
 14 **one not.** Willis’ unsuccessful call comes first, is made from the
 15 train and fails because of the line; Paul’s unsuccessful call occurs
 16 off-screen, and its failure is implied.

17 (b) **He calls with Amy/Angus at hand.** Willis calls from the station
 18 platform with Amy standing beside him, “looking bored.” Paul
 19 calls from the office while “The boys peer through the office
 20 window.” In neither work is the other end of the call seen or
 21 heard.

22 (c) **The calls founder on the mother figure.** Anne (Amy’s step-
 23 mother) refuses to collect Amy. Judy (Angus’ mom) is away on a
 24 honeymoon excursion and cannot be reached.

25 (d) **Amy/Angus’s injury at being abandoned comes out in a one line**
 26 **explanation and a stare.** Amy: “Because she cares enough to
 27 drive five miles but not a hundred, okay?” She “stares out the
 28 window.” Angus: “Excursion.” He “stares at the empty horizon.”

(Fr. 40–43; Aw. 33–35; Film 0:41:58–0:42:26.)

187. **Beat 6. The hotel booking, the scorned gift, the permission and the hotel infraction.** The hotel booking is built from the same three moves; Amy/Angus mocks or disdains a small gift from Willis/Paul, abuses a limited permission, and is caught out in a hotel-related infraction. The steps below follow *Frisco*’s order; in *The Holdovers*, the booking comes last and is itself the infraction, made from a school pay phone rather than at a hotel desk.

(a) **The hotel booking runs in three moves: no single room, a suite instead, and Amy/Angus paying.** In *Frisco*, Willis asks for a second single room and is told the hotel is fully booked. The receptionist offers the Imperial Suite, and Amy says “We’ll take it” and hands over her stepmother’s credit card. In *The Holdovers*, Angus, on the phone, says “if you don’t have a single room, I’ll take a junior suite or the equivalent” and “No, no credit card. I’ll pay cash or traveler’s checks.”⁴⁸

(b) **Willis/Paul’s small gift is met with scorn.** Amy mocks the twenty dollars Willis gives her to put in her sock (“Even ignoring the whole sock thing, that’s ridiculous”); when Paul shares Miss Crane’s Christmas cookies, “Angus stares at this loser.”

(c) **Limited permission is given.** Willis lets Amy go out in San Francisco on condition she is back at the hotel before dark; Paul lets Angus go to the bathroom.

(d) **Willis/Paul catches Amy/Angus red-handed in a hotel-related infraction.** Amy is caught out after dark when she should be back at the hotel; Angus is caught booking the hotel when he should be in the bathroom. (Fr. 51–53, 59; Aw. 38–39; Film

⁴⁸ The May 2021 Draft’s “medical conference” line falls within the booking.

0:49:01; Exhibit G at Table 18 (p. 9-16).)

188. **Beat 7. The caretaking argument.** Immediately after being caught in the hotel-related infraction, Amy/Angus argues with Willis/Paul in the same six steps.

(a) **At first Amy/Angus is nonchalant, despite being caught red-handed.** Amy asks, “You like Ferlinghetti?” Angus carries on with the booking, “holding up a finger.”

(b) **Amy/Angus disputes his authority.** Amy: “You’re not my dad.” Angus: “None of your business.”

(c) **He insists that he is responsible for them.** Willis: “I’m in loco parentis.” Paul: “I’m looking after you.”

(d) **Amy/Angus mocks the role.** Amy: “You said that you are a crazy parent.” Angus: “Like what, like my warden? Like my butler?”

(e) **He threatens punishment.** Willis: “if you were my daughter I’d probably.” Paul: “That’s a detention.”

(f) **Amy/Angus scoffs at the man’s impotence.** Amy: “You’d what, Jeff? What would you do?” Angus: “one big fucking detention!” (Fr. 59–60; Aw. 39–40; Film 0:49:10–0:50:02; Exhibit G at Table 18 (p. 9-16).)

189. **Beat 8. The medical emergency.** The emergency follows the same four steps in the same order, with other exchanges between the first and second: a joke about the body answered with a punishment, a moment when it is not clear anything is wrong, a first visible sign in the arm, and Willis/Paul taking charge.

(a) **In a matched dramatic irony, Amy/Angus jokes that their body is failing. unaware of what is about to happen, and Willis/Paul answers by invoking the punishment for breaking the rules.** Amy: “I’m dying of cancer, Jeff.” Willis: “Well, you should have thought about that before you broke curfew.”

1 Angus: “Without sufficient exercise, the body devours itself.”

2 Paul: “You are careening toward a suspension!” In each, the
3 punishment is a real one, unlike the one Amy/Angus has just
4 scoffed at (Beat 7(f)): Amy loses the dinner she was promised,
5 and Angus faces suspension.

6 **(b) Once the incident starts, there is a brief calm before the storm.**

7 Amy “has started to stare straight ahead at Willis” and “does not
8 reply”; Angus “topples clumsily -- and hard -- on the other side,”
9 and there is then “a beat”, which plays as a moment of pause on
10 screen.

11 **(c) The first visible sign of injury is in the hand or arm.** In *Frisco*,
12 one of Amy’s fingers twitches, then her hand and arm, before the
13 seizure; in the film, Angus flails his unaffected arm. One of
14 Amy’s fingers twitches, and “[t]he twitch spreads to Amy’s
15 hand, and then her arm”; Angus “rises to his knees, his LEFT
16 ARM DANGLING oddly.” Amy progresses to a tonic-clonic
17 seizure, her arms and legs jerking rhythmically; in the film,
18 Angus flails his unaffected arm.

19 **(d) Willis/Paul gets Amy/Angus to the emergency room at once.** (Fr.
20 62–63; Aw. 41–42; Film 0:51:00–0:51:20; Exhibit G at Table 18
21 (p. 9-16).)

22 190. **Beat 9. The hospital, the wooziness and the drink.** At the hospital the
23 emergency proves manageable; Amy/Angus is discharged the same evening, woozy
24 from the incident or its treatment, and Willis/Paul ends the day with a large whisky.

25 **(a) Imaging already performed off-screen shows the episode to be**
26 **surprisingly manageable, despite how serious it looked:** a
27 scan in *Frisco*, an X-ray in *The Holdovers*.

28 **(b) Medication is given, and Amy/Angus is discharged the same**

1 evening.

2 (c) **Still woozy, Amy/Angus repeats the same demand of**
 3 **Willis/Paul.** Amy asks to see the sea lions; Angus asks for a
 4 beer.

5 (d) **Willis/Paul orders a whisky and is given a large one.** Willis asks
 6 for “A big one”; Paul is served “a double Jim.”

7 The emergency sees Willis/Paul exercise the responsibility he claimed in the
 8 argument at Beat 7, a key development in his relationship with Amy/Angus. (Fr. 63–
 9 65; Aw. 44–48; Film 0:52:55–0:55:49; Exhibit G at Table 18 (p. 9-16).)

10 191. **Beat 10. Breakfast and the request.** The morning after the
 11 emergency, it is brushed aside at breakfast, and Amy/Angus then talks Willis/Paul
 12 into taking them with him to an event.

13 (a) **At breakfast the night’s emergency is passed over lightly:**
 14 “Fine,” in *Frisco*; “I don’t know anything about that,” in *The*
 15 *Holdovers*. Amy/Angus’s wooziness has gone, and neither it nor
 16 the medication given that night (the seizure medication/the
 17 Percodan) is mentioned again.

18 (b) **At the breakfast table in *Frisco*, and at the kitchen table in *The***
 19 ***Holdovers*, Amy/Angus asks in the same construction.** Amy:
 20 “I want to come to your talk.” Angus: “I want to go to the party.”

21 (c) **Willis/Paul offers an excuse.** Willis: “You’re not a delegate. You
 22 don’t have a pass.” Paul: “She didn’t mean it. We were just
 23 making small talk.”

24 (d) **Amy/Angus proposes a way round it, and he rejects it.** Amy:
 25 “You can put me on the guest list.” Willis: “There isn’t a guest
 26 list.” Angus: “Mary can take me.” Paul: “No, that’s not how it
 27 works.”

28 (e) **He relents,** on the same page in *Frisco* and by the next scene in *The*

1 *Holdovers*. (Fr. 67–68; Aw. 54–56; Film 1:01:59, 1:03:58–
 2 1:04:39; Exhibit G at Table 20 (p. 19-24).)

3 192. **Beat 11. Getting ready alone.** Willis/Paul gets ready for the event in a
 4 run of solo scenes that ends by exposing his romantic hope for the evening ahead.
 5 Each gets ready at a mirror in his temporary accommodation, with a fresh shirt and
 6 tie, in scenes where no two characters converse. The sequence ends on an ineptly
 7 comic action that telegraphs his romantic hopes for the evening. Willis leaves Susie
 8 a clumsy message saying he hopes she will come to the conference. Paul sniffs
 9 under his arms and sprays air freshener there.

10 193. The day of the event each also has a wordless solo moment of physical-
 11 comedy failure, Willis’s bellyflop and Paul’s hopeless football throw, each staged as
 12 promise, action and failure: Willis “draws his hands up above him as if about to
 13 make a graceful dive. And then bellyflops in”; Paul “stares at it, then picks it up and
 14 throws it. It’s the most awkward throw ever.” In *Frisco*, the bellyflop falls within
 15 the preparations for his talk; in *The Holdovers*, the throw takes place in Beat 10,
 16 between the breakfast and Angus’s request to go to the party.
 17 (Fr. 69–70; Aw. 55–57; Exhibit G at Table 20 (p. 19-24).)

18 194. **Beat 12. The event: the love interest arrives and the man’s specialty**
 19 **is misstated.** At the crowded event Amy/Angus meets a sixteen-year-old love
 20 interest, and during their introduction Willis/Paul’s specialty is misstated in the
 21 same way.

22 (a) **A sixteen-year-old love interest is introduced**, with whom

23 Amy/Angus will have a romantic first: Danny in *Frisco*; Elise,
 24 who gives Angus his first kiss, in *The Holdovers*.

25 (b) **During that introduction, the man’s niche specialty is misstated.**

26 In *Frisco*, Danny refers to “the whole cashew nut thing,”
 27 whereas Willis is an expert in Hazelnuts. In *The Holdovers*, Miss
 28 Crane asks about Paul’s specialty, “History, right?”, and is

corrected with the exact term: “Ancient Civilizations, yes.” (Fr. 70; Aw. 58–59, 62; Film 1:06:04–1:07:21, 1:10:50; Exhibit G at Table 20 (p. 19-24).)

195. **Beat 13. The event goes wrong for Willis/Paul.** At the event Willis/Paul’s romantic hope is raised and dashed, his expertise falls flat, his mood sinks, and Amy/Angus’s intervention interrupts his suffering.

(a) **A misreading raises his hope, and its correction dashes it.** In

Frisco, an auditorium door opens and Willis takes it for Susie’s (his separated wife’s) arrival; it is just Valerie (a new friend). In *The Holdovers*, Miss Crane kisses Paul and he takes it for an overture; but it was just the mistletoe.

(b) **His expertise falls flat.** Willis’s “never be hazy about hazelnut allergy” meets “disinterested” delegates. Paul’s “Aeneas carried mistletoe when he descended into Hades” is answered with, “Huh.”

(c) **His mood sinks as the hope fades.** In *Frisco*, “Willis’ gloom visibly deepens.” In *The Holdovers* Miss Crane’s presumed boyfriend arrives at the party, and “Paul’s smile fades.”

(d) **Amy/Angus interrupts to change the mood.** Amy praises Willis’ talk: “I thought this was really an excellent talk.” Angus asks for his help: “Mr. Hunham, could you come with me, please?” (Fr. 72–74; Aw. 62–66; Film 1:11:01–1:15:00; Exhibit G at Table 20 (p. 19-24).)

196. **Beat 14. The aftermath and the contrast.** Straight after the event, Willis/Paul writes off the evening and disparages Amy/Angus’s new love interest, while an energized Amy/Angus wants to keep the evening going.

(a) **He pronounces the evening a loss.** Willis: “What a goddamn waste.” Paul: “That was a disaster.”

1 (b) **He disparages the love interest.** Willis: “not her boyfriend. She
2 met him on the street today.” Paul: “some silly girl.”

3 (c) **Amy/Angus wants to carry on.** Amy wants Willis to “take us all to
4 dinner in Chinatown”; Angus says “we’ll come back.”

5 (d) **He refuses.** Willis: “No. I can’t.” Paul: “Out of the question.” (*The*
6 *Holdovers* plays (b) last, after Paul’s refusal.)

7 Willis relents, so the celebratory meal follows that night. Paul does not, and *The*
8 *Holdovers*’ meal is Christmas dinner the next day, the point from which the story
9 days fall out of step. (Fr. 73–75; Aw. 66–67; Film 1:15:58–1:16:48.)

10 197. **Beat 15. The celebratory meal.** Each work joins the group at ease at
11 the end of a celebratory meal, with Willis/Paul in unusually good humor, which
12 Valerie/Mary teases. In *Frisco*, the meal is “to celebrate the occasion of you talking
13 at the Congress of Allergists”; in *The Holdovers*, it is Christmas dinner. The stage
14 directions specifically join each group at the end of the meal: they “all sit around a
15 table at the end of a meal”; they “finish a lovely Christmas dinner.” They likewise
16 show the characters visibly at ease: “Everybody is cracking up with laughter”;
17 “They exchange looks, a new sort of intimacy among them.” The first line spoken is
18 Willis/Paul’s, in unusually good humor, and Valerie/Mary teases him for it. Valerie:
19 “It doesn’t sound so lucky, Jeff!” Mary: “It [sic] that an actual compliment?” (Fr.
20 75; Aw. 71; Film 1:21:08.)

21 198. **Beat 16. The request to see the city.** As the meal ends, Amy/Angus
22 asks to see the sights of San Francisco or to visit Boston. Willis/Paul refuses,
23 Valerie/Mary intervenes, and the next scene shows both the journey there and their
24 arrival at the Golden Gate Bridge or in Boston.

25 (a) **Amy/Angus says where they want to go.** Amy: “Have you even
26 seen any of the sights of Frisco?” Angus: “Okay, I want to go to
27 Boston.”

28 (b) **Amy/Angus asks for specific things, in an anaphoric list.** Amy:

1 “What about the Golden Gate Bridge? What about the steep
2 hills? What about the sea lions?” Angus: “I want a real
3 Christmas. I want to go ice skating. I want to see a real
4 Christmas tree with ornaments...”

5 (c) **Willis/Paul refuses.** Willis: “It’s too late now.” Paul: “It’s out of
6 the question.”

7 (d) **Valerie/Mary intervenes.** Valerie: “It’s not really too late, is it?”
8 Mary: “take the kid to Boston.”

9 (e) **He gives way, and the next scene is the journey, by cab or car.** (f)
10 **We see them reach the place asked for:** the Golden Gate
11 Bridge; Boston. (The thing asked for, the sea lions or the skating,
12 follows later in the city sequence.) (Fr. 80; Aw. 72–73; Film
13 1:22:12–1:22:53; Exhibit G at Table 21 (p. 25-26).)

14 199. **Beat 17. The shared-interest visit.** Willis/Paul and Amy/Angus visit a
15 place tied to their shared historical interest, one eager and one reluctant, and the beat
16 ends in a put-down of Willis/Paul.

17 (a) **They visit a place tied to the shared interest.** In *Frisco*, it is the
18 Sixth Gallery where Ginsberg first performed “Howl”; in *The*
19 *Holdovers*, the Greek galleries of the Museum of Fine Arts. Amy
20 and Paul are eager; Willis and Angus are reluctant.

21 (b) **The reluctant one wants to leave.** Willis: “And now we’ve seen it
22 we can go home.” Angus: “Are we almost done?”

23 (c) **The eager one’s enthusiasm meets deflation.** Amy: “This is
24 awesome.” Willis: “It’s very loud.” Paul: “Here. What do you
25 see?” Angus: “I don’t know. A bunch of pottery.”

26 (d) **The bickering turns into a put-down of Willis/Paul by**
27 **Amy/Angus.** In *Frisco*, it is mockery: “He likes songs about
28 unicorns sung by men who sound like women.” In *The*

1 *Holdovers*, it is harsher: “most of the kids pretty much hate you.”
 2 (Fr. 81–83; Aw. 77–78; Film 1:29:22–1:30:27.)

3 200. **Beat 18. Fun in the city.** The city sequence plays three matched beats
 4 in the same order, and in one of the first two, Amy/Angus encourages Willis/Paul
 5 and wins him over.

6 (a) **An activity with a risk of falling.** In *Frisco*, Willis longboards,
 7 encouraged by Amy, who tells him “[y]ou guys should have a
 8 shot on Danny’s longboard” (and coached by Danny, who tells
 9 him “If you sit down it is actually technically impossible to hurt
 10 yourself”); he ends up “still laughing... That was great.” In *The*
 11 *Holdovers*, Angus ice skates while Paul watches from the
 12 sidelines, “quietly marveling at the lad’s vitality.”⁴⁹

13 (b) **A fun activity peculiar to the place.** San Francisco’s sea lions;
 14 Boston’s candlepin bowling, where Angus coaches Paul, “Just
 15 hold on tightly, then let go lightly,” and Paul “glares, then tries it.
 16 Much better.”

17 (c) **A busy public place, staged the same way.** Though one is a police
 18 precinct and the other a bowling-alley bar, in each, Willis/Paul
 19 turns his professional standing or learning on a uniformed
 20 stranger and is met with weariness, while Amy/Angus is visible
 21 in the distance consorting with the opposite sex and Willis/Paul
 22 reacts to this. In *Frisco*, “Through the window, Willis sees that
 23 Amy and Danny have started kissing. He starts banging on the
 24 window”; in *The Holdovers*, “In the distance, Angus now bowls
 25 with the girls,’ and Paul ‘shoots amused looks at Angus.”
 26

27 ⁴⁹ The May 2021 Draft’s version of the skating scene closely replicates the *Frisco*
 28 scene. See Section F.2(B), *supra*.

Willis’s “Officer. I’m a children’s doctor” and Paul’s lecture on St. Nicholas meet the same weariness: “The Officer sighs and wearily commences to write up his notes”; “The Bartender and Santa just stare at him.” (While a Santa Claus costume may not traditionally be called a uniform, it is Paul who calls it that: “Your uniform, festive as it is, is historically inaccurate.”) (Fr. 86–92; Aw. 78–79, 85–87; Film 1:38:50–1:40:13.)

201. **Beat 19. The slip-away.** Near the end of the city stay, one of the pair slips away under a false pretext, is caught by the other, and the slip-away leads to the fulfillment of Amy/Angus’s wish. Willis slips away to Valerie (“I popped down to the gym”); Angus slips away to his father (“I’m going to the bathroom”). The other has worked it out: Amy at the end of the sequence (“Totally busted... In the clothes you had on last night”); Paul at its start (“Were you planning this the whole time?”). The slip-away leads to the fulfillment of the wish Amy/Angus planted at the end of Act 1 (Fr. 31; Aw. 15, 29, 43): Amy’s wish to sleep with a boy is fulfilled while Willis is away; Angus’s reason for wanting to visit Boston turns out to have been “[t]o see my dad.” (Fr. 93–95; Aw. 87–90; Film 1:41:23–1:44:15.)

202. **Beat 20. The daytime journey back.** In each work, the scene after the city sequence is a quiet daytime journey home, opened by a one-line direction: “The flight from SFO to PDX is quiet”; “The threesome ride home in silence...” Willis and Amy return to Portland and the hospital; Paul and Angus to the school. (Fr. 97–99; Aw. 95.)

203. **Beat 21. Back at work.** Back at the institution nothing seems to have changed, until a lingering look at the end of the scene.

(a) **Willis/Paul wears the clothes we first saw him working in.** Willis is “wearing his Goofy tie.” Paul, in the Film, wears the brown corduroy suit, green sweater and light shirt of his first scene (only the pattern of his red bow tie differs).

1 (b) **He is met with mundane routine that calls back to his first**
 2 **scenes:** “forty-eight hours of diarrhoea”; “enlighten yourselves
 3 about the Peloponnesian War.”

4 (c) **He deals not with Amy/Angus but with another young person: a**
 5 seven-year-old patient; the sunburned Kountze.

6 (d) **The scene ends on a look that shows what happened has not**
 7 **been forgotten.** “Willis stares at the door to Amy’s room”;
 8 “Angus and Paul share a conspiratorial smile.” (Fr. 103–104;
 9 Aw. 97–98; Film 0:04:21, 1:55:55, 1:56:35.)

10 204. **Beat 22. The second summons and the parents’ meeting.** A second
 11 summons brings Willis/Paul before his boss and a pair of aggrieved parents who
 12 want a specific concession, and he refuses it. The summons and the meeting run in
 13 the same eight steps, apart from where the mother’s first retort falls.

14 (a) **The summons precedes the meeting, its gravity at first lost on**
 15 **him.** Willis: “Am I being presented with an award of some
 16 kind?” Paul: “I never called to thank you for... your party.” The
 17 parents want a concession. In *Frisco* it is an apology: “if you
 18 apologize to them then they won’t proceed to a formal
 19 complaint.” In *The Holdovers*, it is an admission that Angus
 20 tricked Paul: “however he manipulated your sympathies or
 21 slipped the leash, just tell us.”

22 (b) **The meeting opens on a misidentification, corrected.** In *Frisco*,
 23 Willis takes Margaret’s thanks for coming in as meant for him:
 24 “I meant Mr and Mrs Lakovic.” In *The Holdovers*, Woodrup
 25 (headmaster) calls Stanley Angus’s father and is corrected.

26 (c) **He pauses before answering.** Willis: “I’m- (Beat.) I mean- (Beat.)
 27 I-” In *The Holdovers*, the Clotfelters and Woodrup “look at Paul
 28 expectantly for a long beat.”

1 (d) **His answers give the parents nothing and harden into open**
 2 **provocation.** Willis: “She wants me to say I’m sorry. But I can’t.
 3 That’s because I’m not sorry.” Paul: “I took him to see his father.
 4 In fact, I convinced him to do so” and then “I don’t give a shit.”

5 (e) **The boss rebukes him with a single word, his name.** Margaret:
 6 “Jeff.” Woodrup: “Hunham!”

7 (f) **The mother retorts twice.** In *Frisco*, Mrs. Lakovic: “You said a
 8 doctor not believing in vaccination was like a chef not believing
 9 in broiling” and “Mrs Brown, you said that if we came here he
 10 was going to apologize.” In *The Holdovers*, Judy (Angus’
 11 mother): “This is a family matter. You had no right to interfere”
 12 and “Do you understand what you’ve done?” (In *The Holdovers*,
 13 Judy’s first retort comes earlier, straight after Paul’s refusal;
 14 Table 22 pairs it outside the sequence.)

15 (g) **The boss disclaims responsibility for the consequence.** Margaret:
 16 “Jeff, if these people complain there won’t be anything I can do
 17 about your position.” Woodrup: “You did this to yourself,
 18 Hunham. Not me.”

19 (h) **The meeting ends on his parting shot.** In *Frisco*, when asked “But
 20 who will cover allergy?”, Willis answers “Maybe Jenna [the
 21 family friend who suggested the Lakovic’s use herbal
 22 vaccinations] can.” In *The Holdovers*, Paul tells Woodrup he is
 23 “penis cancer in human form.”

24 In each, the man stands on his professional judgment rather than give the parents
 25 what they came for: Willis as their child’s doctor, Paul as the boy’s teacher (“He’s
 26 got enormous potential”). The scene resolves the conflict set in Beat 3. (Fr. 104–
 27 105, 114–115; Aw. 98–102; Film 1:57:06–1:57:23, 1:58:04–2:02:01; Exhibit G at
 28 Table 22 (p. 27-29).)

1 205. **Beat 23. The youthful ambition, stated tentatively.** Asked what he
 2 will do next, Willis/Paul answers tentatively with the youthful ambition set up
 3 earlier: a journey tied to the shared interest. In *Frisco*, Willis is asked, “But if we
 4 fire you what will you do?” and answers, “I might drive across the United States...
 5 I’m going to look for the pearl” (harkening back to Jack Kerouac’s *On the Road* and
 6 Willis’s abandoned ambition to travel across America). In *The Holdovers*, Paul is
 7 asked, “Have you decided where you’re going to go?” and answers, “Maybe I’ll
 8 start in Carthage”; Mary then names the purpose, handing him a leather-bound
 9 notebook “For your monograph” (harkening back to Paul’s unfinished monograph
 10 of Carthage). (Fr. 115; Aw. 103; Film 2:03:44–2:04:11; Exhibit G at Table 23 (p.
 11 30-31).)

12 206. **Beat 24. The departure and the symbolic object.** Willis/Paul drives
 13 away in a changed vehicle, and an object that marked his lowly place at the
 14 institution makes its last appearance with its meaning reversed. Willis leaves in an
 15 RV and Paul in his Nova towing a U-Haul. What is specific is not the driving-away
 16 ending but the device used with it, its precise meaning and symbolism within this
 17 story, and the ultimate goal of this travel: to fulfil the once-abandoned youthful
 18 dream that stems from the niche interest he shared with Amy/Angus.

19 (a) **An object stands for his lowly, unappreciated place at the**
 20 **institution:** In *Frisco*, the billboard that advertised the hospital
 21 but featured the Handsome Man in Willis’s place; in *The*
 22 *Holdovers*, the cognac the Board of Trustees gifted the
 23 headmaster, even though Paul is the one stuck there over the
 24 holidays.

25 (b) **The object is planted in the opening pages** (Fr. 5; Aw. 6) **and**
 26 **seen again in Act 1** (Fr. 29; Aw. 25).

27 (c) **It makes a last appearance with its meaning reversed**, the sign of
 28 his old life now marking his triumph over it. In *Frisco*,

1 “WORKMEN are changing the Ventran advert [with an actor in
 2 Willis’ place] for one that features a picture of a PEARL
 3 [amplifying the Kerouac reference].” In *The Holdovers*, Paul
 4 “takes a swig [of the gifted cognac], swishes it around like
 5 mouthwash and spits it out the window.”

6 Each script’s last image is the vehicle departing. In *Frisco*, Willis “puts his foot to
 7 the floor, and drives off into the distance.” In *The Holdovers*, the car “speeds away,
 8 disappearing in the distance.” Then THE END. (Fr. 118; Aw. 106–107; Film
 9 2:07:55–2:08:56, the cognac at 2:08:24.)

10 1. Elements that Recur Out of Order.

11 207. Twenty-two further closely matched elements feature in the two works.
 12 (See Exhibit G at Table 24 (p. 32).) These are shared plot elements in their own
 13 right; what they do not share is their exact position. Several are whole scenes
 14 matched beat by beat, discussed below under the sub-section Dialogue: “the minor
 15 and the alcohol” (sixteen matched beats, Exhibit G at Table 27 (p. 36-39)), the “not
 16 in here” rule (Exhibit G at Table 28 (p. 40-41)), and the “farewell” (Exhibit G at
 17 Table 29 (p. 42-44)).

18 208. Exhibit G at Table 24 (p. 32) lists each of these twenty-four beats with
 19 the relevant page in both works and the distance it has moved. Most of the
 20 reordering is of little significance: “the minor and the alcohol,” for example, comes
 21 early in the city sequence in *Frisco* and at its end in *The Holdovers*. The largest
 22 displacements come from three shifts: the Companion’s three friendship beats fall
 23 early in *Frisco*’s Act 2 and late in *The Holdovers*’ Act 1; *The Holdovers* reaches its
 24 city midway through Act 2 rather than at its start; and in Act 3, *Frisco* sends Willis
 25 back to work before its first jump forward in time, *The Holdovers* after it. The
 26 remaining matched elements are pleaded below under Characters, Pace, Dialogue,
 27 and Theme, where their position in the story is not the claim.

28 B. Characters.

1 209. Each principal character and nearly every minor character in *Frisco* has
2 a counterpart in *The Holdovers* who performs the same function in the narrative.

3 210. **The Man.** *Frisco*: Dr. Jeff Willis, hospital pediatrician and allergist,
4 late 40s or early 50s (mid-to-late 50s in *Frisco* 2019 Draft). *The Holdovers*: Paul
5 Hunham, teacher of ancient civilizations, 50s in the 2021 drafts (the Awards Draft
6 gives no age). A talented but cantankerous professional at a residential institution
7 for children, he harbors a near-forgotten youthful ambition, rooted in the interest he
8 shares with Amy/Angus, that only travel can fulfil; his attraction to a livelier female
9 colleague is not returned; and he is made responsible, against his will, for one
10 teenager, who teaches him to stand up for himself at the cost of his job.

11 211. Weary and mildly unkempt, he speaks to his young charges in an
12 inappropriately candid register that goes over their heads and has largely given up
13 on life: he has not had fun since 1998 or rarely leaves campus (Fr. 61–62; Aw. 36).
14 His failings mean he owes his job’s longevity or existence to others: Margaret
15 Brown tells Willis, “Susie is the only reason we’ve let you go on for so long” (Fr.
16 13); Paul says of Dr. Green, “He’d always believed in me. So he gave me a job”
17 (Aw. 83).

18 212. Willis has a family and Paul does not, but Willis’s family has largely
19 banned him from their home (Fr. 20–21), so the effect is the same: a loveless man
20 who lives in humble and cluttered quarters, his family’s garage or a small apartment
21 on campus. Other specific resemblances include: both reclassify the trip to the city
22 for their own purposes, for Willis, the conference: “conference, vacation - there is
23 kind of a gray area there” (Fr. 33), for Paul, the Boston holiday: “I suppose we could
24 call it a field trip” (Aw. 73); both claim an old-fashioned attitude to sex when
25 Amy/Angus raises it (*see* Dialogue at ¶ 240, Amy/Angus as Willis/Paul’s romantic
26 adviser) and both tell the teenager they reject religious belief: Willis that “when you
27 are dead you are dead” (Fr. 46), Paul that he does not believe in God.

28 213. **The Teenager.** *Frisco*: Amy Morrison, 15, a patient. *The Holdovers*:

1 Angus Tully, 15 (17 in the Awards Draft), a student. A precocious, neglected
 2 teenager who is eligible to go home but remains at the institution due to a troubled
 3 relationship with the neglectful mother figure, and so comes into Willis/Paul's
 4 particular charge, first as his patient or as one of his holdovers, and then as his sole
 5 charge (Beats 4–5).

6 214. Amy/Angus has a dead or ostensibly dead father, a step-parent defined
 7 by money, and a history of having to leave institutions: the hospice that “had issues
 8 with” Amy (Fr. 7), the schools Angus has been “kicked out of” (Aw. 31). Early in
 9 Act 1, we learn that each steals from the other children at their institution: Amy
 10 steals chocolate from the little kids, Angus steals cigarettes from another boy.

11 215. A quick and irreverent wit hides their own psychic pain; in their first
 12 exchange with Willis/Paul they call him, or his plan, “depressingly square” (Fr. 9) or
 13 “a little absurd” (Aw. 11). Their sensitive side is nonetheless shown when
 14 Willis/Paul discovers them missing and finds them listening to poetry (Fr. 58) or
 15 playing the piano (Aw. 70). Neither appears to have a friend beyond the sixteen-
 16 year-old love interest they meet at the event in Act 2: Angus says “I don’t have any
 17 friends” (Aw. 91), and Amy’s funeral is attended only by “Willis, Susie, Anne,
 18 Melcher, a couple of Nurses, a few others” (Fr. 111).

19 216. Each has a significant health concern: Amy a brain tumor, and Angus a
 20 condition which requires him to take Librium. They conceal it sufficiently such that
 21 other characters, Danny (Amy’s love interest) and Paul, learn of it only at a hotel
 22 breakfast late in the trip (Fr. 95; Aw. 85). In a vulnerable moment Amy/Angus
 23 confess their fear about it to Willis/Paul, Amy asking “is this what dying is like?”
 24 (Fr. 45–46), Angus saying he is “afraid that’s what’s going to happen to me one day
 25 [i.e., that he will lose his mind like his dad].” (Aw. 91). In each, the fear is
 26 specifically of a fate they have already watched a parent meet: Amy’s parents are
 27 both dead; Angus’s father is in an asylum.

28 217. **The Companion.** *Frisco*: Valerie, early thirties, a drug representative

1 at the conference. *The Holdovers*: Mary Lamb, the school cook. A woman who
 2 works in a field related to Willis/Paul’s, in a less prestigious capacity, joins the pair
 3 on the trip to the city. Her friendship with Willis/Paul is established in three beats in
 4 the same order. The first is a scene that establishes that, because of their work, they
 5 will be in the same place together for some time—the conference or the school—
 6 and closes with an agreement to share a cab or drink. The second is Willis/Paul’s
 7 defense of her against a teenager who is rude about her job, with a figurative put-
 8 down. The third encounter follows three scenes of Willis/Paul moving through his
 9 current workplace, the conference hall or the school’s hallways, before he sees her
 10 at a distance or hears the television program she is watching (Fr. 54–56; Aw. 25–
 11 26). The scene itself is then built around her cynical explanation of her product or
 12 TV show to him, which includes a comically modest gift or prize, “branded laser
 13 pens” / “Weber barbecue and picnic utensils” (Fr. 56; Aw. 26). Once the friendship
 14 has been established, Valerie/Mary serves as an adult sounding board for Willis/Paul
 15 and encourages him to go easier on Amy/Angus, notably helping persuade him to
 16 take Amy/Angus into the city or to its sights (Beat 16; Fr. 80; Aw. 72).

17 218. **The Unrequited Love.** *Frisco*: Susie, Willis’ separated wife, “late
 18 40s,” a hospital social worker. *The Holdovers*: Miss Crane, “middle-aged,” the
 19 headmaster’s secretary. A colleague in her forties on whom Willis/Paul has
 20 improbable romantic designs. The strand plays five beats in the same order:
 21 Susie/Ms. Crane is first met at the door of Willis/Paul’s modest quarters, the first
 22 principal character we meet after him (Fr. 4; Aw. 2); she gives Willis/Paul a small
 23 kindness, a coffee (Fr. 15) or a party invitation (Aw. 49), misread as an overture; his
 24 specialty is misstated by her and corrected by him, “peanuts” / “hazelnuts” (Fr. 37),
 25 “History, right?” / “Ancient Civilizations, yes” (Aw. 59); at the event, his hope
 26 raised and then dashed in two stages, as detailed above (Beat 13); and an Act 3
 27 encounter closes the strand without rancor, Susie telling Willis the marriage is over
 28 and Willis accepting it (Fr. 101–103), Paul wishing Miss Crane a happy new year

1 and thanking her for the party (Aw. 98).

2 219. **The Boss.** *Frisco*: Margaret Brown, hospital manager. *The Holdovers*:
3 Dr. Hardy Woodrup, headmaster. Willis/Paul's direct supervisor, who runs the
4 institution but answers to an unseen board, appears in substance only at the start, to
5 reprimand him, and again at the end, to orchestrate the encounter with the aggrieved
6 parents. The Boss relates to Willis/Paul less as an underperforming subordinate than
7 as an exasperating colleague who has finally exhausted the patience he feels entitled
8 to try: "Come on, Margaret" / "Come on, Hardy."

9 220. The remaining roles are one-scene or near-one-scene characters whose
10 match is of function and placement:

11 Role and function	<i>Frisco</i>	<i>The Holdovers</i>
12 Confidant Colleague. 13 The colleague Willis/Paul 14 confides in, drinks with 15 and discusses marriage 16 with at work; in <i>Frisco</i> 17 appears only in Act 1 and 18 Act 3.	Ron Melcher, pathologist; beer from the mortuary fridge (Fr. 18–20, 105– 106)	Mary Lamb again; bourbon in kitchen mugs (Aw. 20–22, 26–28, 35– 37, 103–104)
19 Neglectful Mother. More 20 concerned with appearing 21 a good parent than being 22 one. The reason 23 Amy/Angus stays at the 24 institution; the subsequent 25 failed phone call strands 26 the pair (Beat 5); absent 27 from Act 2; reappears in 28	Anne Morrison, stepmother (Fr. 8, 33, 43, 112)	Judy Clotfelter, mother (Aw. 15, 34, 99)

1	Role and function	<i>Frisco</i>	<i>The Holdovers</i>
2	Act 3 (Fr. 111–112; Aw.		
3	99–102).		
4			
5	Step-parent. Defined by	Anne Morrison (Fr. 8)	Stanley Clotfelter (Aw.
6	Amy/Angus in financial		15, 67, 99)
7	terms, in the same		
8	construction.		
9	Aggrieved Parents.	The Lakovics (Fr. 114–	Judy and Stanley
10	Present at the second boss	115)	Clotfelter (Aw. 99–102)
11	meeting; Willis/Paul is		
12	expected to placate them		
13	and does not (Beat 22).		
14	Teenager’s Love	Danny, “about sixteen”	Elise, 16, Miss Crane’s
15	Interest. Sixteen; present	(Fr. 70, 91–93, 96)	niece (Aw. 58–60, 62, 67)
16	at the event (Beat 12);		
17	Amy/Angus’s romantic		
18	first. Willis/Paul		
19	disparages the romance.		
20			
21	Handsome Man.	Handsome Man, hotel	Handsome Man, party
22	Watched greeting or	bar/billboard (Fr. 65)	(Aw. 65)
23	parting from a woman		
24	while Willis/Paul drinks		
25	whisky.		
26	Successful Double. A	The same Handsome	Hugh Cavanaugh, with
27	man Willis/Paul	Man, the billboard actor	Karen (Aw. 79–81)
28			

1	Role and function	<i>Frisco</i>	<i>The Holdovers</i>
2	recognizes when he runs	(Fr. 5, 65–67)	
3	into him in the city: a peer		
4	seen in person in only one		
5	scene, with women or a		
6	wife, who embodies the		
7	personal and professional		
8	success Willis/Paul lack.		
9			
10	Other Children in	Clive (Fr. 1–3, 117)	Kountze (Aw. 10–12, 97)
11	Willis/Paul’s Charge.		
12	Bookend Willis/Paul’s		
13	working life, speaking in		
14	his first and clinic scenes		

16 C. Pace.

17 221. Whether beats fall on the same day or across a week, their order on
18 specific story days, and where a story skips days are specific choices made by the
19 writer of a screenplay. *Frisco* and *The Holdovers* repeatedly make identical ones.

20 222. Both works move through many of the same events at the same rate. By
21 page, the twenty-four shared elements discussed above and depicted in Exhibit G at
22 Table 25 (p. 33) fall in the same order and at broadly similar positions in each script.
23 The pace is therefore similar.

24 223. However, another measure shows a more striking similarity: by story
25 day, the works run in daily step from just before Willis/Paul and Amy/Angus are
26 thrown together until the celebratory meal. Counting each work’s opening as Day 1,
27 the two fall into step on Day 4 and remain in step for four story days, some forty
28 pages of *Frisco* and thirty-six pages of *The Holdovers* (Fr. 34–73; Aw. 29–64). How

each work's days are fixed, by title cards in *The Holdovers* and by scene headings, commutes and dialogue in *Frisco*, is set out in Exhibit G at Table 26 (p. 34), and summarized below.

	<i>Frisco</i> day (pp.)	<i>The Holdovers</i> day · card (pp.)
Set-up	Days 1–3 (1–29)	Day 1 · Dec 18 (1–28)
Amy/Angus speaks of getting away from the institution	Day 4 (34)	Day 4 · Dec 21 (29)
Calls to the parent fail; the man/teenager pair are left together (Beats 4–5)	Day 5 (40–43)	Day 5 · Dec 22 (33–35)
The hotel day: the booking, the argument, the emergency, the hospital, “Dad”, the bar (Beats 6–9)	Day 6 (51–65)	Day 6 · Dec 23 (38–48)
The event day: the request, getting ready, the event, Willis/Paul’s disillusion (Beats 10–13)	Day 7 (67–73)	Day 7 · Dec 24 (54–64)
The city: the meal, the outings, the slip-away, the journey home (Beats 15–20)	Day 7 evening – Day 8 (75–102)	Days 8, 10–12 · Dec 25, 27–29 (Day 9 cut; Day 12 uncarded) (71–95)

	<i>Frisco</i> day (pp.)	<i>The Holdovers</i> day · card (pp.)
Back at work; the ward; Amy dies	Days 9–10 (103–110)	—
First jump: through a set-piece to Willis/Paul back at the institution; the stand-off before the parents	The funeral; the bridge, the billboard changed (111–117)	New Year’s Eve, uncarded (95–96; a single cut to Jan 11 in the May 2021 draft); New Semester · Jan 11 (96–102)
Second jump: the departure in a changed vehicle	The RV in the garage (117–118)	DISSOLVE to the emptied room; the U-Haul (103–107)

224. *Frisco*’s fifth day sees the pair stuck together and the sixth day sees them in San Francisco for the conference; *The Holdovers*’ are December 22 and 23 at the school. Nothing in the calendar requires the two become stuck together on the fifth story day, nor that an emergency share a day with the hotel booking and the argument; *The Holdovers* could have spread those events over its weeks of Christmas break, and instead placed them exactly where *Frisco* places them. The two works diverge when the celebratory meal takes place on Day 7 in *Frisco* but Day 8 in *The Holdovers*.

225. Each work’s third act then jumps forward twice, at the same points. The first jump follows the rule-breaking beat (Fr. 110–111; Aw. 95–96) and lands, in *Frisco* after Amy’s funeral, on Willis/Paul back at the institution (Fr. 113–114; Aw. 96–98). The second jump follows the parents’ meeting, in *Frisco*, after the reprise montage and the clinic coda, and lands on the departure in a changed vehicle

(Beat 24). (As detailed above in Section F.3(A), credited screenwriter David Hemingson has described the day cards as “temporal mile markers throughout the script.”⁵⁰

D. Dialogue

226. *The Holdovers* is not alleged to reproduce *Frisco*’s dialogue verbatim. What is alleged, beyond a notably shared register, is two things: first, at numerous pivotal points corresponding sequences of exchanges move the drama the same way; and second, in a number of key places the same rhetorical device is deployed at the same moment to the same effect. Both of those uses of dialogue are the essence of a writer’s execution, not idea.

1. The exchanges.

227. Five such scenes, each falling within the sequence, have already been set out under Plot: fifteen matched beats in the “First Boss Meeting” (Exhibit G at Table 17 (p. 5-8); Beat 3); fourteen in the “Caretaking Argument” (Exhibit G at Table 18 (p. 9-16); Beats 4-17); six in the “Request to Attend the Event” (Exhibit G at Table 20 (p. 19-24); Beats 1–6; Beat 10); eleven in the “Ask to See the City” (Exhibit G at Table 21 (p. 25-26); Beat 16); and fifteen in the “Second Boss Meeting” (Exhibit G at Table 22 (p. 27-29); Beat 22).

228. Several fall slightly out of sequence so were not described above in “Sequence of Events.” Three of those are set out here. (Exhibit G at Summary of Tables 27-29 (p. 35).).

229. **The minor and the alcohol.** In both works, on the final night of the trip to the city, the group has to leave an establishment after Willis/Paul’s attempt to order a memorably named drink or dessert for Amy/Angus leads to a confrontation with a staff member. The scene runs through sixteen matched beats (Exhibit G at Table 27 (p. 36-39)):

⁵⁰ WGF.

1 (a) **An alcoholic item is introduced, but its description leaves out**

2 **the alcohol.** In *Frisco*, Amy proposes “jaegerbombs”; in *The*
 3 *Holdovers*, a waiter sets fire to a chafing dish. Willis: “What’s a
 4 jaegerbomb?” Amy: “Root beer and coke. You know, what little
 5 kids drink?” Angus: “What’s that?” The waitress: “That’s our
 6 signature dessert. Cherries jubilee.”

7 (b) **“Sounds great.”** Valerie: “Sounds great.” Angus: “That sounds
 8 great.” Neither script uses the phrase anywhere else.

9 (c) **The man orders the alcoholic item for the minor.** Willis: “Two
 10 jaegerbombs and two whiskey sours please.” Paul: “Bring the
 11 young vandal here cherries jubilee.”

12 (d) **The staff object, and he tries to get round the rule.** In *Frisco*, a
 13 bouncer says “You’ve been giving alcohol to minors”; in *The*
 14 *Holdovers*, the waitress says “It’s still against the rules.” Willis:
 15 “They’re just root beer and coke.” Paul: “I’ll order the cherries
 16 jubilee. We can share it.” In both, the staff insist against giving
 17 the alcoholic items to Amy/Angus.

18 (e) **As they leave, his disapproval softens, and outside they stand**
 19 **together looking at a light against the dark.** Willis “starts to
 20 smile too but quickly looks away”; the four stand in a line on
 21 Nob Hill, staring “in wonder” at “the night-time lights of the
 22 city.” Paul: “I don’t approve, but good thinking,” then “Presto!
 23 Cherries jubilee!” as the three stand gazing at the flaming takeout
 24 container (Film 1:52:34). (Fr. 82–86; Aw. 92–95.)

25 230. **The “not in here” rule.** Back home or back at the school, a “not in
 26 here” rule is stated, and Willis/Paul breaks it in five matched steps, the scene ending
 27 with the camera outside the room. (Exhibit G at Table 28 (p. 40-41).)

28 (a) **The rule is stated, around the same two words: “in here.”** In

1 *Frisco*, Willis' daughter Alexis tells Willis: "You shouldn't be in
2 here before eight-fifteen!" In *The Holdovers*, Paul tells Angus:
3 "You're not deploying that in here."

4 (b) **He moves to the kitchen.** In *Frisco*, Willis "walks straight past
5 them all, through to the kitchen"; in *The Holdovers*, "They head
6 to the adjacent kitchen area."

7 (c) **He commits the infraction himself.** Willis "takes a BEER out of
8 the fridge opens it and pours it into a glass"; Paul "gives the M-
9 80 to Angus and lights it for him."

10 (d) **The infraction is completed.** Willis "walks into the guest room
11 carrying his two beers"; Angus "throws it off-screen. LOUD
12 EXPLOSION."

13 (e) **The scene ends with the camera outside the room.** In *Frisco*,
14 Willis "closes the door behind him"; in *The Holdovers*, "Through
15 the windows we see the threesome hugging one another." (Fr.
16 110–111; Aw. 95–96; Film 1:54:10.)

17 231. **The Farewell.** Six matched beats in sequence (Exhibit G at Table 29
18 (p. 42-44).):

19 (a) **The mother figure is mentioned.** Willis: "Do you want me to call
20 Anne?" Angus: "I don't know what you said to my mom and
21 Stanley and Woodrup."

22 (b) **Willis/Paul's dismissal is mentioned.** Amy: "I'm pretty sure I
23 fired you." Angus: "And you got fired." (In *Frisco* Amy has
24 dismissed him as her doctor; in *The Holdovers* the school has
25 dismissed him.)

26 (c) **The time together is recalled through a trivial detail introduced**
27 **with "you know."** Willis thanks Amy for "paying for the hotel
28 suite"; Angus proposes they "head over to the Winning Ticket,

1 grab a burger and a beer.”

2 **(d) He offers a last word of support.** Willis: “Is there anything I can
3 do?” Paul: “Keep your head up, all right? You can do this.”

4 **(e) Amy/Angus’s reply is understated..** Amy: “You could read to me,
5 Jeff.” Angus: “I was gonna tell you the same thing.”

6 **(f) His last words go unheard as Amy/Angus leaves his life.** Willis
7 reads to Amy as her eyes close. Paul’s “See ’ya” comes, in the
8 Film, thirteen seconds after Angus’s, when the boy is far up the
9 path and out of earshot. (Fr. 108–110; Aw. 105–106; Film
10 2:07:34, 2:07:47.)

11 **2. Matched rhetorical devices.**

12 232. The use of specific rhetorical devices in specific contexts is the essence
13 of a writer’s artistry. *The Holdovers* frequently employs the devices *Frisco* uses in
14 near-identical ways to advance the same character and plot beats as *Frisco*. Two of
15 the devices listed below—the anaphora and the Parthian shot—appear in *The*
16 *Holdovers* without the set-up that motivates them in *Frisco*.

17 233. **The check-in lie, ending on “Dad” (Tag Question).** At a check-in—
18 the hotel in *Frisco*, the ER in *The Holdovers*—Amy/Angus rescues Willis/Paul from
19 a difficulty of the Teenager’s own making by lying to the official, casting
20 Willis/Paul as their parent and their mother, Anne/Judy, as his wife or former wife.
21 Both works build the lie from the same five moves in the same order, culminating in
22 a tag question, a question that presumes the listener’s assent (nine matched beats,
23 Exhibit G at Table 19 (p. 17-18); *id.* at Table 30 (p. 45).):

24 **(a) Amy/Angus takes over.** Amy: “We’ll take it.” Angus: “Is there any
25 way we could skip this whole insurance thing?”

26 **(b) Willis/Paul is described to the official as “my dad.”** Amy:

27 “Private joke between me and my dad.” Angus: “I never get to
28 see my dad.”

1 (c) **The mother is described as the man’s wife or former wife.** Amy:

2 “Anne’s my mom. His wife.” Angus: “I don’t want her dragging
3 you to court again.” In *The Holdovers* the mother is invoked
4 twice: before “my dad,” as divorced from him, and after it, as the
5 woman who took him to court.

6 (d) **Amy/Angus turns to him with a tag question that presumes his**

7 **assent.** Amy: “She’s just a crazy shopaholic, hey Dad?” Angus:
8 “We can pay cash. Right, Dad?”

9 (e) **That question ends the scene,** so he has no chance to refuse the

10 role, and “Dad” is its last word, underscoring its importance. (Fr.
11 51–52; Aw. 43–44; Film 0:52:09–0:52:48; Exhibit G at Table 19
12 (p. 17-18); *id.* at Table 30 (p. 45).)

13 234. **The ask to see the city (Anaphora).** At the same point in each story

14 (Beat 16), Amy/Angus voices the wish to see the city in an anaphora, three clauses
15 on one repeated opening. *Frisco*: “What about the Golden Gate Bridge? What about
16 the steep hills? What about the sea lions?” (Fr. 80). *The Holdovers*: “I want a real
17 Christmas. I want to go ice skating. I want to see a real Christmas tree with
18 ornaments” (Aw. 72). In *Frisco* the figure is a callback: earlier, Amy listed the same
19 sights in four clauses on “I’m going to” (Fr. 53). *The Holdovers* has no earlier
20 instance for its list to call back to; it keeps the device without the moment that
21 prepares it. (Exhibit G at Table 31 (p.45).)

22 235. **The parting medical jibe (Parthian Shot).** Each meeting with the

23 aggrieved parents ends on the man’s parting insult, a Parthian shot, and in each, it
24 has a medical basis. *Frisco*: Willis answers “Maybe Jenna can” (Fr. 115), suggesting
25 that a woman who recommended “herbal vaccination” (Fr. 25) should take over his
26 allergy job. *The Holdovers*: Paul tells Woodrup he is “penis cancer in human form”
27 (Aw. 102). *Frisco*’s line is a callback, paying off Jenna’s herbal vaccination from
28 Act 1, and a medical jibe suits a doctor. In *The Holdovers* nothing prepares it, and a

1 teacher of ancient civilizations reaches for a medical insult. (Beat 22(h); Exhibit G
2 at Table 32 (p. 46).)

3 236. **The step-parent reduced to money (Tapinosis).** Willis/Paul assumes
4 a living parent; Amy/Angus replies that the parent is dead; Willis/Paul questions it;
5 and Amy/Angus identifies the step-parent and dismisses that person with the word
6 “just” and a line that reduces them to money. This is a tapinosis, or belittling
7 description, and Amy/Angus uses not just the same device but the same
8 construction: *Frisco*: “My mom’s dead.” ... “just the woman that is going to inherit
9 my trust fund” (Fr. 8). *The Holdovers*: “My father’s dead.” ... “just some rich guy
10 my mom married” (Aw. 67; Film 1:16:44; Exhibit G at Table 33 (p. 46).)

11 237. **The put-down in the Companion’s defense (Double Meaning and**
12 **Simile).** When a teenager is rude about the Companion’s work, Willis/Paul defends
13 her not with a rebuke but with a figure of speech, and it closes the scene. *Frisco*: a
14 double meaning, “I have a severe pain in the neck” (Fr. 50). *The Holdovers*: a coarse
15 simile, “life is like a henhouse ladder -- shitty and short” (Aw. 25). (Exhibit G at
16 Table 34 (p. 47).)

17 238. **The verdict on his barb (Diacope).** When Willis/Paul lands a cutting
18 reply, Amy/Angus concedes the hit in a diacope, a word repeated after a brief
19 interruption, here a form of address, the over-familiar “Jeff” and the over-deferential
20 “sir” doing the same work. *Frisco*: Willis: “Well, you should have thought about
21 that before you broke curfew.” Amy: “Harsh, Jeff. Very harsh” (Fr. 60). *The*
22 *Holdovers*: Paul: “Too bad everyone dislikes you. Pretty much hates you.” Angus:
23 “Touché, sir. Touché” (Aw. 86; Exhibit G at Table 35 (p. 48).)

24 3. **Shorter matched exchanges.**

25 239. Beyond the level of scenes and rhetorical devices, numerous short
26 exchanges built from the same moves in the same order advance plot and character
27 in identical ways.

28 240. **Amy/Angus as Willis/Paul’s romantic adviser.** Amy/Angus points

1 out a romantic possibility to Willis/Paul: Amy tells Willis that Valerie likes him (Fr.
 2 74); Angus tells Paul that he and Miss Crane “have chemistry” (Aw. 47–48). It is
 3 then pushed further: Amy/Angus proposes that he have sex with a woman who has
 4 just left the scene; he appeals to principle, Willis: “I’m married. I made a vow. That
 5 doesn’t mean much at your age” (Fr. 77) / Paul: “Call me old-fashioned, but I place
 6 value on physical intimacy” (Aw. 77); Amy/Angus bluntly challenges his actual sex
 7 life, “She makes you sleep in the garage!” / “You’ve never had sex, have you?”; and
 8 he retreats to a claim of hidden depth, Willis: “Our love is more complicated than
 9 you could ever understand” / Paul: “there was a time when the fire in my loins
 10 burned white hot” (Fr. 77; Aw. 77; Film 1:28:54; Exhibit G at Table 36 (p. 48-49)).

11 241. **The doctor cut off.** Willis/Paul begins a measured description of a
 12 colleague with the title of doctor, breaks off or is cut off mid-sentence, and a woman
 13 or girl completes it with a coarse epithet, a bathos from the measured to the vulgar.
 14 *Frisco*: Willis: “Dr Turner is a very good physician. She is a Stanford graduate
 15 and”; Amy: “She’s a mewling quim” (Fr. 28). *The Holdovers*: Paul: “Dr. Woodrup
 16 is, how can I put this—”; Miss Crane: “A pompous ass with a dictator complex”
 17 (Aw. 48; Exhibit G at Table 37 (p. 50)).

18 242. **The leverage.** Willis/Paul’s job hangs on one more complaint, and
 19 Amy/Angus turns that into leverage over him to get something that keeps them
 20 together.

21 (a) **The hold is made explicit.** Amy: “Maybe I’ll get her to complain if
 22 you don’t share.” Angus: “Oui, monsieur. Now you owe me.”

23 (b) **He resists.** “Willis is still looking hesitant.” Paul: “Do not try to
 24 leverage me, Mr. Tully.”

25 (c) **The ask is made to sound small.** Amy: “I absolutely promise you
 26 it is not going to be awkward... We don’t even have to talk to
 27 one another.” Angus: “All I’m looking for is little thank you that
 28 I did something nice for you.”

(d) **He gives way, and the next scene has them spending more time together:** sharing his berth on the train; at the tavern. (Fr. 25, 28–29, 44; Aw. 42–46; Exhibit G at Table 38 (p. 51-52).)

243. **The medication excuse.** Amy/Angus says something indiscreet about sex or romance; Willis/Paul puts it down to medication; and Amy/Angus rejects the excuse and presses the point. Amy: “I really want to have sex with a boy... But time is short so I’d probably settle.” Willis: “Amy is on medication. It makes her loopy.” Amy: “I’m only on Tylenol. It doesn’t make me loopy” (Fr. 31). Angus: “You two have chemistry” (*see above*). Paul: “That’s the Percodan talking.” Angus: “Seeing her like this, I think she’s pretty attractive” (Aw. 48; Exhibit G at Table 39 (p. 53)).

244. **“No wonder.”** A “how long” question confirms a lasting condition; the man assents; Amy/Angus answers with a “no wonder” that ties it to his failure with women; and he is stung. Amy: “You’ve been too busy to have fun since nineteen ninety-eight?” Willis: “Yeah.” ... Amy: “Then it’s no wonder your wife wants a divorce.” Willis: “What?” (Fr. 61–62). Angus: “Wow. Your whole life?” Paul nods. Angus: “No wonder you’re afraid of women.” Paul, stung: “I am not afraid of women. Jesus” (Aw. 53; Exhibit G at Table 40 (p. 53)).

E. Theme.

245. The central theme of both works is youthful vitality set against weary adult cynicism: the risk that vitality is lost in adulthood, and the possibility of recovering it. In *Frisco*, Willis puts it to a young patient: “Right now, you have a twinkle in your eye. You don’t know it is there... when I bring my grandchildren in to see you in thirty years’ time, I want it to still be there” (Fr. 117). In *The Holdovers*, Elise (Angus’ love interest) expresses the same idea by quoting Picasso: “every child is an artist. The problem is remaining an artist when we grow up” (Aw. 60; Exhibit G at Table 41 (p. 54)).

246. As *The Holdovers*’ Picasso quote shows, the broad theme in isolation is an unprotectable idea. What is claimed here are the precisely matched devices

1 through which both works express this theme.

2 247. **The stopped life and the abandoned child.** Each work sets the theme
3 up through the two specific contrasting characters delineated above and the
4 relationship that unfolds through the same beats (*see* Characters, the Man and the
5 Teenager). (Exhibit G at Table 42 (p. 54).)

6 248. **The shared interest and the forgotten dream.** Willis/Paul shares a
7 niche historical interest with Amy/Angus: the Beat Generation in *Frisco*, ancient
8 history in *The Holdovers*. The interest is established at their first encounter. Willis
9 picks up Amy's copy of *On the Road* ("You like Kerouac?", Fr. 9); Angus earns a
10 B+ in Paul's class while his classmates receive Cs, Ds and Fs (Aw. 10). Later
11 Amy/Angus knows enough to challenge Willis/Paul: Amy corrects Willis's
12 misattribution of "Howl" to Kerouac (Fr. 24); Angus answers Paul's warning about
13 crossing the Rubicon with "Alea jacta est" (Aw. 41; Exhibit G at Table 43 (p.55-
14 56).)

15 249. Willis/Paul has an unfulfilled youthful ambition rooted in the shared
16 interest, dating from his youth and requiring travel for a specific purpose. Willis
17 wanted to "drive across America... Find the pearl,"⁵¹ but instead "went to college";
18 Paul hopes to go to Carthage to finish a monograph he began "in college" (Fr. 9;
19 Aw. 37). The exchange that establishes this runs through the same five moves in
20 both, from a tangential question to a scolding, in *Frisco*: "How depressingly square"
21 (Fr. 9) / in *The Holdovers*: "You can't even have a whole dream, can you?" (Aw.
22 37; Film 0:45:03); the listener is Amy in one work and Mary in the other. (Exhibit G
23 at Table 44 (p. 57-58).)

24 250. In the second half of Act 2, the characters visit a place tied to the

25 _____
26 ⁵¹ Willis is here referencing a recurring motif in Jack Kerouac's classic Beat-
27 generation novel, On the Road, which introduces it thus: "Somewhere along the line
28 I knew there'd be girls, visions, everything; somewhere along the line the pearl
would be handed to me."

1 shared interest and bicker there: in *Frisco*, the Sixth Gallery, “where Allen Ginsberg
 2 first performed ‘Howl’” (Fr. 81–82); in *The Holdovers*, the Greek galleries of the
 3 Museum of Fine Arts (Aw. 77–78). Late in both works, a book recalls the interest:
 4 the copy of *On the Road* from which Willis reads to Amy (Fr. 109); the copies of
 5 *Meditations* Paul gives away and keeps, seen as Paul packs (Aw. 70, 103).

6 251. The man’s long-lost dream supplies each work’s ending: Willis/Paul’s
 7 tentative announcement that he may now pursue it, and the drive away (Beats 23–
 8 24).

9 252. **The untenably low standing at work.** Both works measure
 10 Willis/Paul’s untenably low standing at his institution with the same two devices,
 11 each used in the same way. (Exhibit G at Table 45 (p. 59-60.).

12 253. The first device is an object that shows his work going unrewarded
 13 while others are honored: in *Frisco* the billboard that advertised the hospital but
 14 featured the Handsome Man in Willis’s place (Fr. 5); in *The Holdovers*, the cognac
 15 the Board of Trustees gifted the headmaster, even though Paul is the one stuck there
 16 over the holidays (Aw. 6). In each, the object returns as he leaves with its meaning
 17 reversed: the billboard now carries an advertisement featuring a pearl, the object of
 18 the dream Willis abandoned (“Find the pearl,” Fr. 9, 118); Paul takes the
 19 headmaster’s cognac with him, swigs it and spits it out the window (Aw. 106).

20 254. The second device is a successful double: a peer whom Willis/Paul
 21 recognizes on encountering him in the city, who appears in only one scene, with a
 22 wife or women beside him, and who has the professional and personal success
 23 Willis/Paul lacks. In *Frisco*, he is the billboard actor himself, met in the hotel bar
 24 (Fr. 65–67); in *The Holdovers*, he is Hugh Cavanaugh, Paul’s former classmate, met
 25 in Boston (Aw. 79–81). In each, the encounter is set up to wound Willis/Paul, but
 26 the tables are turned: the billboard actor confesses he is as unhappy as Willis, and
 27 Paul, with Angus’s help, leaves Hugh believing he has landed on his feet (*see*
 28 *Characters, the Successful Double*). Each work also states the man’s standing in

1 terms of his perceived low pay: In *Frisco*, “Bill Drake’s job rewards him with actual
2 money” (Fr. 106); in *The Holdovers*, “zero respect and even less pay” (Aw. 83).

3 255. **The way the relationship changes Willis/Paul.** Willis/Paul’s new
4 regard for the teenager is made explicit in a speech made in the presence of the
5 adults who have failed that child—including the neglectful mother figure—in the
6 same three elements, differently ordered: he acknowledges the teen’s difficult
7 temperament: in *Frisco*, Amy “took absolutely no shit from anybody”; in *The*
8 *Holdovers*, “He’s a pain in the ass, sure”. The man stresses how short a time the two
9 have spent together: Willis on Amy: “even though I only knew her for a short time”
10 / Paul on Angus: “I just spent two solid weeks with him”. And he insists on the
11 teen’s worth and potential that has been or risks being wasted—Willis says Amy
12 “would have made more of even one more week of life than any of us in this room
13 have done in years” (Fr. 112); Paul describes Angus as “also really smart” with
14 “enormous potential,” so that removing him from the school “would be devastating”
15 (Aw. 102).

16 256. The change in the Man is likewise shown through three matched
17 choices. First, he enjoys himself with Amy/Angus in a way unimaginable at the start
18 (Beat 18). Second, back home or back at the school he openly breaks a “not in here”
19 rule. Third, having learned from the child’s defiance, he defies the boss and the
20 institution to which he grudgingly acquiesced at the start, by refusing to placate a
21 pair of aggrieved parents.

22 257. **The bittersweet conclusion.** Willis/Paul’s predicament is resolved and
23 he is set free to follow his dream; Amy/Angus’s situation is less fully repaired. Each
24 gets the wish pursued in the city, Amy’s is a romantic one and Angus’s wish is to
25 see his father, yet Amy dies (Fr. 110), and Angus still has the Librium, an
26 institutionalized father, a neglectful mother and stepfather who wanted him sent
27 away (Aw. 85, 101). The imperfect ending is the theme’s last word: the child’s
28 vitality is what the adult has recovered, and it is the child who may not get to keep

1 it.

2 **F. Mood.**

3 258. The two works share an unusually poignant and bittersweet tone, and in
 4 both, the primary cause is the same: beneath the sparky verbal interplay between
 5 Willis/Paul and Amy/Angus, each story is overshadowed by the recent or impending
 6 death of a young person. In *Frisco* we learn by page 9 that fifteen-year-old Amy is
 7 dying (“Tell me about [sic]. I’m dying too”); in *The Holdovers*, we learn on page 12
 8 that Curtis Lamb, Mary’s son, recently died at nineteen, the chapel’s opening close-
 9 ups ending on “a portrait of CURTIS EZRA LAMB... with a plaque bearing the
 10 dates 1951-1970” (Aw. 12). Neither work foregrounds the young person’s death;
 11 instead, each returns to it throughout the narrative: Amy’s fear on the train (Fr. 45–
 12 46), her vomiting (Fr. 40, 95), her end (Fr. 109–110); Curtis in the chapel service
 13 (Aw. 13–14); the box of baby clothes Mary carries to her sister’s (Aw. 57, 75), the
 14 sister’s baby to be given Curtis’s name (Aw. 104).

15 259. Two other elements make the deaths a close match. Curtis is introduced
 16 in the end-of-term service, but *The Holdovers* stages it like a funeral, and
 17 particularly as *Frisco* stages Amy’s funeral: the portrait or photograph at the front, a
 18 clergyman who concedes the congregation’s impatience, “This first song is at least a
 19 short one” / “I know you’re all anxious to start the holidays,” a short tribute to the
 20 dead teenager, and a grieving mother figure in the congregation (Fr. 111–112; Aw.
 21 12–14; Exhibit G at Table 47 (p. 62).).

22 260. In both works, the death brings tears on a single occasion, by the same
 23 mechanism: anachronistic music the dead teenager chose or loved is played in
 24 company; the choice draws a reservation or an objection, the minister’s “I’m not
 25 sure it is what any of us would have chosen” / a guest’s “something a little hipper”;
 26 and the character who has kept a composed face through the story breaks, Willis
 27 “openly weeping, the first time in years” at the second song of Amy’s funeral (Fr.
 28 111–113), Mary sobbing “He’s gone” in the kitchen after the Artie Shaw record

(Aw. 64–66). Despite the matched event, the griever and place in the story differ, so it is pleaded as a contribution to mood and not to story. (Exhibit G at Table 48 (p. 63).).

261. Beneath that long shadow, both works are comedies. Willis/Paul’s humor is verbal, educated and cynical, and it is answered in kind by Amy/Angus, who gives as good as she or he gets and whose own wit is sharp (*see* Characters). The two leads nonetheless also carry a matching sadness, Willis/Paul weary and resigned, Amy/Angus neglected and facing an uncertain future, and it surfaces at the same moments in both (Beats 5, 13).

262. **The trajectory.** The mood moves in step. Both begin with institutional images, downbeat ones among them, with neither lead in frame, and Act 1 continues through isolation and resignation; the sparring lifts the first half of Act 2, with a tense interruption at the emergency, and the second half, from the celebratory meal through the city, is the most cheerful stretch of each work (Beats 15–19). The return is deliberately anticlimactic, Willis/Paul back at work with nothing seeming to have changed (Beat 21). The mood then crashes as Amy’s condition worsens (Fr. 104–110) and Angus and Paul face a serious confrontation (Aw. 98–100). Here the trajectories briefly diverge because the two works play the same two beats in reverse order, *Frisco* the restrained farewell and then the ratcheting tension of the ultimately cathartic confrontation with the boss (Fr. 108–110, 114–115), *The Holdovers* the confrontation and then the farewell (Aw. 99–102, 105–106). Both then close on the same note as Willis/Paul takes to the road (Beat 24): satisfaction, a light-hearted moment with the symbolic object, and optimism about a journey finally begun.

263. **The images that carry the mood.** The Ninth Circuit has recognized the contribution of imagery to the mood of a screenplay (*Shaw v. Lindheim*, 919 F.2d 1353 (9th Cir. 1990)). The key images of *The Holdovers* match images written into *Frisco*, at the same moments, to the same effect.

1	Moment and effect	<i>Frisco</i>	<i>The Holdovers</i>
2	Opening montage of the	“abandoned gurneys,” a	A “New England town in
3	institution, downbeat in	“faded sign,” a “decapitated	decline,” a “shuttered
4	its images of decline,	teddy bear” (Fr. 1); the	textile mill,” a “frigid
5	with neither lead in	empty waiting room, the	campus” (Aw. 1); the
6	frame; in Act 3 a second	plaster room and the	quad, weight room and
7	institutional montage,	nursery under Willis’s	gym, ending in Paul’s
8	again without the leads	voice-over, ending in his	classroom (Aw. 96–97);;
9	until its last shot, ends	clinic (Fr. 115–116; Exhibit	Exhibit G at Table 46 (p.
10	on Willis/Paul at work	G at Table 46 (p. 61)	61)
11			
12	Willis/Paul in a public	“a UNIFORMED POLICE	“In the distance, Angus
13	place, a uniformed figure	OFFICER is interviewing	now bowls with the girls...
14	beside him, Amy/Angus	Willis [a]nd Valerie. A	Drinking and smoking a
15	framed at a distance with	window gives on to	few barstools away is a
16	the opposite sex (Beat	corridor, where Amy and	gin-blossomed SANTA
17	18)	Danny are sitting”; through	chatting with the
18		the window they “have	BARTENDER” (Aw. 86)
19		started kissing” (Fr. 90–91)	
20	Late Act 2 tableau of the	The four “stood in a line.	The script cuts WIDE to
21	group’s bonding, at the	Spread out beneath them	the three around the
22	close of the alcohol	are the night-time lights of	flaming container (Aw.
23	sequence: the group	the city,” at which they	94–95); the Film holds the
24	together against the dark,	stare (Fr. 85)	shot, the three close
25	with a light before them		together in the dark lot, lit
26			by the fire (Film 1:52:34)
27	Willis/Paul’s “not in	Willis closes the guest-	The three are seen through
28			

1	Moment and effect	<i>Frisco</i>	<i>The Holdovers</i>
2	here” rule-breaking, seen	room door on his family,	the window, from outside,
3	from outside the room	and the scene ends outside	after the M-80 goes off
4		the room where the rule-	(Aw. 96; Film 1:54:10)
5		breaking is completed (Fr.	
6		111)	
7			
8			
9	Willis/Paul’s last words	Willis reads aloud; Amy	Paul says “See ’ya” as
10	to Amy/Angus as they	closes her eyes as he reads	Angus runs into the
11	leave his life	(Fr. 109–110)	distance (Aw. 106),
12			delivered thirteen seconds
13			after Angus’s, once he is
14			far away (Film 2:07:34,
15			2:07:47)

16 **G. Setting.**

17 264. What the works share is a set of corresponding locations, each hosting
18 the corresponding event. At the institution that hosts Acts 1 and 3: the boss’s
19 meeting room or office, scene of both meetings (Beats 3, 22); the staff dining room
20 in which he sits alone, or his chair is empty (Beat 3); the hospital balcony or school
21 quad where the teenager smokes; and the ward or classroom where he is seen back
22 at work in his first-scene clothes (Beat 21). In the city: an attraction peculiar to the
23 city, the Pier 39 sea lions or a candlepin bowling alley, where the fun reaches its
24 height (Beat 18); a place tied to the shared interest, the Sixth Gallery or the Museum
25 of Fine Arts (Beat 17); and a nightclub or restaurant the group must leave after the
26 alcohol incident. Where *The Holdovers* stays at the school longer, its locations do
27 the same work: an emergency room near the school, a school corridor for a San
28 Francisco street, a hospital admissions desk for a hotel reception, and the school

1 auditorium, where Paul finds Angus at the piano, for the bookstore where Willis
2 finds Amy enraptured by a poetry reading. (Exhibit G at Table 49 (p. 64).).

3 **H. Selection and Arrangement.**

4 265. Copyright protects the selection and arrangement of elements that are
5 individually unprotectable, where the combination is numerous enough to be an
6 expressive choice and the combination itself is what was taken (*Metcalf v. Bochco*,
7 294 F.3d 1069, 1074 (9th Cir. 2002)). Stephenson pleads that claim in addition to,
8 and in the alternative to, the claims above: the twenty-four elements of Exhibit G,
9 the scenes set out in Tables 16-49, and the characters who carry them, selected and
10 arranged into the same sequence and, through the middle of each work, onto the
11 same story days. The emergency illustrates the point. A teenager in a man's care is
12 hurt and taken to hospital in many stories; the argument about the man's authority,
13 the dramatic irony and lofty pronouncement that precedes the collapse, the episode
14 that looks grave and proves manageable, the same-evening discharge, the woozy
15 comic demand, the man's whisky that evening, and the single story day on which all
16 of it falls, the sixth in each work, are choices, and *The Holdovers* makes every one
17 of *Frisco's* in *Frisco's* order.

18 **FIRST CLAIM FOR RELIEF**

19 **(Copyright Infringement against all Defendants)**

20 266. Plaintiff repeats and realleges each and every allegation contained in
21 the preceding paragraphs as though fully set forth herein.

22 267. Plaintiff Simon Stephenson is the owner of a valid copyright in the
23 original screenplay *Frisco*, including the registered work identified by Copyright
24 Registration Nos. PAU004214821 and TXu 2-566-622.

25 268. *Frisco* is an original work of authorship fixed in a tangible medium of
26 expression and protected under the Copyright Act, 17 U.S.C. §§ 101 et seq.

27 269. Plaintiff owns the exclusive rights set forth in 17 U.S.C. § 106,
28 including the exclusive rights to reproduce, prepare derivative works from,

1 distribute, publicly perform, publicly display, license, and otherwise exploit *Frisco*.

2 270. Defendants had access to *Frisco* as alleged herein.

3 271. Defendants copied protected expression from *Frisco* and adapted it into
4 successive drafts of *The Holdovers*, the completed screenplay, the motion picture,
5 and other derivative materials as alleged herein

6 272. Each draft of *The Holdovers* that incorporated *Frisco*'s protected
7 expression is a separate work under 17 U.S.C. § 101 and a separate unauthorized
8 derivative work under 17 U.S.C. § 106(2). These include the May Draft, the
9 September Draft, the Awards Draft, and, on information and belief, earlier drafts not
10 yet produced. Each copy of each draft that Defendants made or transmitted is a
11 separate unauthorized reproduction under § 106(1), and each draft distributed to
12 others is an unauthorized distribution under § 106(3). This includes copies delivered
13 to Miramax and to producers, cast, and crew, and copies of the Awards Draft
14 distributed to awards voters and members of the entertainment industry.

15 273. Defendants copied protected expression from *Frisco* and adapted that
16 expression into drafts of *The Holdovers*, the completed screenplay, the motion
17 picture, and other derivative materials.

18 274. As alleged herein, *The Holdovers* is substantially similar to *Frisco* in
19 myriad ways, including with respect to overall story progression, narrative structure,
20 character relationships, sequence of events, scene construction, dialogue
21 architecture, thematic development, pacing, and the selection and arrangement of
22 expressive elements.

23 275. By preparing each draft of *The Holdovers*, and by creating, producing,
24 distributing, and exploiting the completed screenplay and Film, Defendants
25 infringed Plaintiff's exclusive rights to reproduce *Frisco* and to prepare derivative
26 works based upon *Frisco*, in violation of 17 U.S.C. §§ 106(1), 106(2), and 501.

27 276. *The Holdovers* is an unauthorized derivative work based on *Frisco*.

28 277. Defendants infringed Plaintiff's exclusive rights under 17 U.S.C. § 106

1 by, among other things:

- 2 i. Reproducing copyrighted portions of *Frisco*;
- 3 ii. Preparing derivative works based upon *Frisco*;
- 4 iii. Distributing copies and derivative works derived from *Frisco*;
- 5 iv. Publicly performing and publicly displaying works derived from
- 6 *Frisco*; and
- 7 v. Licensing, marketing, promoting, and commercially exploiting
- 8 works derived from *Frisco*.

9 278. Defendants Alexander Payne, David Hemingson, Mark Johnson, Gran
10 Via, Honest Scholar, Miramax, Miramax Parent, Focus, UPHE, NBCUniversal, and
11 DOES 1 through 10 participated in, authorized, reproduced, prepared, distributed,
12 licensed, marketed, promoted, exploited, benefited from, or otherwise engaged in
13 conduct constituting copyright infringement.

14 279. On information and belief, Miramax and/or Miramax Parent
15 reproduced, distributed, and used drafts of *The Holdovers* in developing, financing,
16 casting, and producing the Film, including drafts that predate the May Draft.

17 280. On information and belief, Johnson and Gran Via reproduced,
18 distributed, and used drafts of *The Holdovers* in developing and producing the Film.

19 281. Honest Scholar and Miramax, through the chain of title alleged above,
20 authorized and continue to authorize the reproduction, distribution, public
21 performance, and licensing of *The Holdovers*, and derive revenue from its
22 exploitation.

23 282. Focus distributed *The Holdovers* theatrically in the United States and,
24 on information and belief, internationally, and participated in licensing it for
25 streaming.

26 283. NBCUniversal, through UFEG, exhibited the Film on Peacock and
27 licensed it for further exhibition. UPHE reproduced and distributed the Film on Blu-
28 ray, DVD, and digital formats.

1 284. Defendants' infringement has been and continues to be ongoing
2 through the continued production, reproduction, distribution, licensing, streaming,
3 digital distribution, physical-media distribution, television exhibition, public
4 performance, advertising, promotion, and exploitation of *The Holdovers*.

5 285. Each unauthorized reproduction, adaptation, distribution, license,
6 public performance, stream, exhibition, rental, sale, or other exploitation of *The*
7 *Holdovers* constitutes a separate act of infringement.

8 286. Stephenson commenced this action within three years after he
9 discovered, or reasonably should have discovered, Defendants' infringement.
10 Independently, Defendants committed separate acts of infringement within the three
11 years preceding the filing of this action, including unauthorized reproduction,
12 distribution, and public performance of *The Holdovers* through theatrical exhibition,
13 home entertainment, and streaming. Each such act gives rise to a separately accruing
14 claim. Defendants' concealment of their copying, including the removal of *Frisco's*
15 title and authorship information and of telltale details from successive drafts,
16 independently tolls the limitations period.

17 287. As a direct and proximate result of Defendants' infringement, Plaintiff
18 has suffered and continues to suffer damages, including lost licensing opportunities,
19 lost compensation, loss of authorship recognition, lost business and professional
20 opportunities, and diminution in the value of Plaintiff's copyrighted work.

21 288. To the extent alleged herein, Defendants who knew or had reason to
22 know of the infringing conduct of others and induced, caused, or materially
23 contributed to that conduct are liable for contributory infringement. Such
24 Defendants materially contributed to the infringement by participating in and
25 facilitating the development, production, reproduction, distribution, licensing,
26 exhibition, and exploitation of *The Holdovers*. Defendants who possessed the right
27 and ability to supervise or control the infringing conduct of others and derived a
28 direct financial benefit from that conduct are further liable for vicarious

1 infringement. Accordingly, as applicable to their respective conduct alleged herein,
 2 Defendants have directly, contributorily, and/or vicariously infringed Stephenson's
 3 copyrighted work.

4 289. Defendants' infringement was willful and undertaken in conscious
 5 disregard of Stephenson's rights under the federal Copyright Act.

6 290. Defendants have obtained and continue to obtain revenues, profits,
 7 licensing fees, economic benefits, professional benefits, and other advantages
 8 attributable to their infringement.

9 291. Pursuant to 17 U.S.C. § 504(b), Plaintiff is entitled to recover
 10 Plaintiff's actual damages and Defendants' profits attributable to the infringement in
 11 an amount to be proven at trial.

12 292. Defendants' conduct is causing, and unless enjoined by this Court, will
 13 continue to cause Plaintiff great and irreparable injury that cannot fully be
 14 compensated for or measured in money, such that Plaintiff has no adequate remedy
 15 at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction
 16 prohibiting further infringements of his exclusive rights under copyright.

17 **SECOND CLAIM FOR RELIEF**

18 **(For Violations of 17 U.S.C. § 1202 against Alexander Payne)**

19 293. Plaintiff repeats and realleges each of the preceding allegations as
 20 though fully set forth herein.

21 294. Payne received *Frisco* twice: the 2013 Draft, given to his producing
 22 partner Jim Burke in August 2013, and the 2019 Draft, submitted by John
 23 Woodward in 2019 (together, the "*Frisco* Copies"). The title page of each identified
 24 the work by its title, *Frisco*, and identified Plaintiff Simon Stephenson as its author.
 25 That title and author information is copyright-management information within the
 26 meaning of 17 U.S.C. § 1202(c)(2) and (3).

27 295. Plaintiff did not authorize Payne, or any person acting at Payne's
 28 direction or on Payne's behalf, to remove, alter, replace, or conceal the title *Frisco*,

1 Simon Stephenson’s authorship information, or other CMI conveyed in connection
2 with copies of *Frisco*.

3 296. Plaintiff is informed and believes that Payne, or a person acting at his
4 direction, intentionally removed *Frisco*’s title page and authorship information from
5 one or both of the *Frisco* Copies, leaving the screenplay’s text otherwise intact.
6 Because the 2013 Draft and the 2019 Draft are materially identical, the *Frisco*
7 material incorporated into *The Holdovers* is consistent with the use of either copy.
8 Payne knew, or had reasonable grounds to know, that the removal would conceal the
9 source of the material and enable or facilitate its unauthorized use in developing *The*
10 *Holdovers*. That conduct violates 17 U.S.C. § 1202(b)(1).

11 297. Plaintiff is informed and believes that any removal, omission,
12 alteration, or concealment of *Frisco*’s title, Stephenson’s authorship information, or
13 other copyright-management information occurred without Stephenson’s
14 authorization.

15 298. On information and belief, Payne then distributed that copy, or material
16 taken from it, to Hemingson or others working on *The Holdovers*, knowing that its
17 copyright-management information had been removed without authority. Payne
18 knew, or had reasonable grounds to know, that the distribution would enable,
19 facilitate, or conceal infringement, in violation of 17 U.S.C. § 1202(b)(3).

20 299. Plaintiff bases these beliefs in part on Payne’s receipt of the *Frisco*
21 Copies; Payne’s acknowledged role in supplying material to Hemingson and
22 rewriting the screenplay; the “medical conference” line and other remnants of
23 *Frisco* in the earlier drafts of *The Holdovers*, and the substantial similarities alleged
24 throughout this Complaint, particularly the parallel plot points, sequences of events,
25 and other structural similarities.

26 300. By the foregoing conduct, Alexander Payne violated 17 U.S.C. §
27 1202(b)(1), (2), and/or (3).

28 301. As a direct and proximate result of these violations, Plaintiff has

1 suffered damages and is entitled to recover actual damages and Defendants' profits,
2 or statutory damages, together with costs and reasonable attorneys' fees, under 17
3 U.S.C. § 1203.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff Simon Stephenson respectfully requests that
6 judgment be entered in his favor and against the Defendants identified in each
7 applicable Claim for Relief, and that the Court award the following relief:

8 1. An award of Plaintiff's actual damages resulting from Defendants'
9 copyright infringement and contributory and vicarious copyright infringement,
10 together with any profits of Defendants attributable to the infringement that are not
11 taken into account in computing Plaintiff's actual damages, pursuant to 17 U.S.C. §
12 504(b), in an amount to be proven at trial;

13 2. An award of Plaintiff's actual damages and any profits attributable to
14 violations of 17 U.S.C. § 1202, or, at Plaintiff's election and to the extent permitted
15 by law, statutory damages for each violation pursuant to 17 U.S.C. § 1203;

16 3. Preliminary and permanent injunctive relief, as permitted by law,
17 enjoining Defendants and their officers, agents, servants, employees,
18 representatives, licensees, distributors, and all persons acting in concert or
19 participation with them from further infringing Plaintiff's copyright in *Frisco*,
20 violating 17 U.S.C. § 1202, or otherwise engaging in the unlawful conduct alleged
21 herein, including further unauthorized reproduction, distribution, licensing, public
22 performance, public display, or other exploitation of material copied or derived from
23 *Frisco*;

24 4. Such further restitutionary, injunctive, and other equitable relief as the
25 Court deems appropriate, including relief necessary to prevent Defendants'
26 continued unauthorized exploitation of Plaintiff's copyrighted work and to prevent
27 Defendants from retaining benefits wrongfully obtained from Plaintiff;

28 5. An award of Plaintiff's reasonable attorneys' fees and costs to the

1 extent authorized by 17 U.S.C. § 1203 and any other applicable law;

2 6. An award of pre-judgment and post-judgment interest at the maximum
3 rate permitted by law;

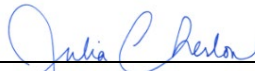
4 7. An award of Plaintiff's costs of suit; and

5 8. Such other and further legal and equitable relief as the Court deems just
6 and proper.

7
8 DATED: October 28, 2026

Julia B. Cherlow
Desiree Moshayedi
Bird, Marella, Rhow,
Lincenberg, Drooks & Nessim, LLP

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Julia B. Cherlow

14 Attorneys for Plaintiff Simon Stephenson
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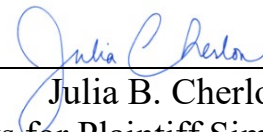
DEMAND FOR A JURY TRIAL

By his undersigned attorneys, Plaintiff hereby demands a jury trial.

DATED: October 28, 2026

Julia B. Cherlow
Desiree Moshayedi
Bird, Marella, Rhow,
Lincenberg, Dooks & Nessim, LLP

By: _____



Julia B. Cherlow

Attorneys for Plaintiff Simon Stephenson