

STATE OF NEW YORK
COUNTY OF NEW YORK
City of New York

being duly sworn, says that on
the day of 193 at No. in the City of New York, he served a copy of the annexed upon
to have known to be the Attorney
for the herein, by delivering the same to and leaving it with a person of suit-
able age and discretion, having charge of the office of the said Attorney during the absence of said Attorney
therefrom.

Sworn to before me this
day of 193

Commissioner of Deeds, Notary Public, N. Y.

YEAR 19

INDEX

Plaintiff

against

Defendant

ORIGINAL

O'BRIEN, DRISCOLL & RAFFERTY

Attorneys for
Office and Post Office Address

152 West 42nd Street
New York City

Yours, Res.

Die and timely service of a copy of the within

is hereby attested

Dated 19

Attorney for

Please to take notice that the within is a true
copy of a
this date and entered in the within number
and filed in the Office of the Clerk of
the day of 19

O'BRIEN, DRISCOLL & RAFFERTY
Yours, Res.

Attorneys for
Office and Post Office Address
152 West 42nd Street
Knickerbocker Bldg.
New York City

To Attorney for

Please to take notice that an order of which the
within is a true copy will be presented for sub-
mission and entry herein to Mr. Justice
this Court at
on the day of 19
at 10 o'clock in the forenoon.

Yours, Res.

O'BRIEN, DRISCOLL & RAFFERTY

Attorneys for
Office and Post Office Address
152 West 42nd Street
Knickerbocker Bldg.
New York City

Attorney for

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
JESSICA M. HILL, :
 :
 Plaintiff, :
 :
 -against- : Equity #78-350
 :
 SAM H. HARRIS, SAM H. HARRIS :
 THEATRICAL ENTERPRISES, INC., IRVING :
 BERLIN AND MOSS HART, :
 :
 Defendants. :
----- X

ANSWERS TO INTERROGATORIES PROPOUNDED TO
SAM H. HARRIS THEATRICAL ENTERPRISES, INC.

1. What office does Sam H. Harris hold in Sam H. Harris Theatrical Enterprises, Inc.

Answer: Sam H. Harris is President and Treasurer of Sam H. Harris Theatrical Enterprises, Inc.

2. How many shares of stock does said Sam H. Harris own in said corporation?

Answer: No answer.

3. What is the number of issued and outstanding shares of stock in said corporation?

Answer: No answer.

4. Produce the script for the skit entitled "World's Wealthiest Man Celebrates 95th Birthday" as presented in the musical production entitled "As Thousands Cheer".

Answer: Attached hereto is script and marked Exhibit "A".

5. Did the said corporation procure the consent of the plaintiff or Clayton F. Summy Co. to the use of the musical composition "God Morning to All" in said production. If so, who on behalf of said corporation procured such consent.

Answer:
No.

6. Was such production presented to the public by said corporation?

Answer:
Yes.

7. Was the public charged admission to view and hear such production?

Answer:
Yes.

8. Did said corporation receive any portion of such admission charge?

Answer:
Yes.

9. What was the date upon which "As Thousands Cheer" was first presented to the public?

Answer:
September 9, 1933.

10. Where and in what theatre was such first presentation made?

Answer:
Forrest Theatre, Philadelphia, Pa.

11. What was the date upon which "As Thousands Cheer" was first presented in New York City to the public?

Answer:
September 30th, 1933.

12. In what theatre was such first New York City presentation made?

Answer:
Music Box.

13. How many performances of said production were presented to the public from the date of its presentation to the date of its first New York City presentation?

Answer:
Twenty-one (21)

14. How many performances of said production were presented to the public in New York City by such corporation?

Answer:
Four hundred three (403).

15. How many performances of said production were presented to the public other than as set forth in the answers to questions 13 and 14 by said corporation?

Answer:
Two (2)

16. Where and when were the performances, if any set forth in answer to question 15, given by said corporation?

Answer:
Music Box Theatre.
(1) April 17, 1934- Actors Fund Benefit
(2) January 28, 1934- Stage Relief Benefit

17. Were the following hired by defendant?-

(a) Actors and actresses appearing in "As Thousands Cheer".

Answer:
(a) Yes.

(b) Stage hands used in production of "As Thousands Cheer:"

Answer:
(b) No.

(c) Box Office staff of production of "As Thousands Cheer:"

Answer:
(c) No.

(d) Supervisory Staff of production of "As Thousands Cheer:"

Answer:
(d) Do not know what is meant by "supervisory staff."

(e) Technical staff of production of "As Thousands Cheer:"

Answer:
(e) Do not know what is meant by "Technical staff".

(f) Orchestra used in production of "As Thousands Cheer:"

Answer:
(f) No.

18. Was any song or ditty sung in the skit entitled "World's Wealthiest Man Celebrates 95th Birthday"

Answer:
No answer.

19. Was such song or ditty as sung accompanied by the orchestra:

Answer:
No answer.

20. Was any song or ditty recited in the skit "World's Wealthiest Man Celebrates 95th Birthday" as presented in the production "As Thousands Cheer"?

Answer:
No answer.

21. Was such recitation accompanied by the orchestra?

Answer:
No answer.

22. Set forth the words of such song or songs, ditty or ditties, recitation or recitations, as used in said skit.

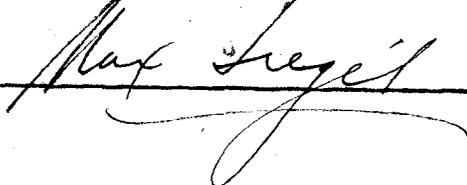
Answer:
No answer.

23. Set forth the score of any music played in accompaniment to any song, ditty, or recitation as presented in said skit.

Answer:
No answer.

SAM H. HARRIS THEATRICAL ENTERPRISES,
INC.

By



O'BRIEN, DRISCOLL & RAFTERY,
Attorneys for Defendants,
Office & P. O. Address,
152 West 42nd Street,
Manhattan, City of New York

STATE OF NEW YORK)
) : ss:
COUNTY OF NEW YORK)

Max Siegel, being duly sworn, deposes and says, that he is the Asst. Treasurer of SAM H.

HARRIS THEATRICAL ENTERPRISES, INC., one of the defendants in the within action; that he has read the foregoing answers to interrogatories and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true. That the reason why this verification is made by deponent and not by Sam H. Harris Theatrical Enterprises, Inc. is that said defendant is a corporation and deponent an officer thereof, to wit Asst. Treasurer.

Sworn to before me, this)
25 day of March, 1935.)

Morris Jacobs

Max Siegel
MORRIS JACOBS
NOTARY PUBLIC
KINGS CO. CLK'S No. 167, REG. No. 5114
N.Y. CO. CLK'S No. 245, REG. No. 51159
COMMISSION EXPIRES MARCH 30, 1935

EXHIBIT "A"

"WORLD'S WEALTHIEST MAN CELEBRATES
NINETY-FOURTH BIRTHDAY."

"WORLD'S WEALTHIEST MAN CELEBRATES
NINETY-FOURTH BIRTHDAY."

(OPENING)

Mrs. Rockefeller
Now children, you'd better go into the dining room until we're ready for you. Your father and I have something to talk over with Grandpa.

(The CHILDREN murmur a "yes, Mother" and move toward the large double doors at the back, center.)

You sure you know what to do, When you hear your father shout: "Surprise" you all come in with the cake singing: "Happy Birthday, dear Grandpa, happy birthday to you!"

(Another "yes, Mother.")

Junior
Not until you hear me shout surprise.

Children
Yes Father, we understand.
(Exit C.)

Mrs. Rockefeller
(Ad lib)
"Happy Birthday to you."

Reporter
(Offstage)
May we have just one more picture, Mr. Rockefeller. Turn your face a little more to the left - thank you very much.

Mrs. John D. Jr.
Now, John, you've got to tell him, so you might as well make up your mind and get it over with.

Junior
I know, my dear -- but it isn't going to be easy.

Mrs. John D. Jr.
Well, it's no use crying now. I don't know what you wanted to build the thing in the first place for.

Reporter
(Offstage)
Thank you, Mr. Rockefeller. Thank you very much.

John D.

(Enters up R.)
That gentlemen, is my recipe for a hearty old age.

A Reporter

Mr. Rockefeller, have you a birthday message we can give to the public, Some one great thing you've learned from life?

John D.

Well, sir, I'm 95 years old today, and a man learns a lot by the time he reaches that age.

(The REPORTERS laugh appreciatively)

I think the one great thing I've learned in my life, gentlemen, is to hold on to your money.

(The REPORTERS write busily)

I've been through a lot of depressions in my time and the only thing I've learned is to sit tight. Sit tight and no foolishness. That's all.

The Reporters

Thank you, Mr. Rockefeller.

John D.

Oh, just a minute, boys. Here's a little something for you to remember my birthday with.

(He plunges his hand into his pocket, brings out a handful of silver, and distributes a single piece to each reporter)

A Reporter

Why, Mr. Rockefeller - these are nickels!

John D.

Well, it's been a pretty tough year for all of us.

(REPORTER exits R.)

Well, my dears, they took some very nice pictures of me. Very nice pictures indeed.

Mrs. John D. Jr.

I'm so glad. You always take a good picture, Father.

John D.

It's been a very nice birthday, hasn't it,

Mrs. John D. Jr.

Lovely. And it isn't over either. The day's young yet. I always say you never can tell what a birthday has in store for you until the very end.

John D.

Yes I always like birthdays. Junior! Don't you think that was a good birthday message I gave them. Sit tight and hold on to your money?

Junior

Yes. Yes, indeed, Father.

JOHN D.

Pretty nice thing to be able to say on your 95th birthday the family fortune is still intact, eh, Junior, 'Tisn't everybody that can say so.

Junior

Yes. Yes, indeed.

John D.

And the only way to do it is to put your money in the ground. Oil! I never held to any of these real estate speculations even when land was cheap. No sir!

Mrs. John D. Jr.

O, now I don't know, Father - some real estate is good.

John D.

None of it's any good. None of it. You take my advice. You let the other fellows put up the buildings -

(There is a slight pause during which MRS. JOHN D. JR. motions frantically to her husband and whispers huskily: "Go on! Tell him! Go on!")

John D.

(Catching the last of one of her frantic gestures, and interpreting it in his own way)

Na! Na! Na! Ah!! Now children -- you haven't been going about and spending a lot of money on a birthday present for me, have you?

Junior

(Choking)

Why - why --

John D.

Lot of foolishness, I always said. Couple of handkerchiefs and a pair of socks is a good enough present for anybody.

Mrs. John D. Jr.

(Forcing the issue)

Oh, but not good enough for you, Father. John's got a real birthday present for you! Haven't you, John!

Junior

Yes.

John D.

Well, that's very nice now, Junior. What is it,

Junior

Radio City.

John D.
Well, I'm sure I appreciate it, Junior, but you take it back to the store and get your money. I never listen to 'em - and they're always getting out of order, anyway. Wouldn't have one in the house. Wouldn't have one on the premises.

Mrs. John D. Jr.

(As JUNIOR stands helpless)
But Father, this isn't a radio - it's Radio City!

John D.
Rady City?

Junior
Yes.

John D.
What's that?

Junior
Why -- it's a City, Father!

John D.
A city? Who se city?

Junior
It's your city. All yours! It's my birthday present to you!

(The old man stares at him unbelievably)

Mrs. John D. Jr.
Tell Father about it, John.

Junior
O, it's a wonderful thing, Father! Got the largest theatre in the world in it! 6500 seats! Wait till you see it!

Mrs. John D. Jr.
Wait till he takes a peek at that stage, eh, John? With the hydraulic curtain and the rising orchestra! And the ushers in full dress!

John
And it's got another awful cute theatre in it too, Father. It's only got 3000 seats. We call it Dingbat up at Radio City.

Mrs. John D. Jr.
And the office building, John --

Junior
Eighty stories high, Father - and a sunken plaza with gardens and fountains.

Mr. & Mrs. John D. Jr.
Doesn't it sound wonderful?

(A pregnant pause, then:)

John D.
Junior - you sell it right back to whoever sold it to you!
Somebody took you over!

Junior
But - I didn't buy it from anybody. I built it myself.

John D.
You what?

Mrs. John D. Jr.
He built it for you, Father -- as a birthday present!

John D.
Now - wait a minute. One minute, please. You mean to say this
thing is all built?

Mrs. John D. Jr.
O, yes. You really can't miss it if you walk past 50th Street
and Sixth Avenue. It's a lot of buildings and it says Radio
City. You can't miss it.

John D.
What did it cost?

Junior
Well, we don't know yet, Father - they're still building. At
first we figured about 50 million but as we got into it we --

Mrs. John D. Jr.
They've really been very thrifty. They were going to build an
Opera House, too - but they just held themselves back!

John D.
How many tenants in that 80 story building?

Junior
Well, there's just ourselves and the ushers and a man named
Arthur Vogel for the time being --

John D.
Those theatres making money?

Mrs. John D. Jr.
Well, you see, Father it's kind of an out of the way place -
50th Street and 6th Avenue. And we've just had the Jewish
Holidays, too.

John D.
Junior - that's no birthday present! That's a dirty trick!

Junior
Why, Father!

day present! Why didn't you buy me muscle chairs, too. Eighty story building - 6500 seats - how could you do such a thing! Answer me that! How could you ever get into such a thing in the first place?

(JUNIOR stands helpless)

John D.
(Ad Lib)

"Poppycock."

Mrs. John D. Jr.
Go ahead and tell him, John. Tell him the truth! It really wasn't his fault at all. He didn't know what they were building until the first theatre was all done, did you?

Junior
I thought it was something for the Red Cross for a whole year.

Mrs. John D. Jr.
Go ahead and tell him the whole thing, John.
(A pause)

John D.
6500 seats! Well?

Junior
Well, about two years ago it was raining. I was sitting in my office. Sometimes I think if it hadn't been raining that afternoon the whole thing wouldn't have happened. I was just about to leave when my secretary said Roxy wanted to see me.

John D.
What's that?

Junior
Well, it's -- well, he's rather hard to explain, Father.

Mrs. John D. Jr.
He's a man who goes around building big theatres for people.

John D.
Ought to be put away, a man like that.

Mrs. John D. Jr.
O, he isn't dangerous. Once he sees the cement being mixed he's as gentle as a child.

Junior
Anyway, he came in and said wouldn't it be wonderful if New York City had the largest theatre in the world. I said: "Yes, it certainly would" - and he went away. Just like that it happened. I didn't think much about it at the time -- never even mentioned it at home that night, did I?

Mrs. John D. Jr.

First thing I knew about Radio City was when John kept coming home with mud on his shoes.

Junior

Well, Father, the next thing I knew there I was standing in a big excavation on 50th Street and Sixth Avenue. After that the only thing left to do was to paint the elevated station aluminum.

Mrs. John D. Jr.

He even tried to turn it over to the Government for a War Memorial, but they never even answered his letter.

Junior

That was when I got the idea of giving it to you as a birthday present, Father.

(Utter silence)

(The OLD MAN is trying to speak but seems to be having some difficulty in making sounds issue. When he does speak his voice is pretty terrifying.)

John D.

But the building- letting the buildings go up - You must have known about that, didn't you?

Junior

Well yes, Father, I did.

John D.

Oh you did, you did well. Why didn't you tell me about this months ago -- months ago!

Junior

(Tearfully)

I wanted it to be a surprise, Father -- a surprise!

(At the word "surprise", the double doors at the back are flung open, and the children appear bearing a huge birthday cake on the top of which is an enormous replica of Radio City - all lit up. They come blithely into the room singing:)

"Happy Birthday to you,
Happy Birthday to you,
Happy Birthday, dear Grandpa,
Happy Birthday to you!"

C U R T A I N

aforesaid to be the person mentioned and described in said

as the

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK.

-----X

JESSICA M. HILL,

Plaintiff,

-against-

SAM H. HARRIS, SAM H. HARRIS THEATRICAL
ENTERPRISES, INC., IRVING BERLIN and
MOSS HART,

Defendants.

-----X

Defendant SAM H. HARRIS THEATRICAL ENTERPRISES, INC., answering the interrogatories propounded pursuant to the order of Hon. William Bondy, United States District Judge:

Answering Interrogatory (a): YES.

Answering Interrogatory (b): YES.

Answering Interrogatory (c): NO.

Answering Interrogatory (d): NO.

O'BRIEN, DRISCOLL & RAFFERY,

Attorneys for Sam H. Harris Theatrical Enterprises, Inc.

Office and P.O. Address,
152 West 42nd Street,
New York.