

NATO of California/Nevada

# PREVIEWS

Information for the California and Nevada Motion Picture Theatre Industry

## CALENDAR of EVENTS & HOLIDAYS

September 16  
**Rosh Hashanah**

September 22  
**First Day of Autumn**

September 25  
**Yom Kippur**

October 11  
**Columbus Day observed**

October 25 – 28  
**ShowEast**

October 31  
**Halloween**

**Daylight Saving  
Time ends**

November 9 & 11  
**Fall/Winter Film  
Product Seminars**

November 17 & 18  
**National NATO  
Board Meeting**



### ~ ROUTING SLIP ~

Please share *Previews* with other people in your organization:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

## RESERVE THE DATE FOR THE FALL/WINTER FILM PRODUCT SEMINAR!

Mark your calendars for the 2005 NATO of CA/NV Fall/Winter Film Product Seminars set for November 9<sup>th</sup> at Pacific's Galleria Stadium 16 in Sherman Oaks and November 11<sup>th</sup> at the Century Oakridge 20 in San Jose.

The day will begin at 9:00 AM with a continental breakfast, the program will start promptly at 10:00 AM and conclude by 3:30 PM. Lunch will also be served.

Please note that all reservations must be approved by either the respective corporate office or district manager. The attached registration form can be faxed or mailed to the NATO of CA/NV office, or email the information to office@NATOCalNev.org. Due to space limitations we will be able to accommodate only two representatives from each theatre.

The NATO of CA/NV Film Product Seminar is designed for managers, district managers and corporate personnel of our member circuits. *Attendance is free however it is by reservation only, we cannot accommodate walk-ins or substitutes.* This policy will be strictly enforced. The deadline for reservations is Friday, October 22nd.

Please phone the NATO of California/Nevada office at 310/652-1093 for additional information. Look forward to seeing you at the Fall/Winter Film Product Seminar on November 9<sup>th</sup> in Southern California and on November 11<sup>th</sup> in Northern California. ▼

## REGISTRATION FORM

### NATO of California/Nevada Fall/Winter Film Product Seminar

Attendance is open to NATO of CA/NV member companies and is by reservation only, no walk-ins and no substitutions. Due to space limitations we can accommodate no more than two persons from each theatre location.

**Deadline for reservations: Friday, October 22nd**

<b>November 9, 2004</b> Pacific's Galleria Stadium 16 15301 Ventura Blvd. Sherman Oaks, CA 91403	<b>November 11, 2004</b> Century's Oakridge 20 925 Blossom Hill Road San Jose, CA 95123
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NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

PHONE: \_\_\_\_\_

COMPANY NAME: \_\_\_\_\_

THEATRE NAME: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

PLEASE CIRCLE:    DISTRICT MANAGER    OR    CORPORATE OFFICER

SIGNATURE: \_\_\_\_\_

PHONE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

**Will attend:**     No. Calif.     So. Calif.

Maximum of two representatives per location, no walk-ins or substitutes.

**FAX THIS COMPLETED FORM TO NATO of CA/NV: 310/657-4758.**  
For more details call 310/652-1093.

**Visit our web site at: [www.NATOCalNev.org](http://www.NATOCalNev.org)**

**Previews**  
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## United States Court of Appeals for the First Circuit: Summary Judgment in Favor of United States Department of Justice Vacated

By Gregory F. Hurley, Esq. & Stacey L. Jaramillo, Esq.



On December 18, 2000, the Department of Justice filed this suit in the United States District Court of Massachusetts alleging that Hoyts and National Amusements each had more than 200 theatres which failed to comply with the ADA and Standard 4.33.3. Following discovery, Hoyts and National Amusements moved for summary judgment; the Department of Justice opposed the motion, but did not seek summary judgment in its favor. Nevertheless, the District Court, *sua sponte*, granted summary judgment in favor of the Department of Justice on its declaratory relief cause of action. In particular, the District Court ruled that Standard 4.33.3 required placing wheelchair spaces in the stadium section of the theatre, regardless of stadium size. However, the District Court limited its ruling to only those theatres "wherein construction or refurbishment . . . occur[ed] on or after the date on which this lawsuit commenced, that is December 20, 2000." Both the Department of Justice and the theatres appealed.

On August 20, 2004, the First Circuit Court of Appeals (Maine, New Hampshire, Rhode Island and Massachusetts) decided the following: (1) whether 4.33.3 supported the defendants claim that their obligations are limited to unobstructed lines of sight or the Departments claim that wheelchair locations must always be in the stadium section of every theatre; (2) whether the District Court correctly ruled that wheelchair placement in the stadium section is automatically required for all stadium theatres based on the alleged factual superiority of such seating; and (3) whether the District Court's retroactivity ruling is correct.

Ultimately, the First Court vacated the summary judgment ruling and remanded the case back to the District Court to do an evaluation of the facts of each theatre. Specifically, the First Circuit found that the statutory objective of 4.33.3 can best be carried out by applying the comparability requirement to angles of sight, as well as lack of obstruction. Next, the First Circuit found multi-

ply flawed the District Court's "blanket determination" that all wheelchair seating in the sloped area of a stadium-style theatre is inferior regardless of size or configuration of the theatre. Finally, the First Circuit could not see any reason why the filing date of this lawsuit was an equitable date for implementing a decision made several years later; the First Circuit emphasized that the parties are entitled to due notice and an opportunity to argue about retroactivity. The First Circuit indicated that more information, and possibly discovery, is needed to determine whether the remedy should be applied retroactively. The First Circuit implies that the relief that may be ordered should only be applied to theatres built after the Fifth Circuit Lara decision, or later.

This opinion is a mixed bag for theatre owners and operators and requires careful reading. Although, the First Circuit found that 4.33.3 requires that angles of sight be taken into account, it also finds that these angles should be evaluated on a theatre-by-theatre basis. Likewise, the First Circuit specifically rejected the District Court's conclusion that 4.33.3 requires that all wheelchair spaces be placed in the stadium portion of the auditorium, but found that the comparable angles of sight analysis might effectively require this.

Since this opinion raises more questions than it answers, it will take some time to evaluate its effect on theatre operations. We hope to provide you more information in our next article. In the meantime, please feel free to contact either Greg Hurley or Stacey Jaramillo to obtain a copy of this opinion. ▼

*Mr. Hurley, a Shareholder of Greenberg Traurig's Orange County Office, co-chairs Greenberg Traurig's National Accessibility group and is a nationally-recognized expert on disability law. Stacey Jaramillo is a Senior Associate of Greenberg Traurig's Orange County Office. She represents theatre owners in California State and Federal Courts. Mr. Hurley and Ms. Jaramillo may be contacted at 714-708-6500 or at HurleyG@gtlaw.com*

## Some Words of Thanks from our UCLA Fellows

### Dear Mr. Moritz,

*I am a recipient of the National Association of Theatre Owners of California/Nevada Fellowship in Film and I would like to thank you for your generous contribution.*

*When I originally decided to continue my postgraduate education at UCLA, I was struck by the Animation program's philosophy of "one person, one film." Animations, in their simplest forms, do not require the intensive collaboration inherent to live-action filmmaking, and so an animated film can theoretically be completed by a single person. At the same time, however, solitary animation requires deliberate creative and technical control from the filmmaker over every element of the film. As an aspiring animator, the medium seemed both liberating and challenging to me.*

*Two years and two films later, I have learned that the "one person, one film" philosophy is merely an ideal. Though both of my films were physically animated by my own hands, they are ultimately the products of an intangible collaboration between me and a support network of friends, family, faculty and colleagues. . . . As I begin production on my third animation, which will most likely be my thesis film, I already know that the National Association of Theatre Owners of California/Nevada will be among the names thanked in the credits. Like the term "fellowship" implies, your charitable donation commences a partnership between us, and I thank you for your generosity and commitment to my education.*

*Again, I truly appreciate your generosity and commitment to my education and to the arts.*

Sincerely,

(signed) Joshua J. Morgan

*Fellowship in the field of animation*

### Dear Mr. Moritz,

*First, I would like to thank you and the National Association of Theatre Owners for the very generous scholarship. . . .As a third year film student, I could honestly say that my work has grown and matured since my first year of film school. This year, in particular, has been a very exciting year, mainly because I was one of seven students who participated on a Showtime project, which will air sometime in the fall. The title of my piece is *Dominance and Terror: A Discussion with Noam Chomsky*.*

*Philosophically, I believe in working hard, exercising the mind, and being true to one self. At UCLA I have been given an amazing opportunity to explore and find my own voice. It's an extremely expensive venture, but one that is worth ten fold.*

*What your scholarship does is amazing. It gives me hope and inspiration to continue to work hard every day so I can someday make a difference just as you are now.*

Sincerely,

Roberto Sierra Oregel

### Dear Milt,

*I enjoyed meeting you at the breakfast earlier this summer at UCLA and I wanted to write a brief note to express my gratitude to you and the National Association of Theatre Owners of California/Nevada for the scholarship that you've provided me.*



*It is your support that will allow me to complete my degree in the UCLA Producers Program this coming year and continue to collaborate with the other talented writing and filmmaking students that I have been working with at UCLA. . . . While it is extremely difficult to afford a graduate education, it is because of your support, that I will be able to take full advantage of the incredible amount of talent and resources available at UCLA.*

*I was first attracted to the UCLA Producers Program by the caliber of instructors who are a part of it. After joining the program I was surprised by both the seriousness and energy that they bring to their teaching and by the talent of my fellow students. And now, I am greatly moved by your support. The sum of my experiences at UCLA reflect an industry that is actively working to encourage, educate, and support the next generation of filmmakers and professionals. Because of the support of your organization and everyone at UCLA, I am beginning my career in the industry with a deep sense of gratitude, as well as, a tremendous education.*

Sincerely,

(signed) Tim Rummel, Fellowship for Producers Program

### Dear Mr. Moritz,

*I want to thank you and your organization for your generous fellowship. In addition, I also want to thank you for the opportunity to show my work at your meeting in June. When you first asked me to screen I assumed this meant the film would be playing on a television. Needless to say, watching it at ArcLight Cinemas was an unprecedented and totally unexpected opportunity.*



*Tim with James Yuan, Director of Photography for The Rick*

*As I mentioned at the meeting, this scholarship will provide the majority of funding for my final graduate school film. I don't know what that film will be about, but I'll be sure to get you a copy when it's finished. With some luck, I hope to improve upon my last project, and I thank you and your organization for the opportunity.*

Sincerely,

(signed) Tim McCarthy

*Fellowship for narrative production/directing field of study*

...and a note from one of our NATO of CA/NV scholars:

### Dear Mr. Moritz,

*Thank you so much for selecting me to receive the NATO of California/Nevada Scholarship this year. . . . Thank you for helping me follow my dreams.*

Sincerely,

(signed) Karym Noel Gee

# Seeing Stars Under The Stars

A night at the drive-in is a family affair, and it's OK to talk during the movie.

By Duane Noriyuki, Times Staff Writer (Reprint from Los Angeles Times)

As twilight settled over the Vineland Drive-In, Henry Gutierrez found comfort in a kind breeze and soft cushions. He sat like royalty in the blue chair in the back of his pickup truck, blankets and pillows for the children spread out in front of him.

From age 4, he said, when he watched from the roof of his father's Cadillac, he has preferred drive-in movies to walk-ins. To explain why, he lifted his hands and looked to the sky.

"Fresh air," he said, "and no one gets in your way."

The problem with drive-ins is they're becoming difficult to find. In 1958, there were 4,063 throughout the United States. As of July 13, there were 403 — 23 of them in California, according to figures compiled by the United Drive-In Theatre Owners Assn., as moviegoers continued to favor cineplexes and developers found more lucrative uses for the land drive-ins occupied.

And in Los Angeles County, the Vineland, in an industrial area in the city of Industry, is all that remains.

It opened in 1955 with a single screen and in 1981 expanded to four screens, said Jay Swerdlow, Pacific Theatres' executive vice president. Its viability is enhanced by

the fact that it serves as a swap meet seven days a week. Swerdlow said there are no plans to close it down.

Showing first-run movies, the Vineland attracts a loyal following, mostly families. Most stay for the second movie, and some late arrivals stay for the second showing of the first film.

On a recent Saturday night, about 80 cars were lined up before the gates opened at 7:15.

Armando Molina of Downey arrived with his family in a cherry red 1962 Cadillac. The car is used judiciously, he said, but occasionally he and his wife, Melissa Molina, take it out for a drive along the coast. It's the only car they bring to the drive-in.

Armando said he found out about the Vineland when he went online about three months ago in search of a drive-in. Like the Cadillac, it is a reminder of the past that suits his family.

"You don't have to be so quiet," Melissa said. "You can actually have a conversation, and your kids can get a little goofy."

Manager Juan Gonzalez has worked at Pacific Theatres drive-ins for 26 years. As cars entered through the gates — \$7 a head,

children younger than 11 free — he described the mixture of excitement and anticipation that builds at the drive-in once the sky turns pale.

"Most people have problems at home," he said, "and they come here with expectations to leave them behind and see a good movie, so we try to provide that environment.... I love my job. This is my life, seeing all these people coming."

If you haven't been to a drive-in for a decade or two, there have been some changes. Those rattly metal speakers that hung on poles are a thing of the past, replaced by Dolby surround sound through the radio. Another change is that the playgrounds at the base of the screens are gone. "Liability issues," said Gonzalez.

Other than that, it's much the same experience, not unlike tailgate parties outside a football stadium as people set up lawn chairs and blankets or convert the back seats of their vans to outdoor seating.

If people gathered like this in the daylight, it would be ridiculous. There would be no privacy among 1,000 vehicles crowded together. But at night, the lure of the colossal screen and the tang of popcorn give drive-ins their appeal. And it's still a good place for making out.

Ana and Marco Macial arrived early and parked front row, center. They have three children, including a baby. Drive-ins are easier than walk-ins when you have babies, Marco said. No one sneers at you when they cry.

Parked in back, close to the restrooms, were Pete and Elisa Frausto and Elisa's mother, Maria Almeida. "What could be better than this?" asked Pete, pausing to look around him. "Well, maybe a Dodgers game."

Seated in a lawn chair, enjoying chilled Bon Bons, Elisa lamented the passing of drive-ins she visited as a child. "It would be a very sad day," she said, "if they get rid of this last one." ▼

## Summer Box-Office Totals

18 weeks First weekend in May Through Labor Day, 2004

Year	Avg. Ticket Price	Ticket Price Change	Total Gross	% Changes vs. Previous Year	Attendance	% Change vs. Previous Year
2004	\$6.25	3.65%	\$3,957,108,271	2.12%	633,137,323	-1.48%
2003	\$6.03	3.97%	\$3,875,000,000	2.00%	642,620,232	-1.89%
2002	\$5.80	2.65%	\$3,798,947,868	10.13%	654,991,012	7.28%
2001	\$5.65	4.63%	\$3,449,512,495	9.46%	610,533,185	4.61%
2000	\$5.40	6.30%	\$3,151,491,745	-1.53%	583,609,582	-7.37%
1999	\$5.08	8.32%	\$3,200,512,305	19.31%	630,022,107	10.15%
1998	\$4.69	-	\$2,682,613,874	-	571,985,901	-

—Source: Exhibitor Relations Co.

# LABOR ISSUES & Updates

## New Workers' Comp Law Changes Process of Choosing Medical Provider

*Under the new workers' compensation law can an employee still designate a personal physician?*

Under the new workers' compensation law, which went into effect on April 19, an injured employee may seek treatment for a work-related injury or illness from a physician he/she pre-designates who is the employee's primary care physician under the employer's health plan — unless the employer has established a "medical provider network."

### Previous Law

In 2003, an employee had the right to select (and to change) a designated treating physician for any illness or injury that occurs at work. The employee could designate his/her own treating physician in advance of an injury by using the "Personal Physician or Personal Chiropractor Predesignation Form" on the back of the 2003 workers' compensation pamphlet.

### Current Changes

As of April 19, an employee may see his/her own physician if the employer does not have a "medical provider network."

The newly amended Labor Code Section 4600 provides that after 30 days from the date the injury is reported, the employee may see his/her own physician within a reasonable geographic area.

The employee must advise the employer in writing of the physician designation in advance of any injury and the physician must be the employee's regular, primary care physician

under the employer's health insurance plan.

In addition, the physician must agree to be pre-designated.

### Medical Provider Network

After January 1, 2005, an employer or insurer may contract with or establish a "medical provider network" consisting of a majority of health care providers that treat occupational injuries and illness (Labor Code Section 4616). For insured employers, the insurer will be responsible for creating the medical provider network. When an injured worker notifies the employer of an injury, the employee will be treated by the employer's medical provider network indefinitely.

If an employee disputes the diagnosis or treatment prescribed by the medical provider network physician, the employee may seek a second or even a third opinion from other physicians within the medical provider network.

If, after the third physician's opinion, the employee still disputes the diagnosis or treatment, the employee may request an independent medical review (IMR). If the IMR process agrees with the injured employee, then the employee may seek treatment from a doctor of his/her own choosing and the employer loses medical control. ▼

—Source: California Chamber of Commerce: Alert

## Year-To-Date Box-Office

250 days starting Thursday January 1, Through Monday, September 6, 2004.  
Average ticket price for 2004 is estimated

Year	Avg. Ticket Price	Ticket Price Change	Total Gross	% Changes vs. Previous Year	Attendance	% Change vs. Previous Year
2004	\$6.25	3.65%	\$6,822,300,000	2.59%	1,091,568,000	-1.02%
2003	\$6.03	3.97%	\$6,650,041,009	0.18%	1,102,826,038	-3.64%
2002	\$5.80	2.65%	\$6,638,147,868	—	1,144,508,253	—

—Source: Exhibitor Relations Co.

## Exhibitor Relations Contact Information

### Buena Vista

Christina Nedelec  
Christina.nedelec@disney.com  
Nayery Markarian  
nayery.markarian@disney.com  
One sheets & trailers can be ordered from Technicolor

### DreamWorks

Eric Tabak  
etabak@dreamworks.com or  
818/695-7758 for materials  
One-sheets & trailers can be ordered from Technicolor

### Focus Features

Eric Carr  
818-777-8840  
eric.carr@focusfeatures.com

### Fox/Fox Searchlight

Fox Fulfillment  
Materials Hotline 800-FOX-0010  
Materials Fax line 818-785-3077  
www.FoxExhibitor.com

### FOX REWARDS

Fox Rewards Enrollment & Hotline  
888-FOX-9330  
www.FoxRewards.com

### Lions Gate Entertainment

Mike Polydoros  
Ph 310/255-3719  
mpolydoros@lgecorp.com  
Demetri Panos  
Ph 310/255-4038  
dpanos@lgecorp.com  
Fax 310/255-3730

### MGM

Tony Cheng — Tchong@mgm.com  
Brett Fellman — Bfellman@mgm.com  
One-sheets & trailers can be ordered from Technicolor.

### Paramount

Bill Saugez or Chris Chouinard  
PARAMOUNTPROGRESS.COM

### New Line/Fine Line

kristina.warner@newline.com  
zach.beebee@newline.com  
vinele.grana@newline.com

### Sony Pictures

All materials can be ordered at  
www.sonypicturesreleasing.com  
or by phone: 877/Deluxe6

### Universal

www.exhibitorrelations.com

### Warner Bros

Bill Smith  
Bill.smith@warnerbros.com

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# PREVIEWS

National Association of  
Theatre Owners  
of California/Nevada

116 No. Robertson Blvd., Suite 708  
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## FILMS TO VIDEO: PROJECTED RELEASE SCHEDULE

Coffee and Cigarettes	9/21/04	The Day After Tomorrow	10/12/04
Mean Girls	9/21/04	Raising Helen	10/12/04
Envy	9/28/04	Garfield the Movie	10/19/04
Eternal Sunshine of the Spotless Mind	9/28/04	Van Helsing	10/19/04
Super Size Me	9/28/04	The Stepford Wives	10/26/04
Dawn of the Dead	10/5/04	White Chicks	10/26/04

**For additional listings refer to: [www.hive4media.com](http://www.hive4media.com)  
Source: Video Store Magazine**