

Communication from Public

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Comments for Public Posting: The Bank Family, who own 12305 5th Helena Drive, oppose designation of the house as a Historic-Cultural Monument. The attached is Part 1 of exhibits in support of the Bank Family's March 4, 2024, letter opposing HCM designation.

The following documents are exhibits in support of the Bank Family's March 4, 2024, letter to the PLUM Committee. The exhibits are being submitted under separate cover due to file size restrictions.

EXHIBIT 1

Cursum Perficio: Marilyn Monroe's Brentwood Hacienda

The Story of Her Final Months



Gary Vitacco-Robles

Illustrated by Brandon Heidrick

Cursum Perficio: Marilyn Monroe's Brentwood Hacienda

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The Story of Her Final Months

Gary Vitacco-Robles

Writers Club Press
New York Lincoln Shanghai

**Cursum Perficio: Marilyn Monroe's Brentwood Hacienda
The Story of Her Final Months**

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With Illustrations by Brandon Heidrick

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Foreword

In her brief thirty-six years, Marilyn Monroe lived in fifty-seven different residences. On March 1, 1962, Marilyn began making payments of \$320 a month on the first home she had ever owned. At last, it seemed she had found the stability she had sought all her life. To fans of Marilyn Monroe, this home at 12305 Fifth Helena Drive holds a special place. Marilyn had great plans for this house and was actively remodeling it at the time of her death.

At last a book has been written which encompasses all the many varied details involving the house and Marilyn. Brilliantly researched, this book by Gary Vitacco-Robles, *Cursum Perficio*, provides essential reading for those who desire to understand Marilyn and the last few months of her life. Endlessly fascinating and illustrated with remarkable drawings of the house and its layout, this book brings together all the elements of what Marilyn had hoped to be her “dream house.” Having read this book, the reader is left with the impression that he has indeed spent a wonderful afternoon visiting Marilyn at 12305 Fifth Helena Drive.

Greg Schreiner, President
Marilyn Remembered

The father's identity was never officially determined, as Gladys had been sexually involved with various paramours. The child, Norma Jeane, was raised in a succession of foster homes and an orphanage due to her mother's severe and chronic mental illness. Seemingly, the father never claimed paternity and abandoned the child.

Norma Jeane may have lived in excess of twelve foster care homes and relative placements between infancy and age sixteen, creating serious impairment in her ability to develop into an autonomous adult and to form positive and healthy relationships throughout her life span. The child's survival skills allowed her to adjust to new places and new people in the role of temporary caregivers. Sexual abuse, neglect, and the lack of a consistent caregiver contributed to Norma Jeane's attachment and personality disorders, predisposing her to serious emotional problems. This childhood pattern of instability continued into adulthood as Norma Jeane changed her name to Marilyn and claimed a litany of addresses in her early career.

Marilyn moved less frequently after relocating from Los Angeles to the East Coast in late 1954. At the height of her success, Marilyn maintained a Manhattan apartment on the thirteenth floor of 444 East Fifty-Seventh Street, near Sutton Place, with her third husband, playwright Arthur Miller. The Millers spent weekends and holidays at their restored Nineteenth Century farmhouse in Roxbury, Connecticut. The apartment, however, remained Marilyn's primary residence until her death.

Elegantly furnished in French Provincial, Marilyn's Manhattan apartment contained her most personal possessions including a library of four hundred books. Dominating the living room was a white-lacquered baby grand piano given to Marilyn in childhood by her mother. When Marilyn's mother was institutionalized, the piano was sold. As a starlet, Marilyn diligently searched for the instrument and recovered it from an auction house. She carried the piano to each new address, providing continuity to her roving lifestyle.

Greenson recalled, "I encouraged her to buy the house. She said she had no interest in remaining in California or making it her residence. She said that after her next picture she would go back to New York, which she considered her permanent home." Marilyn's friend and stand-in Evelyn Moriarty asserted, "She was talked into this house...by Mrs. Murray and by Dr. Greenson, as she told us several times while we were filming *Something's Got To Give*."

Eunice Murray is described as a quiet, matronly woman. She had two adult daughters, one named Marilyn. Eunice and her former husband, John Murray, had built Dr. Greenson's five-bedroom Monterey-style home in 1946. John Murray, an absentee husband and father, left his wife unable to afford the monthly mortgage payments and forced to sell after only four months of residency. Ironically, Eunice's future employer, Marilyn Monroe, lived in her Brentwood home approximately five months.

Eunice apparently befriended the new owners, Ralph and Hilde Greenson, in the hope of remaining connected to her former dream home. Greenson, in turn, often placed Eunice in the homes of his patients as a monitor and companion in exchange for her reporting back to him the details of the patients' private lives. She served this covert role in Marilyn's life, doting on the actress and treating her with condescension. Some suspected she was merely Greenson's plant to secretly spy on Marilyn's behavior. Mrs. Murray's overt duties included arranging Marilyn's household schedule around daily sessions with Greenson, light housekeeping, sewing and chauffeur services. Murray addressed Marilyn by her first name, but Marilyn felt comfortable addressing her housekeeper only as Mrs. Murray. Press agent Patricia Newcomb and other close friends considered Murray an inappropriate companion for Marilyn.

In 1975, Murray, assisted by relative Rose Shade, published a memoir of her relationship with Marilyn. *Marilyn: The Last Months* chronicled the journey from Marilyn's first interest in a home to her death in amazing

Chapter Fourteen

Aftermath

On the day of Marilyn's death, Dr. Gilbert Nunez and his wife, Betty, place a sales contract on her home with their realtor. About six other realtors also sell the house on the same day. While the estate remains in probate, a bidding war ensues and results in legal action.

The judge rules that the property will be sold at a purchase price 10% over the highest bidder. In September 1963, the Nunez family becomes the new owners at a price five times the market value and purchases many of the home's contents. They even acquire Marilyn's Hoover upright vacuum sweeper. For many years, the home and furnishings are preserved, and the interior looks very much as Marilyn had left it. Mr. Nunez will also die in the home. In May 1997, the Nunez family will offer at auction many of Marilyn's furnishings and possessions including a kitchen chopping block, expected to sell for \$800-1,200, dressing mirror (\$15,000-20,000), gardening hat (\$4,000-6,000) and dining room table (\$20,000-25,000).

Following Marilyn's death, the house at 12305 Fifth Helena Drive will experience many incarnations. Subsequent owners make significant structural changes. The space between the guesthouse and main house is converted into interior space. As a result, the shade tree Marilyn had planted in the patio next to her kitchen is removed. The guesthouse is converted to a rental property, and the kitchen is enlarged and modernized. A studio is built beside the pool near the rear bedrooms. Eventually, the bright Mexican tiles chosen by Marilyn are removed, and collectors spend in excess of \$800 for one piece of them.

A former resident uses some of the tiles to create a mosaic top on one of the low tables originally purchased by Marilyn. Tile floors replace the white wool carpeting. Finally, the original scalloped wooden fence purchased by Marilyn from Raese Period Furniture is replaced with an electronic steel barrier. During the 1984 Olympics, held in Los Angeles, the owner removes the original gates to make the house less recognizable to the many tourists invading the city that year who might locate the house by this familiar feature.

Film director Michael Ritchie purchases Marilyn's former home in 1994 from Jill Middleman for \$995,000, and it remains vacant and in a dreadful state of disrepair. Rumors spread in the media that it will be leveled for the construction of a larger home or that it will be relocated to a Hollywood theme park in California or Florida. Jon Douglas Properties last offers it at a selling price of \$1,275,000.

In June 1994, the exclusive Brentwood community receives intense media coverage once again due to the heinous murder of Nicole Brown Simpson and her friend, Ron Goldman, at Nicole's Brentwood condominium. Nicole's former husband, football legend O.J. Simpson, will be acquitted of double-murder criminal charges but found liable for the deaths in civil proceedings. Marilyn's house is nearly equal distance from the Simpson estate on Rockingham Drive and Nicole Brown's condominium on Bundy Drive. In fact, the pharmacy where Marilyn filled her last prescription of Nembutal is walking distance from the Brown-Goldman death scene.

"Today, Brentwood is one of the most elite and desirable locations in Los Angeles," asserts realtor Michael Greenwald. "Its population of approximately 32,000 lives in attractive, low-density housing, consisting of about 18,000 residences." Brentwood's lack of undeveloped land for new housing drives up real estate values. The average sale price of a single-family home in 1998 was \$991,756. Despite the suburban sprawl of Los Angeles, Brentwood retains a countrified ambience exemplified by its meandering streets, dense shrubs and lush landscaping.

In the Twenty-first Century, the hilltop J. Paul Getty Museum, north of Sunset Boulevard, establishes Brentwood as a cultural and tourist center. Its 110 acres contain six buildings designed by architect Richard Meier to house a collection of European masterpieces and a site-specific park designed by artist Robert Irwin.

Brentwood's established neighborhoods showcase the splendor of Californian architecture. The Crestwood Hills subdivision serves as a time capsule for mid-twentieth century Modern homes of steel and glass designed by the creative team of A. Quincy Jones Jr., Edgardo Contini and Whitney Smith. Several of these environmentally sensitive homes have become historic landmarks such as Gross House (860 Hanley Avenue), Haas House (12404 Rochedale Lane), and Kalnick House (12327 Rochedale Lane). Frank Lloyd Wright Junior's designs include Evans House at 12036 Benmore Terrace and Nesbitt House at 414 Avondale Avenue. More recent examples of the area's architecturally significant homes include Frank Gehry's Schnabel House at 526 North Carmelina Avenue, completed in 1989, and the 25th Street House at 909 25th Helena Drive designed by architects Hank Koenig and Julie Eizenberg.

It has been forty-one years since Marilyn Monroe resided at 12305 Fifth Helena Drive. The current owners, Henry and Cynthia Rust, are completely renovating the seventy-four year old home. All the remaining Mexican tiles have been removed, and the interior walls have been stripped to the studs and rebuilt. Mr. and Mrs. Rust have divided the garage area from the main house with tall shrubs and have created another gate in the wall near the bedroom where Marilyn died. Prospective buyers approach Mr. Rust with bids through real estate agents, but they are told that the owner plans to bequeath the historic estate to his children.

Fans continue to send letters and gifts to the house at 12305 Fifth Helena Drive. Many request a memento from the house or permission to visit. Despite the home's subsequent occupants and seven owners, its

For the next four years, the New York apartment would be known as Marilyn's apartment, and the home in Connecticut would be known as Arthur's farm.

"All the time I was married to Arthur Miller," Marilyn said, "four years, our life was set in a definite pattern. Summers in Connecticut, no deviation. Winters in our New York apartment. Then back to Connecticut..."

The immediate neighbors, the Diebolds, took an immediate liking to Marilyn at a cocktail party and treated her as one of their adult children. The local community nominated her as an alternate delegate to the 1960 national democratic convention.

The rural setting suited Marilyn's love for animals. She permitted Hugo, her basset hound, to run soaked with muddy feet into her newly redecorated living room. A pregnant cat stumbled into the garden, and Marilyn adopted her. The actress assisted in the delivery of kittens on the kitchen floor. Marilyn also rescued a starving dog and nursed it back to health with assistance from a local veterinarian. She named the dog Cindy and presented it to the daughter of her friends, Hedda and Norman Rosten. On the vast farmland, Miller erected feeding stations for birds in a maple tree. Inside their country house, Marilyn had two caged talking parakeets. She would often travel with them on planes. To the surprise of other passengers, the birds would squawk out in mid-flight, "I'm Marilyn's bird, Marilyn's bird."

After the divorce, Miller retained the farmhouse where he would later live with his third wife, Inge Morath, until her death in 2002. Miller's archival consultant, Andreas Brown, begged him to secure his papers, stored in file cabinets in an old barn on the property, fearing the barn could catch fire. While cataloguing the manuscripts, Brown discovered a small package of brown paper sealed with wax. Miller explained that it contained about one hundred letters written to him by Marilyn. Miller eventually deposited the letters in a bank strong box. Brown's prediction came true when fire gutted the house in

EXHIBIT 2

MEMORIES OF MARILYN

#540-Partial
(only pages 32+33—
pages 63-71 missing
from journal)





LIFE

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COVER—LAWRENCE SCHILLER
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2. BOB HENRY for the NEW YORK HERALD
3. Drawing by JOHN HUENIGER
4. WILLIAM L. WIDMAYER
5. YOUNG PELLAS from RAPHAELLOMETTE
6. JEROME B. NEL HUNTER—CLAYTON PICTURES
7. H. FRITZ 5040 CO.—TORY RECORD for the
8. FORT NORTH STARTELSSAAR, N. WEST
9. HOUSE LUCIFER CORPORATION CO.
10. A. H. TUCKER LANSBURY RESTAURANT
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13. MAN, HENRY BURROUGHS from A.P.
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15. ARDS, DR. U.P.A. J. FRANCIS MILLER
16. J. LAWRENCE SCHILLER & DON CRAVENS
17. FRITZ GORD
18. STAN WATSON
19. J. H. HENRY for the MINNEAPOLIS TRIBUNE
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PICTURE OF THE WEEK

On a human ocean of acclaim bobbed the portrait of Ahmed Ben Bella. Algeria's leftist vice premier returned to Algiers after an absence of six years to dictate terms to his rivals for leadership of the new government. With the threat of a civil war seemingly removed, the city welcomed him in a paroxysm of joy and relief. But there was little jubilation in Paris or elsewhere in the West, where it had been hoped that the more moderate Benyoucef Ben Khedda might take power. At the me-

A LAST LONG TALK WITH

Only a few weeks before her death Marilyn Monroe talked at length to LIFE Associate Editor Richard Meryman about the effects of fame on her life. Her story was published in the August 3 issue. Here he recalls what Marilyn was like as she talked to him.

by RICHARD MERYMAN

If Marilyn Monroe was glad to see you, her "hello" will sound in your mind all of your life—the breathless warmth of the emphasis on the "lo," her well-deep eyes turned up toward you and her face radiantly crinkled in a wonderfully girlish smile.

I first experienced this when, after two get-acquainted meetings in New York, I came in the late afternoon several weeks ago to her Brentwood, Calif. home to begin a series of conversations on fame. Expecting one of the famous waits for Marilyn, I sat on the soft wall-to-wall carpet of the living room and began struggling to set up my tape recorder. Suddenly I became aware of a pair of brilliant yellow slacks upright beside me. In the slacks was Marilyn, silently watching me with a solicitous grin, very straight and slender with delicately narrow shoulders. She seemed shorter than I remembered and she looked spectacular in a loose-fitting blouse. I stood up and we greeted and she said, "Do you want my tape recorder? I bought one to play the poems of a friend of mine."

Before starting what was to be no less than a six-hour talk, she wanted to show me her house which she had personally searched out and bought. Describing it earlier she exclaimed, "... and it has walls." She had refused LIFE any pictures of it, saying, "I don't want everybody to see exactly where I live, what my sofa or my fireplace looks like. Do you know the book *Everyman*? Well, I want to stay just in the fantasy of *Everyman*."

It was a small, three-bedroom house built in Mexican style, the first home entirely her own she had ever had. She exulted in it. On a special trip to Mexico she had carefully searched in roadside stands and shops and even factories to find just the right things to put in it. The large items had not arrived—nor was she ever to see them installed. As she led me through the rooms, bare and makeshift as though someone lived there only temporarily, she described with loving excitement each couch and table and dresser, where it would go and what was special about it. The few small Mexican things—a tin candelabra, folding stools ingeniously carved from single pieces of wood, a leather-covered coffee table, tiles on the kitchen walls—revealed her impetuous, charming taste. Separate from the house, attached to her two-car garage, was a large room being converted to an apartment which would be, she explained, "a place for any friends of mine who are in some kind of trouble,

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Back in the house I remarked on the profusion of flowers outside. Her face grew bright and she said, "I don't know why, but I've always been able to make anything grow." She went on: "When I was married to Mr. Miller, we celebrated Hanukkah and I felt, well, we should have also a Christmas tree. But I couldn't stand the idea of going out and chopping off a Christmas tree."

In the living room, seated on a nondescript chair and sofa, we went on talking—after Marilyn poured herself a glass of champagne. At each question she paused thoughtfully. "I'm trying to find the nailhead, not just strike a blow," she said. Then a deep breath and out her thoughts would tumble, breathless words falling over breathless words. Once she said, "One way basically to handle fame is with honesty and I mean it and the other way to handle it when something happens—as things have happened recently, and I've had other things happen to me, suddenly, my goodness, the things they try to do to you, it's hard to take—I handle with silence."

Her inflections came as surprising

twists and every emotion was in full bravura, acted out with exuberant gestures. Across her face flashed anger, wistfulness, bravado, tenderness, ruefulness, high humor and deep sadness. And each idea usually ended in a startling turn of thought, with her laugh rising to a delighted squeak. "I think I have always had a little humor," said Marilyn. "I guess sometimes people just sort of questioned 'does she know what she's saying,' and sometimes you do all of a sudden think about something else and you didn't mean to say it exactly. I'm pointing at me. I don't digest things with my mind. If I did, the whole thing wouldn't work. Then I'd just be kind of an intellectual and that I'm not interested in."

At this point I began to see that Marilyn did nothing by halves. Of her millions of fans she said, "The least I can do is give them the best they can get from me. What's the good of drawing in the next breath if all you do is let it out and draw in another?" I could also see how important it was to her to feel that the person she talked to "understood."

Understanding apparently me being very sympathetic, taking side in everything, recognizing nuances of her meanings and values all that she valued, especially small things. When I showed genuine enthusiasm for her house, she said, "Good, anybody who likes my house I'm sure I'll get along with."

But I had the constant, uneasy feeling that my status with her was precarious, that if I grew the least careless she might suddenly decide that I, like many others she felt had let her down, did not understand. Once I slangily asked her how she "cranked up" to do a scene. I was instantly confronted by queenly outrage: "I don't crank anything. I'm not a Model T. I think that's kind of disrespectful to refer to it that way."

But I could not feel impatient with her impatience. It was all so understandable as she talked about the people who wrote columns and stories about her: "They go around and are mostly your enemies. Friends always say, 'Let's check and see if this is right with her.'" And then she added wistfully: "You know, most people really don't know me." There was grief in her eyes when she described



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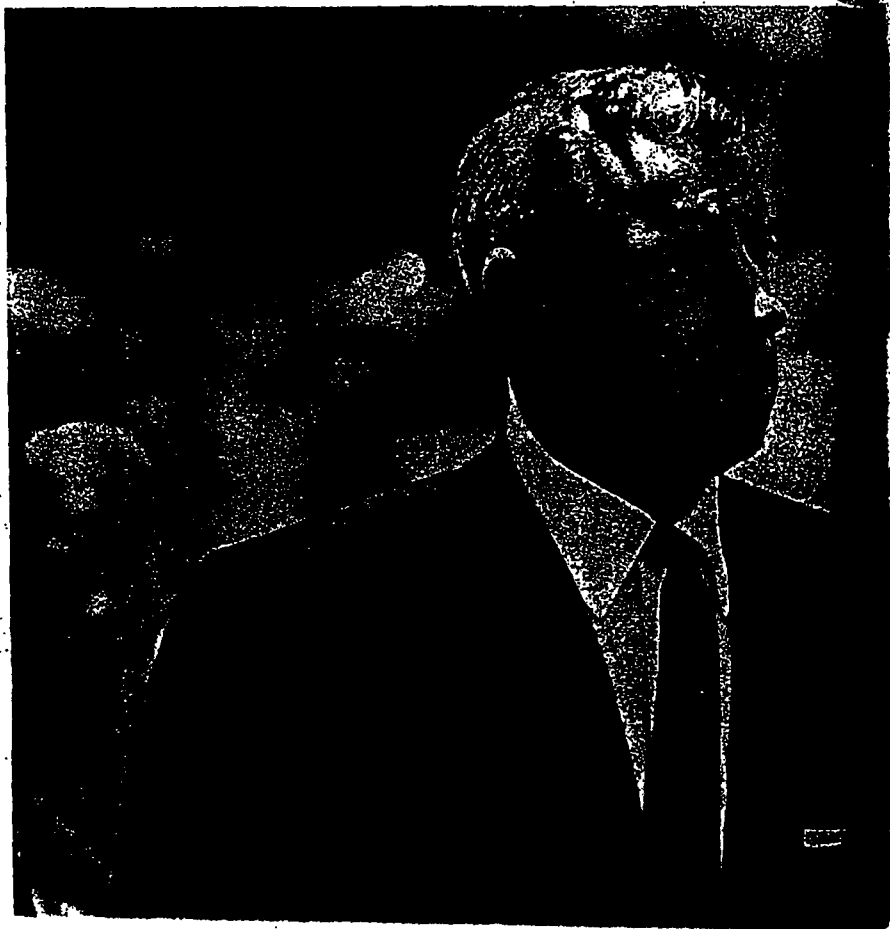
twists and every emotion was in full bravura, acted out with exuberant gestures. Across her face flashed anger, wistfulness, bravado, tenderness, ruefulness, high humor and deep sadness. And each idea usually ended in a startling turn of thought, with her laugh rising to a delighted squeak. "I think I have always had a little humor," said Marilyn. "I guess sometimes people just sort of questioned 'does she know what she's saying,' and sometimes you do all of a sudden think about something else and you didn't mean to say it exactly. I'm pointing at me. I don't digest things with my mind. If I did, the whole thing wouldn't work. Then I'd just be kind of an intellectual and that I'm not interested in."

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A LONELY GIRL

**Her legacy of beauty:
Marilyn on pages 63-71**

Now she had once found her stepson Bobby Miller hiding a magazine containing a lurid article about her, and now Joe DiMaggio Jr. used to be humiliated at school because of her. "You know, ha, ha, your stepmother Marilyn Monroe, ha, ha, ha. All that kind of stuff." And there was a warning in her voice as she returned over and over again to "kids, and older people and workmen" as a source of warmth in her life, as the threatening people who treated her naturally, whom she could meet spontaneously. I felt a rush of protectiveness for her; a wish—perhaps the sort that was at the root of the public's tenderness for Marilyn—to keep her from anything ugly and hurtful.

Before I left late that night she asked to be sent a transcript of the interview. "I often wake up in the night," she explained, "and I like to have something to think about."

When I arrived the next afternoon for a second session she immediately asked to postpone our talk. She was tied out, she said, from negotiations with 20th Century-Fox over resumption of *Something's Got to Give*. But she hospitably offered me a drink and chatted. She was obviously upset.

But there was no hint of morose despair. She was electric with indignation and began talking angrily about how studios treat their stars. Then she paused, said she needed something to help overcome her tiredness and got a glass of champagne. I asked if she had ever wished that she were tougher. She answered, "Yes—but I don't think it would be very feminine to be tough. Guess I'll settle for the way I am."

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I then became a witness to the fabled process of Marilyn preparing for an appointment—and being four hours late for it. The patient gentleman was her hairdresser, Mr. Kenneth. While he worked on her and she sat under the dryer I could hear uproarious laughter. Then, in her curlers, she made little barefooted errands about the house and in and out of her room, phone calls, visits to me

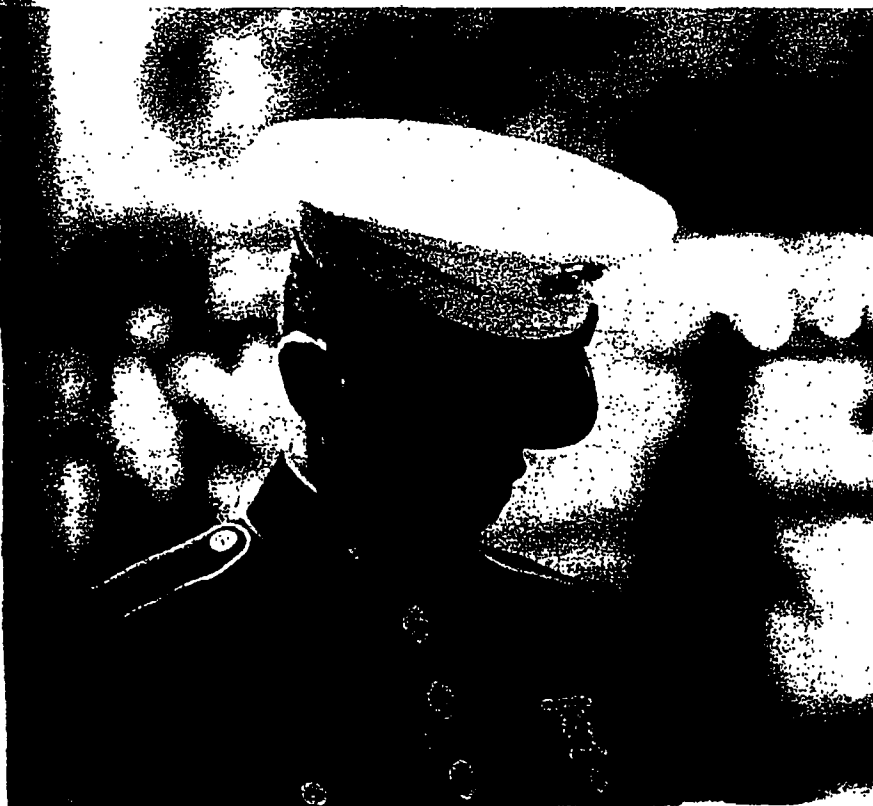
to ask if I was comfortable, all busy bustling, getting nothing done. There was none of the fearful moping and preening in front of mirrors I had heard so much about. She was entirely cheerful and utterly disorganized. I could not help feeling that what some people blamed on stagefright might partly be her endless debt to time. The necessary mechanics of daily living were beyond her grasp; she always started out behind and never caught up.

Finally she was almost ready and she came trippingly into the room where I sat. She wore high heels, orange slacks, a brassiere, and held an orange blouse carelessly across her bosom. "Do I look like a pumpkin in this outfit?" she asked. She looked wonderful. "You'll set the fashion industry ahead 10 years," I said. She was very pleased and answered, "You think so? Good!"

Two days later I called Marilyn for another appointment to talk over the final draft of her story. She said, "Come anytime, like, you know, for breakfast." There was in her voice a note which I had come to recognize—an appealing eagerness to please. I came again at 10 and once again she slept till noon. Finally we sat down together on a tiny sofa. She was barefooted, wearing a robe, and had not yet washed off last night's mascara. Her delicate hair was in a sleep-tumbled whirl. But she had made me feel this was a compliment. "Friends," she had said, "accept you the way you are." As was usual, her face was very pale. She held the manuscript high in front of her eyes and carefully read it aloud, listening to every phrase to be sure it sounded exactly like her.

She kept the manuscript and I returned for it late that afternoon. On the steps of the house she showed me changes she had penciled in, all of them small. She asked me to take out a remark about quietly giving money to needy individuals. And then we said goodbye. As I walked away she suddenly called after me, "Hey, thanks." I turned to look back and there she stood, very still and strangely forlorn. I thought then of her reaction earlier when I had asked if many friends had called up to rally round when she was fired by Fox. There was silence, and sitting very straight, eyes wide and hurt, she had answered with a tiny "No."

THE QUIET ONES. In stony grief Joe DiMaggio and his 21-year-old Marine son Joe Jr. leave her funeral in Westwood. Her second husband and a beloved star in his own right, DiMaggio seized command of all arrange-



A LONELY GIRL

Marilyn on pages 63-71

she had once found her stepson Bobby Miller hiding a magazine containing a lurid article about her, and Joe DiMaggio Jr. used to be hated at school because of her. You know, ha, ha, your stepmother Marilyn Monroe, ha, ha, ha. All kind of stuff." And there was a ring in her voice as she returned and over again to "kids, and people and workmen" as a source of warmth in her life, as the threatening people who treated her badly, whom she could meet spontaneously. I felt a rush of protective for her; a wish—perhaps the sort was at the root of the public's kindness for Marilyn—to keep her anything ugly and hurtful. Before I left late that night she had to be sent a transcript of the interview. "I often wake up in the night," she explained, "and I like to do something to think about." When I arrived the next afternoon for a second session she immediately had to postpone our talk. She was out, she said, from negotiations with 20th Century-Fox over resumption of *Something's Got to Give*. But she hospitably offered me a drink and chatted. She was obviously upset.

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CONTINUED 33

EXHIBIT 3

LIFE

'BOY, THAT WAS A RIDE

Bob White, First
Into Space, on Wings

ALSO THIS WEEK

MARILYN MONROE

Pours Her
Heart Out

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AUGUST 3 · 1962 · 20¢

Marilyn lets her hair down about being famous



**'Fame may go by and—
so long, I've had you'**

'Sometimes I feel I'm fooling somebody, maybe myself'

Ever since she was fired from *Something to Watch*, Marilyn Monroe has kept an almost absolute silence. Is fear of her troubles with 20th Century-Fox very concerned, she simply said she had been too sick to talk—she suffered from a nervous breakdown. While she (she) said her nervous system was breaking down, she was actually thinking about her career—about the prospects and hazards of fame bestowed on her by fans who had \$200 million to see her films, about the fact that her life, about her life, was a nightmare. She thought about the fact that in a rare and candid words of conversation with *Life*, *Life* magazine Editor Richard Avedon said: "A woman caught the worst and greatest of her personality, Marilyn's words revealed her own private side of Marilyn Monroe."

Sometimes I'm raising a hand and a job and not making up and with a certain attitude of making. I go shopping or I'm looking at people living. But then you know, there will be a lot of teenagers who are kind of sharp and they'll say, "Hey, just a minute—you know who I think that is?" And then they'll start talking to me. And I don't mind. I realize some people want to see if you're real. The teenagers, the little kids, their faces light up—they say "go" and they can't wait to tell their friends. And old people come up and say, "Wait till I tell my wife." You've changed their whole day.

In the morning the garbage men that go by 57th Street when I come out the door say, "Marilyn, hi! How do you feel this morning?" To me it's an honor, and I love them for it. The workmen—*"Hi"* go by and they'll whistle. At first they whistle because they think, oh, it's a girl, she's got blond hair and she's not out of shape, and then they say, "Gosh, it's Marilyn Monroe!" And that has its—you know, those are the times it's nice, people knowing who you are and all of that, and

feeling that you've meant something to them.

I don't know quite why, but somehow I feel they know that I mean what I do—both when I'm acting on the screen or when I'm here in person and greet them—that I really always do mean better and how are you? In their fantasies they feel—Gee, it can happen to me!

But when you're famous you kind of run from human nature in a raw kind of way. It sits up and says, "People you can't feel that, well, who is she—who does she think she is, Marilyn Monroe? They feel fame gives them some kind of privilege to walk up to you and say anything to you, you know, of any kind of nature—and it won't hurt your feelings—like it's happening in your clothing. One time here I am looking for a home to buy and I stopped at this place. A man came out and was very pleasant, very

cheerful, and said, "Oh, just a moment, I want my wife to meet you." Well, she came out and said, "Will you please get off the premises?"

You're also running into people's unconscious. Let's take some actors—or directors. Usually they don't say it to me, they say it to the newspapers because that's a bigger play. You know, if they're only insulting me to my face that doesn't make a big enough play because all I have to do is say, "See you around, like never." But if it's the newspapers, it's easier to resist and on around the world. I don't understand why people aren't a little more generous with each

other. I don't like to say this, but I'm afraid there is a lot of envy in this business. The only thing I can do is I stop and think, "I'm all right but I'm not so sure about them!"

For instance, you've read there was some actor that once said about me that kissing me was like kissing Hitler. Well, I think that's his problem! If I have to do intimate love scenes with somebody who really likes these kind of feelings toward me, then my fantasy can come into play. In other words, out with him, in with my fantasy. He was never there.

But one thing about fame is the bigger the people are or the simpler the people are, the more they are





not owed by you! They don't feel they have to be offensive, they don't feel they have to insult you. You can meet Carl Sandburg and he is so pleased to meet you. He wants to know about you and you want to know about him! Not in any way has he ever let me down.

Or else you can meet working people who want to know what is it like. You try to explain to them. I don't like to disillusion them and I don't think it's sometimes nearly impossible. They kind of look toward you for something that's away from their everyday life. I guess you call that entertainment, a world to escape into, a fantasy.

Sometimes it makes you a little bit sad because you'd like to meet somebody kind of of no face value. It's one to be included in people's fantasies but you also like to be accepted for your own sake.

I don't look at myself as a commodity, but I'm sure a lot of people have, including, well, one corporation in particular which shall be nameless. If I'm suddenly picked on or something, I think I am. I'll think I have a few wonderful friends and all of a sudden, ooh, here it comes. They do a lot of things—they talk about you to the press, to their friends, tell stories, and you know. It's disappointing. These are the ones you aren't interested in being every day of your life.

Of course, it does depend on the people, but sometimes I'm invited places to kind of brighten up a dinner table—like a musician who'll play the piano after dinner, and I know you're not really invited for yourself. You're just an ornament.

When I was 5—I think that's when I started wanting to be an actress—I loved to play. I didn't like the world around me because

it was kind of grim—but I loved to play, house, and it was like you could make your own boundaries. It goes by and house—you could make your own situations and you could pretend and even if the other kids were a little slow on the imagination part you could say, "Hey, what about if you were such and such and I were such and such—wouldn't that be fun?" And they'd say, "Oh, yes," and then I'd say, "Well, that will be a horse and this will be—" it was play, playfulness. When I heard that this was acting, I said that's what I want to be—you can play. But then you grow up and find out about playing; that they make playing very difficult for you.

Some of my foster families used to send me to the movies to get me out of the house and there I'd sit all day and way into the night—up in front, there with the screen so big, a little kid all alone, and I loved it. I loved anything that moved up there and I didn't miss anything that happened—and there was no payoff either.

When I was 11 the whole world which was always closed to me—I just felt like I was on the outside of the world—suddenly everything opened up. Even the girls and a little attention to me just because they thought, "Hmmm, she's to be dealt with." And I had this long walk to school—2 1/2 miles to school, 2 1/2 miles back—it was just street pleasure. Every fellow wanted to know you, workers driving to work, waving, you know, and I'd wave back. The world became friendly.

All the newspaper boys when they delivered the paper would come around to where I lived, and I used to hang from a limb of a tree, and I had sort of a aviator's shirt on—I didn't realize the value of a sweatshirt in those days—and when I was sort of beginning to catch on, but I didn't quite get it because I couldn't really afford one. But here they'd come with their bicycles, you know, and I'd see these free papers and they'd all like that, and they'd all get their bicycles up around the tree and then I'd be hanging, looking kind of like a monkey, I guess, and a little shy to come down. I'd get down to the curb, kinda kicking the curb and kicking the pavement, mulling, but mostly staring.

And sometimes the families used to worry because I used to laugh so loud and so gay; I guess they thought I was hysterical. It was just this sudden freedom because I could ask the boys, "Can I ride your bike now?" And they'd say, "Sure." Then I'd go zooming,

laughing in the wind, riding down the block, laughing, and they'd all stand around and wait till I came back, but I loved the wind. It renewed me.

But it was kind of a double-edged thing. I did find, too, when the world opened up that people took a lot for granted, like not only could they be friendly, but they could get suddenly overly friendly and expect an awful lot for very little.

When I was older, I used to go to Grauman's Chinese Theatre and try to fit my foot in the prints in the cement there. And I'd say, "Oh, oh, my foot's too big, I guess, that's out." I did have a funny feeling later when I finally put my foot down into that cement. I sure knew what it really meant to me—anything's possible, almost.

It was the creative part that kept me going—trying to be an actress, I enjoy acting when you really hit it right. And I guess I've always had too much fantasy to be only a housewife. Well, also, I had to eat. I was never kept to be blamable about it. I always kept myself. I have always had a pride in the fact that I was on my own. And Los Angeles was my home, too, so when

they said, "Go home!" I said, "I am home."

The time when I sort of began to think I was famous I was driving somebody to the airport and so I came back there was this garage house and I saw my name in lights. I pulled the car up at a distance down the street—it was too much to take up close, you know—all of a sudden. And I said, "Gail, somebody's made a mistake." But there it was, in lights. And I sat there and said, "So that's the way it looks," and it was all very strange to me and yet at the same time they had said, "Remember you're not a star." Yet there it is in lights.

I really got the idea I must be a star, of something, from the newspapermen—I'm saying men, not the women—who would interview me and they would be warm and friendly. By the way, that part of the press you know, the meat of the press, unless they have their own personal quibbles against me, they were always very warm and friendly and they'd say, "You know, you're the only star," and I'd say, "Huh?" and they'd look at me as if I were nuts. I think they, in their own kind of way, made me realize I was famous.

I remember when I got the part



'It's like rrrr do this, rrrr do that'

MARILYN continues

in *Gentlemen Prefer Blondes*. Jane Russell was the blonde; in it and I was the blonde - she got \$30,000 for it and I got my \$300 a week, but that to me was, you know, considerable. She, by the way, was quite wonderful to me. The only thing was I couldn't get a dressing room. I said, finally, I really got to this kind of level. I said, 'Look, after all, I am the blonde and it is *Gentlemen Prefer Blondes*.' Because all they always kept saying, 'Remember, you're not a star.' I said, 'Well, what else I am, I am the blonde!'

And I want to say that the people, 'I am a star' the people made me a star in studio, no person, but the people did. There was a reaction that came to the studio, the film, and when I walked in a premiere, or the exhibit, and wanted to meet me, I didn't know why. When they all rushed toward me I hid behind me to see who was it and I said, 'My heavens!' I was scared to death. I used to get the feeling, and sometimes I still get it, that sometimes I was fooling somebody. I don't know who or what maybe myself.

I've always felt and the slightest sense - even if I had to do in a sense was not to come in and say, 'Hi,' that the people ought to get their money's worth and that this is an obligation of mine, to give them the best you can get from me. I do have feelings some days when there are some scenes with a lot of responsibility towards the meaning, and I'll sigh, get it out. I would have been a crying woman. On the way to the studio, I heard her somebody cheering and I say, 'That's what I'd like to be. That's my ambition in life.' But I think all actors go through this. It's not only want to be good; we have to be.

You know, when they talk about very business - my teacher, Len Stronach, when I said to him, 'I don't know what's wrong with me but I'm a little nervous,' he said, 'What you're not, give up, because nervousness implies sensitivity.'

Also, a struggle with shyness is in every actor more than anyone can imagine. There is a camera in a room that says to what degree do we let go, that I can't playing. I guess people think we just go out there, and you know, that's all we

do - just do it. But it's a real struggle. I'm one of the world's most self-conscious people. I really have to struggle.

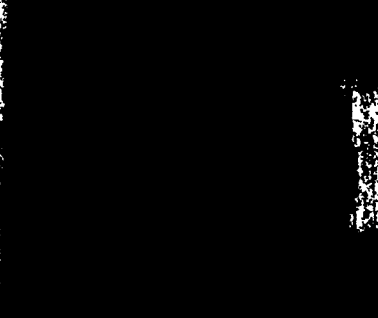
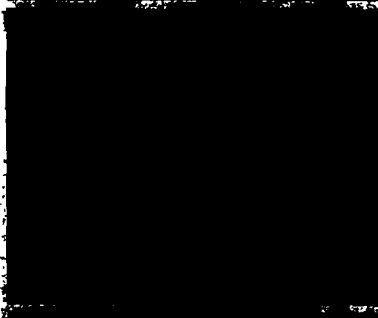
An actor is not a machine, no matter how much they want to say you are. Creativity has got to stick with humanity and when you're a human being, you feel, you suffer, you're gay, you're sick, you're nervous or whatever. Like any creative human being, I would like a bit more control so that it would be a little easier for me when the director says, 'One tear, right now,' that one tear would pop out. But then there came two tears because I thought, 'How dare he?'

Geoffrey said, 'Talent is developed in privacy.' You know? And it's really true. There is a need for alone, in which I don't think most people realize for an actor. It's almost having certain kinds of scenes for yourself that you'll let the whole world in on only for a moment, when you're acting.

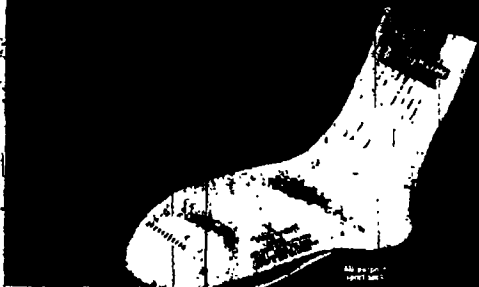
But everybody is always tugging at you. They'd all like sort of a chunk of you. They kind of like like pieces out of you. I don't think they realize it, but it's like 'rrr do this, rrrr do that.' But you do want to stay intact - intact and no two feet.

I think that when you are famous every weakness is exaggerated. This industry should behave like a mother whose child has just run out in front of a car. But instead of clapping the child to them, they start punishing the child. Like you don't dare get a cold - how dare you get a cold? I mean, the executives can get colds and stay home *serre* and phone it in, but how dare you, the actor, get a cold or a virus. You know, no one feels worse than the one who's sick. I sometimes wish, gee, I wish they had to act a comedy with a *troupe* actors and a virus infection. I am not an actress who appears at a studio just for the purpose of discipline. This doesn't have anything at all to do with art. I myself would like to become more disciplined within my work. But I'm there to give a performance, and to be disciplined by a studio. After all, I'm not in a military school. This is supposed to be an industry, not just a manufacturing establishment.

My sensitivity that helps me to act, you see, she makes me react. As I'm supposed to be a sensitive instrument. I mean, Stern takes a piece of the violin. What if you're focused on his violin?



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MARILYN CONTINUED

If you're moved by Hollywood where millions and billions of dollars have been made, there aren't really any kind of monuments or museums, and I don't like putting your footprint in Grauman's Chinese—a monument alright this did mean a lot to sentimental Hollywood me at the time. Gee, nobody left anything behind, they took it, they grabbed it and they ran: the ones who made the billions of dollars, never the workers.

You know a lot of people have a lot of problems that they would like to have someone to help with. I guess people think that why I'm late is some kind of argument and I think it is the opposite of an argument. I always feel that I'm not an argument. I always feel that I'm not a rush—you go and you get to go fast but for no good reason. The main thing is to be prepared when I feel that I'm not prepared and performance or whatever it is the best of my ability.

A lot of people can be there on time and do nothing, which I have seen them do, and you know, all sit around and sort of chit-chatting and talking trivia about their social life. Gable said about me, "When she's there, she's there. All of her is there! She's there to work."

was honored when they asked me to appear at the President's birthday rally in Madison Square Garden. There was like a hush over the whole place when I came on to sing *Happy Birthday*—like if I had been wearing a ship I would have thought it was sinking, or something, I thought. "Oh, my gosh, what if it goes down, come on!"

A hush like that from the people warmed me. It's sort of like an embrace. Then you think, by God, I'll sing this song if it's the last thing I ever do. And for all the people. Because I remember when I turned in the microphone I looked all the way up and back and I thought, "That's where I'd be—way up there under one of those rafters, close to the ceiling, after I paid my \$2 to come into the place."

Allen, "as they had some sorrow of a reception. I was with my former father-in-law, leaders Miller, so I think I did something wrong when I met the President. Instead of saying, 'How do you do?' I just said, 'This is my former father-in-law, leaders Miller.' He came here as lieutenant governor and I thought this would be one of the biggest things in his life—and he's about 75 or 80 years old and I thought this would be something that he could be proud of."



On the brink of fame,
Merrill at age of 21 was catching
the public's imagination
in a swift, mysterious feat
in the world's jungle.

children about and all that.
should have said, "How do you do
Mr. President," but I had already
done the singing. So all you know
I guess nobody noticed it.

Father has a special burden which I might as well state here and now. I don't mind being burdened with a big glamorous dream. But what does it get me? A burden like the man was going to show me around but I was man said, "I'm the premise." I feel that beauty and femininity are goddess and can't be centers and glamour although the night factory was not like this—can't be manipulative. And real glamour is based on femininity. I think that sexuality is only attractive when it's natural and spontaneous. This is where a lot of men sink the boat. And then something is just like to quest off on. We're born sexual creatures, says God, but it's a pity so many people despair and crush this natural gift. Art, real art, comes from sexibility.

“I never quite understood it, this sex symbol—always thought symbols were those things you clean together! That’s the trouble, a sex symbol becomes a thing, just has to be a thing. But if it’s going to be a symbol of something, I’d rather have it be than the other things they’ve got going on! These girls say try to be simple. I guess the studios put them to it, or they get the ideas themselves. But gone, they haven’t got to make a lot of sense about it—like they haven’t got the foreground else they haven’t the background. But I mean the middle, where you find

All my stepchildren carried the burden of my fears. Sometimes they would read terrible things about me and I'd worry about whether it would hurt them. I would tell them, "Don't hide these things from me. I'd rather you ask me these things straight on."

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MARILYN continues

and I'll answer all your questions. Don't be afraid to ask anything. After all I have come up from way down.

I wanted them to know of lives other than their own. I used to tell them, for instance, that I worked for 30 a month and I washed one hundred dishes, and my stepkids would say, "One hundred dishes?" and I said, "Not only that, I scraped and cleaned them before I washed them, I washed them and rinsed them and put them in the draining place, but," I said, "thank God I didn't have to dry them."

Kids are different from grownups, you know when you get grown up you can get kind of sour, I mean that's the way it can go, but kids accept you the way you are. I always tell them, "Though mine grows up or because they say certain things, kind of observe them a little bit." I think probably that is the best advice I have given them. Just observe people for a while and then make up your own mind. And I used to tell them that about myself. I said, "See if I'm worth being a friend. That's up to you, and you figure it out after a while."

Fame to me certainly is only a temporary and a partial happiness even for a while and I was brought up a way. But fame is not really for a dull diet, that's not what fulfills you. It warms you a bit but the warming is temporary. It's like candy, you know, it's good to have candy but not when you have to have it every meal and every day.

I was never used to being happy,

so that wasn't something I ever took for granted. I did not of think, you know, marriage did that. You see, I was brought up differently from the average American child because the average child is brought up expecting to be happy—that's it, successful, happy, and so on. Yet because of fame I was able to meet, and marry two of the nicest men I'd ever met up to that time.

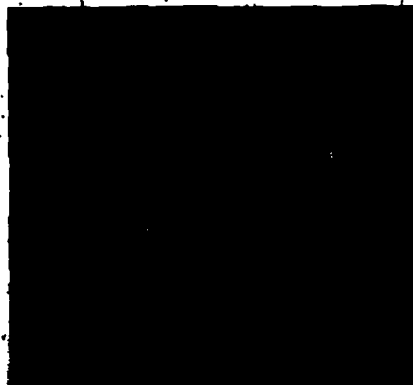
I don't think people will turn against me, at least not by themselves. I like people. The "public" scares me but people I trust. Maybe they can be impressed by the press or when a studio starts sending out all kinds of stories. But I think when people go on set, a movie, they judge for themselves. We human beings are strange creatures and still reserve the right to think for ourselves.

Once I was supposed to be finished—that was the end of me. When Mr. Miller was on trial for contempt of Congress, a certain corporation executive said either he control names and I got him to name names, or I was finished. I said, "I'm proud of my husband's position and I stand behind him all this way," and the court did not. "Finished," they said. "You'll never be heard of."

It might be kind of a relief to be finished. It's sort of like I don't know what kind of a yard dash you're running, but then you're at the finish line and you sort of sigh—you're made it! But you never have—you have to start all over again. But I believe you're always as good as your potential.

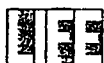
I now live in my work and as a few relationships with the few people I can really count on. Fame will go by and, so long, I've had you, fame. If it goes by, I've always known it was flickle. So at least it's something I experienced, but that's not where I live.

Marilyn's favorite taken of her fame is photograph of fans waiting to glimpse her at premiere. One holds picture he hopes she will autograph.





Spanish villagers enjoy bread with their cats, especially at the Cat Tail Fiesta each January, when a symbolic offering to the poor occurs in a swirl of cat tail fuzz that blankets the town like snow (page 80).



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MARILYN MONROE

THE LAST INTERVIEW

B

y the summer of 1962, Marilyn Monroe's life and career were in turmoil. After she had missed 12 of 32 shooting days on *Something's Got to Give*, 20th Century-Fox fired her. She was rumored to be increasingly reliant on stimulants and sleeping pills, and most of Hollywood considered her so deeply disturbed that she was unemployable.

Whatever her problems, though, Monroe still exerted a magical hold on the American public. So when LIFE Associate Editor Richard Meryman set out to write an article about "the experience of fame—how it transformed a person, a life," there were two names at the top of his list. First he approached Cary Grant, who refused his request for an interview. His second choice was Monroe. "She was immediately interested," recalls Meryman, now a freelance writer living in New York. "She checked me out in a meeting—at which she was an hour late—and apparently I passed because she agreed to cooperate."

Meryman conducted the interviews in Monroe's brand-new house in the Brentwood section of Los Angeles. "I arrived knowing only that I was going to tape-record our sessions. The moment she began talking, her ideas came out so complete, so well prepared, that they could go almost directly onto a page. I decided on the spot to remove my voice entirely and have her speak in a monologue to the reader.... I think she was far smarter than her public image."

In a rare and candid series of conversations with Meryman—which forms the basis of an HBO documentary that will have its first showing on July 20—Monroe spoke about the rewards and burdens of fame, her role as a sex symbol, her childhood in foster homes and a host of other subjects. On August 5, 1962, only a week after Meryman's interview was published in LIFE, she died from an overdose of sleeping pills. "I was dumbfounded," Meryman says. "I had seen her anger and self-justification, but no hints of suicidal desperation."

Thirty years later, Monroe remains as large a figure in our imaginations as when she was alive, and the Meryman interview remains her most eloquent and revealing last testament.

PHOTOGRAPHY: ALLAN GRANT

These contact strips and the pictures on the pages that follow are from Allan Grant's three-hour session with Monroe in July 1962. Grant's photos accompanied the original publication of her last interview.

MARILYN'S LAST PHOTO SESSION, PHOTOGRAPHS © COPYRIGHT ALLAN GRANT. ALL RIGHTS RESERVED.

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Sometimes wearing a scarf and a polo coat and no makeup and with a certain attitude of walking, I go shopping—or just looking at people living. But then you know, there will be a few teenagers who are kind of sharp and they'll say, "Hey, just a minute—you know who I think that is?" And then they'll start tailing me. And I don't mind. I realize some people want to see if you're real. The teenagers, the little kids, their faces light up—they say "gee" and they can't wait to tell their friends. And old people come up and say, "Wait till I tell my wife." You've changed their whole day.

In the morning the garbagemen that go by 57th Street when I come out the door say, "Marilyn, hi! How do you feel this morning?" To me it's an honor, and I love them for it. The workmen—I'll go by and they'll whistle. At first they whistle because they think, oh, it's a girl, she's got blonde hair and she's not out of shape, and then they say, "Gosh, it's Marilyn Monroe!" And that has its—you know, those are the times it's nice, people knowing who you are and all of that, and feeling that you've meant something to them.

I don't know why, but somehow I feel they know that I mean what I do—both when I'm acting on the screen or when I see them in person and greet them—that I really always do mean hello and how are you? In their fantasies they feel—Gee, it can happen to me!

But when you're famous you kind of run into human nature in a raw kind of way. It stirs up envy, fame does. People you run into feel that, well, who is she—who does she think she is, Marilyn Monroe? They feel fame gives them some kind of privilege to walk up to you and say anything to you, you know, of any kind of nature—and it won't hurt your feelings—like it's happening to your clothing. One time, here I am looking for a home to buy, and I stopped at this place. A man came out and was very pleasant, very cheerful, and said, "Oh, just a moment, I want my wife to meet you." Well, she came out and said, "Will you please get off the premises!"

You're always running into people's unconscious. Let's take some actors—or directors. Usually they don't say it to me, they say it to the newspapers because that's a bigger play. You know, if they're only insulting me to my face, that doesn't make a big enough play because all I have to do is say, "See you around, like never." But if it's the newspapers, it's coast to coast and on around the world. I don't understand why people aren't a little more generous with each other. I don't like to say this, but I'm afraid there is a lot of envy in this business. The only thing I can do is I stop and think, "I'm all right but I'm not so sure about them!"

For instance, you've read there was some actor that once said about me that kissing me was like kissing Hitler. Well, I think that's his problem. If I have to do intimate love scenes with somebody who really has these kind of feelings toward me, then my fantasy can come into play. In other words, out with him, in with my fantasy. He was never there.

But one thing about fame is the bigger the people are or the simpler the people are, the more they are not awed by you! They don't feel they have to insult you. You can meet Carl Sandburg and he is so pleased to meet you. He wants to know about you and you want to know about him. Not in any way has he ever let me down. Or else you can meet working people who want to know what is it like: You try to explain to them. I don't like to disillusion them and tell them it's sometimes nearly impossible. They kind of look toward you for something that's away from their everyday life. I guess you call that entertainment, a world to escape into, a fantasy. Sometimes it makes you a little bit sad because you'd like to meet somebody kind of on face value. It's nice to be included in people's fantasies, but you also like to be accepted for your own sake.

I don't look at myself as a commodity, but I'm sure a lot of people have. Including, well, one corporation in particular which shall be nameless. If I'm sounding picked on or something, I think



“It stirs up envy, fame does. There's a lot of envy in this business”

“An actor once said that kissing me was like kissing Hitler. That’s his problem”



I am. I'll think I have a few wonderful friends and all of a sudden, ooooh, here it comes. They do a lot of things—they talk about you to the press, to their friends, tell stories, and you know, it's disappointing. These are the ones you aren't interested in seeing every day of your life.

Of course, it *does* depend on the people, but sometimes I'm invited places to kind of brighten up a dinner table, like a musician who'll play the piano after dinner, and I know you're not really invited for yourself. You're just an ornament.

When I was five—I think that's when I started wanting to be an actress—I loved to play. I didn't like the world around me because it was kind of grim—but I loved to play house and it was like you could make your own boundaries. It goes beyond house—you could make your own situations and you could pretend and even if the other kids were a little slow on the imagining part you could say, "Hey, what if you were such and such and I were such and such. Wouldn't that be fun!" And they'd say, "Oh, yes," and then I'd say, "Well, that will be a horse and this will be—" It was play, playfulness. When I heard this was acting, I said that's what I want to be—you can play. But then you grow up and find out about playing, that they make playing very difficult for you.

Some of my foster families used to send me to the movies to get me out of the house and there I'd sit all day and way into the night—up in front, there with the screen so big, a little kid all alone, and I loved it. I loved anything that moved up there and I didn't miss anything that happened—and there was no popcorn either.

When I was 11 the whole world, which was always closed to me—I just felt like I was on the outside of the world—suddenly, everything opened up. Even the girls paid a little attention to me just because they thought, "Hmmm, she's to be dealt with!" And I had this long walk to school—2½ miles to school, 2½ miles back—it was just sheer pleasure. Every fellow honked his horn—you know, workers driving to work, waving, and I'd wave back. The world became friendly.

All the newspaper boys, when they delivered the paper, would come around to where I lived, and I used to hang from a limb of a tree, and I had sort of a sweatshirt on—I didn't realize the value of a sweatshirt in those days—and then I was sort of beginning to catch on, but I didn't quite

get it because I couldn't really afford sweaters. But here they'd come with their bicycles, you know, and I'd get these free papers and the family liked that, and they'd all pull their bicycles up around the tree and then I'd be hanging, looking kind of like a monkey, I guess. I was a little shy to come down. I did get down to the curb, kinds kicking the curb and kicking the leaves and talking, but mostly listening.

And sometimes the families used to worry because I used to laugh so loud; I guess they felt it was hysterical. It was just this sudden freedom because I would ask the boys, "Can I ride your bike now!" And they'd say, "Sure." Then I'd go zooming, laughing in the wind, riding down the block, laughing, and they'd all stand around and wait till I came back, but I loved the wind. It caressed me.

But it was kind of a double-edged thing. I did find, too, when the world opened up that people took a lot for granted, like not only could they be friendly, but they could get suddenly overly friendly and expect an awful lot for very little.

When I was older, I used to go to Grauman's Chinese Theater and try to fit my foot in the prints in the cement there. And I'd say, "Oh, oh, my foot's too big, I guess, that's out." I did have a funny feeling later when I finally put my foot down into that wet cement. I sure knew what it really meant to me—anything's possible, almost.

It was the creative part that kept me going—trying to be an actress. I enjoy acting when you really hit it right. And I guess I've always had too much fantasy to be only a housewife. Well, also, I had to eat. I was never kept, to be blunt about it. I always kept myself. I have

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always had a pride in the fact that I was on my own. And Los Angeles was my home, too, so when they said, "Go home!" I said, "I am home."

The time when I sort of began to think I was famous I was driving somebody to the airport and as I came back there was this movie house and I saw my name in lights. I pulled the car up at a distance down the street—it was too much to take up close, you know—all of a sudden. And I said, "God, somebody's made a mistake." But there it was in lights. And I sat there and said, "So that's the way it looks," and it was all very strange to me, and yet at the studio they had said, "Remember you're not a star." Yet there it is up in lights.

I really got the idea I must be a star, or *somethink*, from the newspapermen—I'm saying men, not the women—who would interview me and they would be warm and friendly. By the way, the men of the press, unless they have their own personal quirks against me, they were always very warm and friendly and they'd say, "You know, you're the only star," and I'd say, "Star!" and they'd look at me as if I were nuts. I think they, in their own way, made me realize I was famous.

I remember when I got the part in *Gentlemen Prefer Blondes*, Jane Russell—she was the brunette in it and I was the blonde—she got \$200,000 for it and I got my \$500 a week, but that to me was, you know, considerable. She, by the way, was quite wonderful to me. The only thing was I couldn't get a dressing room. I said, finally—I really got to this kind of level—I said, "Look, after all, I am the blonde and it is *Gentlemen Prefer Blondes*!" Because still they always kept saying, "Remember, you're not a star." I said, "Well, whatever I am, I am the blonde!"

And I want to say that the people—if I am a star—the people made me a star—no studio, no person, but the people did. There was a reaction that came to the studio, the fan mail, or when I went to a premiere, or the exhibitors wanted to meet me. I didn't know why. When they all rushed toward me I looked behind me to see who was there and I said, "My heavens!" I was scared to death. I used to get the feeling, and sometimes I still get it, that sometimes I was fooling somebody. I don't know who or what—maybe myself.

I've always felt toward the slightest scene—even if all I had to do in a scene was just to come in and say, "Hi," that the people ought to get their money's worth and that this is an obligation of mine, to give them the best you can get from me. I do have feelings some days when there are some scenes with a lot of responsibility towards the meaning, and I'll wish, gee, if only I would have been a cleaning woman. On the way to the studio I would see somebody cleaning and I'd say, "That's what I'd like to be. That's my ambition in life." But I think all actors go through this. We not only want to be good; we have to be.

You know, when they talk about nervousness—my teacher, Lee Strasberg—when I said to him, "I don't know what's wrong with me, but I'm a little nervous," he said, "When you're not, give up, because nervousness indicates sensitivity."

Also, a struggle with shyness is in every actor more than anyone can imagine. There is a censor inside us that says to what degree do we let go, like a child playing. I guess people think we just go out there, and you know, that's all we do—just do it. But it's a real struggle. I'm one of the world's most self-conscious people. I really have to struggle.

An actor is not a machine, no matter how much they want to say you are. Creativity has got to start with humanity and when you're a human being, you feel, you suffer—you're gay, you're sick, you're nervous or whatever. Like any creative human being, I would like a bit more control so that it would be a little easier for me when the director says, "One tear, right now," that one tear would pop out. But once there came two tears because I thought, "How dare he!"

oethe said, "Talent is developed in privacy," you know? And it's really true. There is a need for aloneness, which I don't think most people realize, for an actor. It's almost having certain kinds of secrets for yourself that you'll let the whole world in on only for a moment, when you're acting.

But everybody is always tugging at you. They'd all like sort of a chunk of you. They kind of like take pieces out of you. I don't think they realize it, but it's like "rrr do this, rrr do that." But you do want to stay intact—intact and on two feet.

I think that when you are famous every weakness is exaggerated. This industry should behave like a mother whose child has just run out in front of a car. But instead of clasping the child to them, they start punishing the child. Like you don't dare get a cold—how dare you get a cold! The executives can get colds and stay home forever, but how dare you, the actor, get a cold. You know, no one feels worse than the one who's sick. I sometimes wish, gee, I wish they had to act a comedy with a temperature and a virus infection. I am not an actress who appears at a studio just for the purpose of discipline. This doesn't have anything to do with art. I myself would like to become more disciplined within my work. But I'm there to give a performance and not to be disciplined by a studio! After all, I'm not in a military school. This is supposed to be an art form, not just a manufacturing establishment.

The sensitivity that helps me to act also makes me react. An actor is supposed to be a sensitive instrument. Isaac Stern takes good care of his violin. What if everybody jumped on his violin?

If you've noticed in Hollywood where millions and billions of dollars have been made, there aren't really any kind of monuments or museums, and I don't call putting your footprint in Grauman's Chinese a monument—all right, this did mean a lot to sentimental ballyhoo me at the time. Gee, nobody left anything behind, they took it, they grabbed it and they ran—the ones who made the billions of dollars, never the workers.

You know a lot of people have, oh gee, real quirky problems that they wouldn't dare have anyone know. But one of my problems happens to show—I'm late. I guess people think that why I'm late is some kind of arrogance and I think it is the opposite. I also feel I'm not in this big American rush—you know, you got to go and you got to go fast but for no good reason. The main thing is, I do want to be prepared when I get there to give a good performance to the best of my ability.

A lot of people can be there on time and do nothing, which I have seen them do, and you know, all sit around and sort of chitchatting and talking trivia about their social life. Gable said about me, "When she's there, she's there. All of her is there! She's there to work."

I was honored when they asked me to appear at the President's birthday rally in Madison Square Garden. There was like a hush over the whole place when I came on to sing "Happy Birthday"—like if I had been wearing a slip I would have thought it was showing, or something. I thought, "Oh, my gosh, what if no sound comes out!"

A hush like that from the people warms me. It's sort of like an embrace. Then you think, "By God, I'll sing if it's the last thing I ever do. And for all the people." Because I remember when I turned to the microphone, I looked all the way up and back and I thought, "That's where I'd be—way up there under one of those rafters, close to the ceiling, after I paid my \$2 to come into the place."

Afterwards they had some sort of a reception. I was with my former father-in-law, Isidore Miller, so I think I did something wrong when I met the President. Instead of saying, "How do you do?" I just said, "This is my former father-in-law, Isidore Miller." He came here an immigrant, and I thought this would be one of the biggest things in his life—he's about 75 or 80 years old and I thought this would be something that he would be telling his grandchildren about and all that. I



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“Fame is not what fulfills you. It warms you a bit, but the warming is temporary”

should have said, “How do you do, Mr. President,” but I had already done the singing, so, well, you know. I guess nobody noticed it.

Fame has a special burden, which I might as well state here and now. I don't mind being burdened with being glamorous and sexual. I feel that beauty and femininity are ageless and can't be contrived, and glamour cannot be manufactured. Not real glamour, it's based on femininity. I think that sexuality is only attractive when it's natural and spontaneous. This is where a lot of them miss the boat. We are all born sexual creatures, thank God, but it's a pity so many people despise and crush this natural gift. Art, real art, comes from it—everything.

I never quite understood it—this sex symbol—I always thought symbols were those things you clash together! That's the trouble, a sex symbol becomes a thing. I just hate to be a thing. But if I'm going to be a symbol of something I'd rather have it sex than some other things they've got symbols of! These girls who try to be me—I guess the studios put them up to it, or they get the ideas themselves. But gee, they haven't—you can make a lot of gags about it—like they haven't got the foreground or else they haven't the background. But I mean the middle, where you live.

All my stepchildren carried the burden of my fame. Sometimes they would read terrible things about me and I'd worry about whether it would hurt them. I would tell them, don't hide these things from me. I'd rather you ask me these things straight out and I'll answer all your questions. Don't be afraid to ask anything. After all I have come up from way down.

I used to tell them, for instance, that I worked for five cents a month and I washed one hundred dishes, and my stepkids would say, “One hundred dishes!” and I said, “Not only that, I scraped and cleaned them before I washed them. I washed them and rinsed them and put them in the draining place, but,” I said, “thank God I didn't have to dry them.”

Fame to me certainly is only a temporary and a partial happiness—even for a while and I was brought up a while. But fame is not really for a daily diet, that's not what fulfills you. It warms you a bit but the warming is temporary. It's like caviar but not when you have to have it every meal.

I was never used to being happy, so that wasn't something I ever took for granted. I did sort of think, you know, marriage did that. You see, I was brought up differently from the average American child because the average child is brought up expecting to be happy—that's it, successful, happy and on time. Yet because of fame I was able to meet and marry two of the nicest men I'd ever met up to that time.

I don't think people will turn against me, at least not by themselves. I like people I trust. Maybe they can be impressed by the press or when a studio starts sending out all kinds of stories. But I think when people go to see a movie, they judge for themselves. We human beings are strange creatures and still reserve the right to think for ourselves.

Once I was supposed to be finished—that was the end of me. When Mr. Miller was on trial for contempt of Congress, a certain corporation executive said either he named names and I got him to name names, or I was finished. I said, “I'm proud of my husband's position and I stand behind him all the way,” and the court did too. “Finished,” they said. “You'll never be heard of.”

It might be kind of a relief to be finished. It's sort of like I don't know what kind of a yard dash you're running, but then you're at the finish line and you sort of sigh—you've made it! But you never have—you have to start all over again. But I believe you're always as good as your potential.

I now live in my work and in a few relationships with the few people I can really count on. Fame will go by and, so long, I've had you, fame. If it goes by, I've always known it was fickle. So at least it's something I experienced, but that's not where I live.

EXHIBIT 4A

Chapter Twenty

JANUARY–MAY 1962

IN LATE JANUARY 1962, Eunice Murray found a home for Marilyn Monroe. Ralph Greenson accompanied his patient on her first visit to approve the choice, and she purchased it from the owners, William and Doris Pagen, for \$77,500. Marilyn had prudently deferred her income from *Some Like It Hot* and *The Misfits*, and that January she received checks totaling \$225,000; most of this paid past taxes, and then Marilyn put down \$42,500 and signed for a 6½ percent, fifteen-year mortgage, with monthly payments of \$320. She would take title and possession of her new home two months later.

Contracts were drawn up without problems and with the assistance of her new attorney, Milton Rudin (Greenson's brother-in-law). Rudin expedited the purchase of the house and subsequently managed the transfer of Marilyn's representation from MCA to his own firm. With Greenson, Murray, Weinstein and Rudin in place, both the private and professional aspects of Marilyn Monroe's life seemed safely assured. Only for a moment did she hesitate before signing the escrow papers: "I felt badly because I was buying a house all alone," she said later. But encouraged by Greenson, buy it she did, although as Marilyn's friend and stand-in Evelyn Moriarty recalled, "she was talked into this house—by Mrs. Murray and by Dr. Greenson, as she told us several times while we were filming *Something's Got to Give*."

The house was remarkably like a modest version of the Murray-

Greenson home. Near Santa Monica and the ocean, between Sunset and San Vicente boulevards, there is a run of short, dead-end streets off Carmelina Avenue known as the “numbered Helenas.” At 12305 Fifth Helena Drive was a Spanish hacienda behind a high white wall. Secluded and private, the small (twenty-three-hundred-square-foot), single-story house with attached garage and a tiny guest house needed considerable refurbishing, but it had a red-tiled roof, thick white stucco walls, casement windows, a beamed cathedral ceiling in the living room and arched doorways throughout. The property also featured lush plantings and a swimming pool—all nestled in a quiet cul-de-sac convenient to shopping, to Fox and a mere mile from the Greenson residence on Franklin Street, just around the golf course of the Brentwood Country Club.

A visitor at the front door looked down to see a tile with the Latin motto *CURSUM PERFICIO*, a translation from the original Greek of a New Testament verse.¹ The threshold gave, without foyer, onto a small living room; to the left were a kitchen, dining area and small solarium; to the right were three small bedrooms, one facing the front lawn, with a small private bath, and two smaller bedrooms connected by a second bath. As was the custom in many homes built during the Great Depression, there was little closet space—two small cupboards for three bedrooms, plus a linen closet—and none of these had operating locks, as Eunice pointed out. This was bad news to Marilyn’s new secretary, a woman in her late fifties named Cherie Redmond. From January 1962, Cherie worked at Doheny Drive; from March, she was at Fifth Helena; and when production on the new film began, she was in daily attendance at Fox.

1. The meaning of the original Greek in II Timothy 4:7, and of Jerome’s later Latin rendering *Cursum perficio*, is “I complete the course [or race].” Centuries later, the verse was commonly used as a motto in European doorways to welcome travelers and pilgrims to places of refuge; it was then taken up and used in homes, the simple equivalent of the modern mat announcing “Welcome!” Gloomy symbol-seekers have read the motto as Marilyn’s prophecy of her death (or worse, her death-wish); in fact, it had been installed by the builder thirty years before.

Cherie wished to secure Marilyn's financial papers, checks and related private materials in a closet or in one of the small bedrooms—"but there isn't one door in the place that locks," as she wrote to her New York counterpart, Hedda Rosten (who was taking care of mail and minor secretarial duties at Fifty-seventh Street). As the next owners after Marilyn discovered, none of the inoperative interior locks were repaired while she was in residence. (Cherie finally had one installed for her small file cabinet, on March 15.)²

Just as Marilyn was planning the partial renovation of the new house and the purchase of new, Mexican-style furnishings, she heard the first rumblings of Hollywood talk about an important new man in her life: nothing in the press, of course (that would have been unthinkable in 1962), simply party chatter. In time, the talk became a loud shout, then an avalanche.

A passionate love affair between Marilyn Monroe and John F. Kennedy has been assumed for so long that it has achieved as solid a place in public awareness as almost any other event in the man's presidency.

But if the phrase "love affair" describes a protracted intimacy sustained by some degree of frequency, then such a connection between these two is impossible to establish with any of the rudimentary tools of historico-critical studies. In the absence of such evidence, no serious biographer can identify Monroe and Kennedy as partners in a love affair. All that can be known for certain is that on four occasions between October 1961 and August 1962, the president and the actress met, and that during *one* of those meetings they telephoned one of Marilyn's friends from a bedroom; soon after, Marilyn confided this one sexual encounter to her closest confidants, making clear that it was the extent of their involvement.

In October 1961, after a photography session for a magazine story, Marilyn asked Allan Snyder to deliver her to a party at Patricia and Peter Lawford's Santa Monica beach house. The occasion was a dinner party honoring Pat's brother, President Kennedy, and among the other guests were several blond movie stars—Kim Novak, Janet Leigh and

2. See below, chapter 22, footnote 8.

Angie Dickinson, for all of whom the president had a keen appreciation. All contrary allegations notwithstanding, this was the first meeting between Marilyn Monroe and John Kennedy; hearsay about any earlier introduction simply cannot be substantiated. Before this, the schedules of Monroe and Kennedy since his January 1961 inauguration reveal wide geographic distances between them. That October night, Marilyn was driven back to her apartment by one of the Lawfords' staff.

The second encounter occurred during February 1962, when Marilyn was again invited to a dinner party for the president, this time at the Manhattan home of Fifi Fell, the wealthy socialite widow of a famous industrialist. She was escorted from her New York apartment to the Fell residence by Milton Ebbins, who also saw her home.

The third meeting occurred on Saturday, March 24, 1962, when both the president and Marilyn were houseguests of Bing Crosby in Palm Springs. On that occasion, she telephoned Ralph Roberts from the bedroom she was sharing with Kennedy.

"She asked me about the solus muscle," according to Ralph, "which she knew something about from the Mabel Ellsworth Todd book [*The Thinking Body*], and she had obviously been talking about this with the president, who was known to have all sorts of ailments, muscle and back trouble." Ralph clearly recalled not only the origin and detail of Marilyn's question but also the ease with which Kennedy himself then took the phone and thanked Roberts for his professional advice. "Later, once the rumor mill was grinding," according to Ralph,

Marilyn told me that this night in March was the only time of her "affair" with JFK. Of course she was titillated beyond belief, because for a year he had been trying, through Lawford, to have an evening with her. A great many people thought, after that weekend, that there was more to it. But Marilyn gave me the impression that it was not a major event for either of them: it happened once, that weekend, and that was that.

The fourth and final meeting took place in May 1962, at the legendary birthday gala for Kennedy at Madison Square Garden, an event that included a party afterward at the home of movie executive Arthur Krim and his wife Mathilde, a scientist later renowned for her great work

against AIDS. This May meeting was the briefest of them all, as the president, his brother and his family were mobbed by friends, admirers and the press all evening.

Were Marilyn Monroe's characteristic candor on such matters the only evidence—the fact that she never exaggerated nor minimized her romantic involvements—that would be weighty reason to accept her version of the one night of intimacy. There is, however, good external evidence to support her claim. Accounts of a more enduring affair with John Kennedy, stretching anywhere from a year to a decade, owe to fanciful supermarket journalists and tales told by those eager for quick cash or quicker notoriety: those who fail to check the facts of history and are thus easily dispatched as reliable sources.

In fact, there were at least two other famous blond actresses whose affairs with President Kennedy are far more easily established. One, Angie Dickinson, almost completed her autobiography—all details of her affair with the president intact—but then she decided to omit the Kennedy affair. But with that excision, her story apparently lacked drama. On third thought, she withdrew the typescript, returned the money paid as an advance against royalties and, having once entered the publishing kingdom, abandoned all hope forever. A second blond actress, whose autobiography was in fact published, simply omitted any mention of her brief affair with the president.

“Marilyn liked [President Kennedy] the man as well as the office,” according to Sidney Skolsky, among the first friends to be informed of the March tryst; he added that she also enjoyed the fantasy that this experience carried—“the little orphan waif indulging in free love with the leader of the free world.” And as she soon after told Earl Wilson, Rupert Allan and Ralph Roberts, she found John Kennedy amusing, pleasant, interesting and enjoyable company, not to say immensely flattering. As for Mrs. Kennedy, as Skolsky added, “Marilyn did not regard [her] with envy or animosity,” and was aware that her own role in Kennedy's life (like that of other women she knew) was limited to a necessarily shallow transiency.

The posthumous revelations of Kennedy's philandering revealed the impossibility, for obvious reasons, of pursuing any serious romance with one woman. The exaggeration of his “affair” with Marilyn is part of the myth of King Arthur's Camelot, an image subsequently grafted

onto his brief term. There was a need to believe in the tradition of courtly intrigues and infidelities—Lancelot and Guinevere, Charles II and Nell Gwynn, Edward VII and Lily Langtry; Nell and Lily were actresses in the bargain. John F. Kennedy was, he might have thought, exercising a benevolent *droit du seigneur*.

But in this case there was but one rendezvous between the attractive, princely president and the reigning movie queen; to follow the Arthurian simile: the mists of Avalon are easily dispersed by shining reality's clear light onto the scene.

It is important to establish definitively the truth of this matter not only for the sake of historical accuracy but also because of a far more damaging rumor that began after Marilyn Monroe's death. The unfounded and scurrilous accounts of a concomitant or subsequent sexual affair with Robert F. Kennedy, the president's younger brother and attorney general, has been even more persistent than that of the presidential liaison. It has also led to the completely groundless assertion of a link between Robert Kennedy and Marilyn's death—a connection so outrageous as to be hilarious were it not also injurious to the man's reputation.³

The rumors of an affair with Robert Kennedy are based on the simple fact that he met Marilyn Monroe four times, as their schedules during 1961 and 1962 reveal, complementing the testimony of (among others close to Kennedy) Edwin Guthman, Kennedy's closest associate during this time. But Robert Kennedy never shared a bed with Marilyn Monroe.

Guthman, a Pulitzer Prize-winning investigative reporter and journalist, was Special Assistant for Public Information in the Kennedy administration as well as senior press officer for the Justice Department. The travel logs of the attorney general's schedule for 1961–62 (preserved in the John F. Kennedy Library and in the National Archives) support the detailed accounts provided by Guthman. These, collectively, attest to the fact that Robert Kennedy and Marilyn Monroe enjoyed a socially polite relationship—four meetings and several phone calls over a period of less than ten months. But their respec-

3. The history of this fiction is traced in the Afterword to this book, "The Great Deception."

tive whereabouts during this time made anything else impossible—even had they both been inclined to a dalliance, which is itself far from the truth on both counts.

Marilyn's first meeting with Robert Kennedy occurred several weeks before her introduction to the president. "On either October 2 or 3, 1961," said Guthman,

Kennedy and I were attending a series of meetings with United States attorneys and members of the FBI in Albuquerque, Phoenix, Los Angeles, San Francisco, Portland and Seattle. The attorney general and I attended a dinner party at the Lawfords, and around midnight Marilyn decided to go home. But she had drunk too much champagne, and we were worried for her. Bobby and I would not let her drive her car, and we did so together, delivering her safely to her door.

The second meeting between the attorney general and Marilyn occurred on Wednesday evening, February 1, 1962, when he and his entourage dined at the Lawfords en route from Washington to the Far East on a month-long diplomatic journey. "That evening," according to Guthman, "Marilyn was quite sober—a terrifically nice person, really—fun to talk with, warm and interested in serious issues."

Pat Newcomb, also present at the dinner, remembered that Marilyn

really cared about learning. The day before [the dinner party], Marilyn told me, "I want to be in touch, Pat—I want to really know what's going on in the country." She was especially concerned about civil rights—she really cared about that. She had a list of questions prepared. When the press reported that Bobby was talking to her more than anyone else, that's what they meant. I saw the questions and I knew what they were talking about. She identified with all the people who were denied civil rights.

The next day, February 2, Marilyn wrote two letters. To Isadore Miller, Marilyn sent a two-page letter in which she wrote to her "Dear Dad,"

Last night I attended a dinner in honor of the Attorney General, Robert Kennedy. He seems rather mature and brilliant for his thirty-six years, but what I liked best about him, besides his Civil Rights program, is he's got such a wonderful sense of humor.

That same day, she wrote to Arthur Miller's son Bobby:

I had dinner last night with the Attorney General of the United States, Robert Kennedy, and I asked him what his department was going to do about Civil Rights and some other issues. He is very intelligent and besides all that, he's got a terrific sense of humor. I think you would like him. I was mostly impressed with how serious he is about Civil Rights. He answered all of my questions and then he said he would write me a letter and put it on paper. So, I'll send you a copy of the letter when I get it because there will be some very interesting things in it because I really asked many questions that I said the youth of America want answers to and want things done about.

The third and fourth meetings were the most casual of all: at the president's birthday gala in New York on May 19 (among hundreds of other guests); and when Peter and Patricia Lawford invited Marilyn to attend a dinner party for Robert Kennedy on Wednesday, June 27. The Lawfords came for Marilyn early that evening, and with them was the attorney general—at Marilyn's specific invitation, for she had invited them all to see her new home. From there, they proceeded to the Lawfords' house for dinner; later, the attorney general's driver delivered her back to Fifth Helena. "They all came over to see the house," according to Eunice. "She certainly didn't go sneaking around with Mr. Kennedy or have a love affair with him!"⁴

4. On Monday and Tuesday, June 25 and 26, the attorney general was in Detroit, Chicago and Boulder addressing (among other groups) conferences of United States attorneys. On Tuesday afternoon, Kennedy arrived in Los Angeles, where he met with FBI and IRS agents to discuss matters of criminal intelligence. On Thursday morning, he departed

All other accounts simply cannot be proven. Those who claim Robert Kennedy and Marilyn Monroe had a tryst in Los Angeles on November 18, 1961, for example, fail to deal with the fact that on that date, Kennedy was in New York, addressing a convocation at Fordham University; Marilyn, who was preparing for her photographic sessions with Douglas Kirkland, dined in Los Angeles with the Greensons after a psychiatric session at the doctor's home. Such tale-spinners are equalled only by those who place the lovers' meetings on February 24 and March 14, 1962: on the first date, Kennedy was in Bonn, Germany, and Marilyn was in Mexico; on the second, he was in Washington addressing the American Business Council while she had just moved into her new home and had in her company Joe DiMaggio. And so it goes.

As long as he knew Robert Kennedy, said Edwin Guthman, he never had the remotest impression of an affair with Marilyn—much less any other woman.

Ethel was the woman in his life, and he seemed uninterested in any other except in the normal, socially acceptable and public way of such things. That summer, Marilyn did indeed call [Kennedy] several times at his Washington office. Bobby was a good listener, and he took an interest in her questions, her life, even her troubles. But the truth is that for me, for Bobby, and for Angie [Novello, Kennedy's secretary], the calls became something of a joke, and certainly nothing secret or whispered. We would say to one another something like, 'Oh, here she is again, with questions about this or that.' But these were always brief conversations. He was not a man to spend a lot of time on small talk with anyone. And to have an affair? Well, frankly it wasn't in his character.

Los Angeles for Oklahoma City, Nashville and Roanoke, whence he returned to Washington on June 30. On this entire week, the record is unambiguous. The National Archives; FBI Files #77-51387-274 and 260 (documenting the attorney general's itinerary); and the Jerry Wald appointment books at the University of Southern California all confirm that the attorney general spent most of Wednesday afternoon, June 27, with Wald, discussing the possibility of a film based on Kennedy's 1960 book, *The Enemy Within*.

To a person, Hollywood and New York reporters who knew Marilyn Monroe and Robert Kennedy are unanimous in agreement. "The man [with whom she had the brief affair] was not Bobby Kennedy, but his brother John," wrote Earl Wilson. "There was no doubt it was Jack and not Bobby," according to Marilyn's old friend Henry Rosenfeld. And Richard Goodwin, assistant special counsel to President Kennedy, a director of the subsequent Robert Kennedy campaigns and a leading scholar on the Kennedy family, put the matter simply: "Anyone who knew Bobby Kennedy knew that it was not in his temperament [to have an affair]. We had many intimate talks over the years, and Marilyn Monroe's name never came up. Given Bobby's relation to his brother, it would have been unthinkable for him to 'take over' the relationship, as some have claimed."⁵ As for Marilyn, she asked Rupert Allan and Ralph Roberts if they had heard rumors of a romance between her and Robert Kennedy; when they replied that indeed they had, she insisted they were false. (Furthermore, according to Ralph and Rupert, Marilyn did not find the younger Kennedy physically appealing.)⁶

Four days after the February 1 dinner at the Lawford house, Marilyn was in New York, en route to visit Isadore Miller, then living in Florida, and from there she was going on for a shopping trip in Mexico. Her devotion to Miller in his lonely widowhood, like her affection and gen-

5. Sidney Skolsky and all of Peter Lawford's closest friends, including William Asher, Milton Ebbins and Joseph Naar, insist the Monroe-Kennedy friendship was platonic. Skolsky summed up their belief: "As for Robert Kennedy, she never mentioned him" (p. 234) and said that Norman Mailer, "writing about Bobby, put together purple prose to make greenbacks" (quoted in Wilson, p. 60)—an assertion Mailer himself admitted in 1973.

6. J. Edgar Hoover, who kept a detailed dossier on Marilyn since before her marriage to Miller, would very much have appreciated confirmation of rumors about Marilyn and Robert Kennedy, but his files remained empty on the matter. "It would have been impossible for Hoover not to have known about such goings-on had they occurred," said Edwin Guthman, "and he certainly would have used this information during Bobby's later campaigns for office."

erosity to Arthur's children, continued uninterrupted until her death, even after Arthur's marriage to Inge Morath early in 1962. After Marilyn moved into her new home that March she often sent Isadore, Bobby and Jane gifts, made frequent offers of airline tickets for them to visit her in California and asked what she might do for them as their friend.⁷

In New York, Marilyn was first happily reunited with the Strasbergs. They attended the Old Vic's production of *Macbeth* at the City Center with her on February 6. Marilyn then spent three days discussing with Paula the first, incomplete draft of the script for *Something's Got to Give*, and she attended several open and private classes at the Actors Studio. At the same time, she received many messages from California each day—about her new home; about the starting date for the film (she had yet to meet Weinstein); about calls from Joe, who was surprised to locate her in New York when he had made a special journey to visit her in Los Angeles; from Greenson, who called at least once daily. All these messages were meticulously recorded, logged and preserved by Cherie Redmond.

In addition to the calls, there were meetings with representatives of *Life* magazine regarding a forthcoming interview, and a conversation with Alan Levy that formed the basis of a long article in *Redbook* later that year. Like Marilyn's friends, Levy found her thoughtful and articulate.

Eunice, meanwhile, had obtained from Marilyn several hundred dollars' advance on her weekly salary and departed Los Angeles on Monday, February 12. She visited her brother-in-law Churchill Mur-

7. To Isadore Miller on February 2, 1962: "Do give my invitation some serious thought because remember, you haven't been west of the Rockies yet. But most of all, I would love to have you spend time with me. . . . I'll sure enjoy seeing you. I send all my love and I miss you." To Bobby Miller, same date: "I would love it if you and Janie [his sister] wanted to come for a few days or a week—you are welcome to stay as long as you want to. I will take care of your plane tickets and meet you at the airport. You and Janie are always welcome. I guess we are all a little sloppy about writing, but I think we all know what we mean to each other, don't we? At least I know I love you kids and I want to be your friend and stay in touch. I love you and miss you both. Give my love to Janie too."

ray in Mexico City, checked into a hotel and awaited Marilyn's arrival for their shopping expedition. No matter that Pat Newcomb was entirely prepared to attend Marilyn as friend and companion on the trip: Greenson had arranged that Eunice was to be with them.

"It wasn't hard to understand," Pat said later. "Eunice was simply Greenson's spy, sent down to report back everything Marilyn did. Soon even Marilyn began to see this."

On Saturday the seventeenth, Marilyn arrived in Miami, where she was met by Pat Newcomb and by her new personal Los Angeles hairstylist, George Masters (who had the painstaking task of maintaining Marilyn's platinum color). For three days, Marilyn entertained Isadore, taking him to dinner at the Hotel Fontainebleau's Club Gigi and to a cabaret show at the Minaret. That spectacle was a disappointment, according to Miller, but when he suggested that they leave, Marilyn, who had been recognized, was unwilling to hurt the performers' feelings by rising to depart. The next evening, she gave a dinner for several of Isadore's friends, and after she departed on Tuesday, he found two hundred dollars in an overcoat pocket. He had spent more than that on her in times past, she replied when he telephoned later to protest. "You see," he said later, "Marilyn wanted me to protect her [like a father], but she also protected me."

Apart from her hospitalizations, Marilyn had not been much in the public eye for over a year, and so Pat Newcomb and George Masters joined her for the trip to Mexico City: two press conferences had been arranged at the Hilton, to reveal a slim, lovely Marilyn shopping for her new home and speaking enthusiastically (despite her misgivings about the project) of going to work the following month on *Something's Got to Give*. Over eleven days beginning February 21, Marilyn met the press and then, in the company of Fred Vanderbilt Field and his wife Nieves (to whom she was just then introduced through mutual friends), Marilyn toured Cuernavaca, Toluca, Taxco and Acapulco. They rummaged local shops, bought native furniture and housewares and ordered Mexican tiles for Marilyn's new kitchen and bathrooms. And as Pat and Eunice both noted, Marilyn took no sleeping pills, no drugs of any sort during this time.

While Pat expertly supervised press relations throughout the trip, George saw that Marilyn was—even on a casual outing—perfect to

behold. "Whenever she was being made up and I was doing her hair that extraordinary platinum," George recalled,

some incredible change occurred and she became "Marilyn Monroe." Her voice changed, her hands and body motions altered and suddenly she was a different woman from the plain girl with faded blue jeans and a worn shirt I'd seen a few moments before. I've never seen anything like this complete change of personality. She was brilliant. She knew how to become what people expected.

He also found Eunice extraordinary, but (like Marilyn's other friends) in a different way. "She was—how can I put it?—a very weird woman, like a witch. Terrifying, I remember thinking. She was terrifically jealous of Marilyn, separating her from her friends—just a divisive person."

But such efforts on Eunice's part were unavailing when it came to a new and brief acquaintance Marilyn made that month. A Mexican Monroe fan named José Bolaños located them, claiming to be a writer as well as an admirer. Slim and dark with movie-star good looks, he was Marilyn's occasional escort for social events during the journey. Then, from Los Angeles, came the news of another Golden Globe Award for Marilyn, to be presented in March—whereupon she said to Pat, "I guess I can go to the dinner with Sidney Skolsky." Instead, Pat suggested that it would be good publicity for her to invite Bolaños to fly back as her escort for that evening.

At their expense, he was thrilled to do so. On Friday, March 2, the little entourage returned to Los Angeles, and the following Monday she again received the Hollywood Foreign Press Association's award as "the world's favorite female star." George Masters, who helped prepare Marilyn for the evening, recalled that she ordered a green, floor-length beaded dress and then summoned two seamstresses from Fox; she stood for seven hours while the women recut the dress so that it would be dramatically backless instead of scooped-neck.

The presence of Marilyn with José at the dinner ignited rumors of a new Latin lover. Whatever the extent of the relationship (it does not seem to have been very romantic), José was back in Mexico soon after the award dinner, for another Joe had arrived, as if on cue. Unwilling to contest the presence of the legendary slugger, José retreated to his

prior position as Marilyn's ultimate Mexican fan, with what supplementary memories may never be known.

Joe's unexpected arrival was not due to jealousy. He had heard (as who familiar with Hollywood news had not) that Marilyn's deportment at the award dinner that Monday evening was uncharacteristically embarrassing: she was, as her friend Susan Strasberg observed, "drunk, barely in control, her voice slurred—and she wore a dress so tight she could hardly move." For once, the silence in the room betokened not admiration or awe but, even in Hollywood, shock.

There were both chemical and emotional causes for her unusual conduct. She had received several injections on Saturday, Sunday and Monday from Hyman Engelberg—"vitamin shots," as Eunice Murray euphemistically called them, but clearly more potent combinations of drugs. Among them were Nembutal, Seconal and phenobarbital (all dangerous and habituating barbiturates) and, for quick sleep, chloral hydrate (the so-called Mickey Finn knockout drops). These drugs, also provided for Marilyn in capsule form by prescription, were not so strictly controlled by the government then as they were later.

As the noted pathologist Dr. Arnold Abrams observed later, "It was irresponsible to provide this sort of thing in the amounts Marilyn Monroe received them, even in 1962. These were known to be toxic drugs requiring careful monitoring. This was not 1940, when there was far less knowledge about this kind of medication." To make matters worse, Greenson, too, began to provide heavier doses of sleeping pills; only later did he and Engelberg try to coordinate their prescriptions, with completely ineffectual results.

For physicians held in such apparent high regard, they failed egregiously to note the difference between *relaxation* and *relief from stress*. When Marilyn Monroe awoke after an intake of barbiturates, she was just as anxious as before—over professional matters that were quickly exacerbated by drugs. Barbiturates, like Valium and Librium (then being widely introduced), clearly relaxed people, but there was an erroneous assumption that they also relieved stress. Quite the contrary: the patient simply awoke with the same anxieties, which often seemed worse because of the depressing effect of the drugs themselves. Pat Newcomb, Rupert Allan and Ralph Roberts knew that Marilyn's medicine cabinet and bedside table resembled sample drawers at

Schwab's: she had a veritable pharmacopoeia at her disposal.⁸

"During and after *The Misfits*," as Roberts remembered, "Green-son took no steps to get Marilyn off drugs: in fact he provided them." And with an eventual tolerance of three hundred milligrams of Nembutal nightly, she was indeed in a precarious situation—and of this neither physician could have been unaware. As Pat Newcomb said, "It is hard to understand negligence such as that." Maintaining a roster of rich, famous and needy clients may provide at least a partial explanation, if not an excuse. "I never liked Green-son," said Allan Snyder years later, "and never thought he was good for Marilyn. He gave her anything she wanted, just fed her with anything. There seemed something strange and phony about his entire relationship with Marilyn. And when he got himself on the Fox payroll, I was certain of it."

There was also an element of emotional turmoil that lay behind Marilyn's heavy sedation that weekend. On Saturday, March 3, she saw Green-son for the first time in a month: cheerful when she arrived, she was tearful and depressed after the session. Indeed, she did not return to José Bolaños (who had checked in with her at the Beverly Hills Hotel that night), but instead remained with the Green-sons. The content of her therapeutic session cannot be determined. Separately, it is known that Marilyn was greatly distressed by the news that Nunnally Johnson had completed his work on *Something's Got to Give* and departed the project, which now seemed destined for disaster because no one could resolve (much less update) the script's complicated emotional threads, nor could any satisfactory conclusion be found for the story. "I don't know whether it will ever be made or not," Johnson wrote to his old colleague Jean Negulesco. "They seem to be too scared at Fox."

For several days, Arnold Shulman (the original scenarist) was recalled, but it seemed to him that

8. That same year, as was subsequently documented in her divorce petition, Engelberg's wife was maintained by him on appallingly massive doses of barbiturates and hypnotics—ostensibly to keep her calm during the trauma of the termination of their thirty-year marriage. But the result of this prodigal administration of dangerous drugs was very nearly disastrous.

the studio simply wanted to forget about the picture, which they couldn't do because they had a tableful of signed contracts to pay off. I adored Marilyn, and when I confronted Peter Levathes and a few other good men at Fox that this was my understanding of the whole rotten scheme, it was unmistakable that this was their plan.

Fox, as David Brown recalled, was nearly bankrupt at the time, and among the films and television series then shooting at the studio, *Something's Got to Give* was the most expensive. In addition, the situation was disastrous whether the picture was completed or not. If completed and released as scripted, it would be one of the most pallid, unfunny, emotionally confused "comedies" ever to come from a major studio—as the eight hours of outtakes and almost sixty minutes of edited, completed footage reveal. The final disposition of things in June leaves the distinct impression of a film no one believed would ever be completed—except Marilyn, who was, according to David Brown,

an artist who knew exactly what she needed and what was good for her career—and she knew very well that if she were the cause of the picture's collapse, it would have been the very *worst* thing for her career. She knew she would have to do the picture once she had signed for it. She was a thorough professional, whatever her personal problems. She hadn't become Marilyn Monroe without serious ambition, after all, and it didn't desert her in 1962.

Shulman summed up the matter as he saw it: the new team of studio executives in charge at a time of unimaginable financial chaos wanted to force Marilyn's hand—to make her quit the project—enabling them to sue her for breach of contract. "No matter what anybody writes," Shulman told Marilyn that weekend, "they're going to ruin the deal."

When Marilyn arrived at Greenson's home that weekend, then, she had reason for anxiety: Marilyn—who could hardly be called paranoid about this matter—rightly believed that the new regime at Fox considered her a dispensable commodity.

But Greenson's method for dealing with her put the emphasis on his own needs, not hers. His technique was again an infringement of a

cardinal rule of patient care: he invited her into the security of his home, under the pretext that hers would not be ready for the move-in until late the following week. As an almost incidental issue, there was José Bolaños, of whom Greenson could not have approved (otherwise the man would not have been summarily dismissed). So there was Marilyn, the Greenson subordinate, again dependent on her therapist instead of on her own resources, attached to him instead of her own choices and her own friends.

Even attorney Milton Rudin, who was Greenson's brother-in-law and who said he "loved and admired [Greenson] like a brother," recognized that whatever Greenson's conscious motives, "he involved Marilyn beyond [the point] he should have with the family. He was worried about her all the time—and then he involved me in the situation, too. Well, it was easy to feel sorry for Marilyn, and my brother-in-law was a compassionate man."

By Tuesday, March 6, Marilyn was still at the Greenson house, and it was then that Joe arrived in Los Angeles, traced her to Franklin Street, and went to visit, hoping to help prepare for the move to Fifth Helena, by then firmly scheduled for Thursday and Friday. But when he arrived, a strange and disturbing thing happened, witnessed by a doctor under Greenson's supervision for psychotherapeutic internship.

On arrival, the young doctor learned that Marilyn Monroe was upstairs, "in residence" as she had often been during the previous year, and now under sedation for emotional collapse. This arrangement, he then believed (and still did many years later), was

out of line for a prominent training analyst who was supposed to be teaching students both the proper frame in which to help people and the proper professional identity to keep in working with patients.

But things became even more odd:

Joe DiMaggio came to the house, and Marilyn Monroe was upstairs. Learning that Joe had come, she wanted to see him. But Greenson forbade them to meet. He asked Joe to remain downstairs to talk with him, and after a while Marilyn began to make a minor fuss upstairs—like a person confined in a hospital against her will who wanted to see her family or her visitors. Nevertheless, Greenson

insisted on detaining Joe, and Marilyn was eventually close to a tantrum.

Then came the strangest moment of all:

Joe excused himself and insisted that he was going to go up to see Marilyn, and Greenson turned to me and said, "You see, this is a good example of the narcissistic character. See how demanding she is? She has to have things her way. She's nothing but a child, poor thing."

The student said nothing, but the event disturbed him for years and led to his total loss of respect for his mentor. No professional expertise is required to recognize the classic signs of projection, for it was obviously Ralph Greenson himself who had to exert control and whose narcissistic personality demanded that he have his way with her. It is also remarkable that Greenson would ignore every accepted protocol of professional ethics by discussing his patient with a third party, regardless of the close relationship.

Henry Weinstein recalled a similar breach of ethics by Greenson, when the psychiatrist said to him one day, "Henry, don't you pay any attention to these fantasies of hers. She has a lot of them—one that is a typical fantasy of girls, for example, is that they want to go to bed with their fathers. That was her fantasy." Whether this was indeed Marilyn's expressed dream or fear is impossible to know: by this time, Greenson himself was so deeply overwhelmed by his projection and countertransference that he may well have seen *himself* as the father figure to whom she was sexually attracted. In any case, his conversation about Marilyn with Weinstein was unconscionable. Marilyn's growing distrust of Greenson was indeed not paranoid. "I think," Weinstein said years later with compassion for them both, "that Ralph was dependent on her."

It is astonishing that Greenson conducted himself with a patient in this manner, and that not a single one of his colleagues stood up to correct him. The reason may have been not only his enormous influence in the professional community, but also because he circulated among them the spurious and unsubstantiated report that Marilyn Monroe was

“schizophrenic,” and that he himself was being supervised in caring for her by a man well known in Los Angeles for treating schizophrenics: Milton Wexler, who was not a medical doctor but the holder of an academic degree in psychology.

“At that time,” continued Greenson’s colleague,

everyone was experimenting with ways to treat schizophrenics, and Wexler had his own method. Greenson used Wexler as his supervisor, and thus gave his unorthodox treatment of Monroe an apparent legitimacy. One of the techniques was to invite the patient into the home—not only to provide what may have been lacking earlier, but to have a constant connection so the patient would never have undue anxiety on weekends, or [suffer] any separation trauma.

Marilyn was, then, being further locked into her childhood instead of being freed from it. And Greenson, once upstaged by his sister Juliet, brought Marilyn into his home to domesticate her, to demythicize her, to control her and reduce her celebrity—all of it in the name of treating her emotional maladies and her insecurity. At home in his private clinic, with his professional supervisor providing a convenient endorsement of his tactics, Greenson became the prototype of the analyst who believed himself free of the conventional boundaries. With his own psyche so overwhelmingly intertwined with Marilyn’s, he was no longer able to see the harm of his own actions. Greenson’s attempt to keep Marilyn and Joe separate, then, reveals that he sensed a threat to his primacy—just as he had with her dear friend Ralph Roberts, who was “one Ralph too many.”

Marilyn was the fairest game of all for such manipulation: impressed by learned and paternal men who seemed to offer protection; thrice divorced and uncertain of her own worth, acceptability, talent and capacity for love; about to have her own home for the first time—she mutely accepted what Greenson made of himself for her: the all-providing savior figure every healthy and unneurotic therapist dreads to become. Everything that happened between Monroe and Greenson from that spring to her death suggests a perilous obsession. “She was a poor creature I tried to help,” he said later, “and I ended up hurting her.” These were perhaps the truest words he could have chosen to summarize their association.

As he had at Payne Whitney, however, Joe managed to extricate Marilyn from the situation. They returned to Doheny Drive, whence the movers, on March 8 and 9, transferred her few pieces of furniture to 12305 Fifth Helena Drive; deliveries from Mexico and New York were awaited in the coming weeks. Joe stayed the weekend with Marilyn, left at the house a pair of pajamas and a toothbrush, and proceeded on Tuesday the fourteenth for business with Monette.

Ralph Roberts, who had returned to Los Angeles, was as usual a great help to Marilyn as she settled in. Because she had not yet chosen custom-made draperies for her bedroom, her first request of him was to tack up the blackout drapery she had at Doheny Drive, a single heavy piece of black serge that extended several feet wider than the window. "When she went to bed, she could not bear a flicker of light from outside and always slept in a closed, warm, unlocked room." Better than anyone, Ralph Roberts was in a position to know these habits: he treated Marilyn with a massage several times weekly, and by the time he departed, she had already retired for the night.

The script of *Something's Got to Give*, meantime, limped along its dreary way. On March 11, writer Walter Bernstein was brought in to see what he could do with the seemingly endless, unamusing scenes and turgid dialogue. By this time, as he recalled, the story and script costs alone had topped \$300,000—six times what the production had budgeted. But Fox had lost twenty-two million dollars the previous year and (thus Bernstein) "executives were not easily awed by figures." Eager to please both the studio and star, Bernstein set to his task and went to Marilyn's home for script conferences. "She was very charming and accommodating," he recalled.

She showed me proudly around her new house, and she was really lovely to be with. Things she had to say about the script were right on target. "Marilyn Monroe wouldn't do this," she said, and "Marilyn Monroe wouldn't make this kind of move, they'd come to her," and so forth. Some of this was typical movie star ego, but she was very shrewd about what would play and what wouldn't. Perhaps most of all, I remember her saying, "Remember, you've got Marilyn Monroe. You've got to use her."

She was, Bernstein added, particularly pleased with the Swedish-accented English she had perfected with a voice coach, to be used for one of the picture's few genuinely droll sequences.

Weinstein, too, recalled that at their first meeting Marilyn said, "Henry, I think you ought to use this scene instead of that one . . . and this plot development, because let's face it, if this part of the story is a struggle for a man between me and another woman, there's no contest!" It was at such time, Weinstein recalled, that "she was very sure of herself, and her points were so well taken that we went ahead with virtually an entire rewrite."

Charming and alert she may have been, but on March 15 Marilyn was attacked by a virus, suffering chills and a high fever. Besides her duties as publicist, Pat Newcomb became a friend in need, shuttling back and forth with tea and sympathy as well as business papers and ignoring Eunice's clear resentment of anyone trespassing on what she regarded as her turf. The housekeeper had plenty to occupy her, as she informed Greenson, who immediately ordered Marilyn to double Eunice's salary to two hundred dollars weekly—"based on the fact that Marilyn's business secretary [Cherie Redmond] was receiving \$250," as Eunice said. Likewise, Eunice engaged her son-in-law Norman Jeffries, his brother Keith and two friends for the work to be done in and around the house—without telling Marilyn of the personal relationship. Moreover, according to Cherie's daily account logs for March and April, Eunice asked for Marilyn's signature on blank checks for Norman and Keith—a privilege she was rightly denied.

In her remarkably self-serving memoir, Eunice Murray expressed her disdain for Cherie Redmond, a shrewd lady with a keen eye and an honest pen who came highly recommended by Milton Rudin. For her part, Cherie resented Eunice's authoritarian attitude: "It's not particularly inspiring," as she wrote to Hedda Rosten, "and in some ways terribly time-consuming, to work through Mrs. Murray—and from Tinkers to Evers to Chance never facilitates things." Her analogy to a baseball double-play was apt for a system that did not help at home or work. But with her quiet persistence, Eunice was not only reporting but now arranging, too.

In light of her background and life experience (not to say her presence as Greenson's alter ego), Murray's proprietary attitude is easy to understand. Chosen for its resemblance to the home she lost and which

was (as she said) the “bond” among herself, Greenson and Marilyn, the house at Fifth Helena became a kind of totem for her. Having lost her own family and her husband, the doctor was Eunice’s surrogate husband: a paternalistic ministerial figure whose vocation it was to help others, and with whom she had associated herself for fifteen years, continuing her adulation of her sister and brother-in-law.

With complete charge over Marilyn granted by Greenson, Eunice had the opportunity to correct her past by recreating it: for her, Marilyn’s house was hers—thus her virtual appropriation of its design, care and refurbishing. Just as she was making 12305 Fifth Helena her home, so was Marilyn her daughter, and Greenson her husband returned. In Marilyn Monroe’s life, Eunice Murray seemed for a time to regain everything to which she had ever aspired and then lost: the situation enabled her to be at last the unrealized, successful sister and the nurse-caretaker Carolyn had become. One of the major problems in all this was that Eunice was living more and more ineluctably in a dangerous fantasy life. Perhaps without their full realization, then, Ralph Greenson and Eunice Murray were fulfilling one another’s needs: the doctor was creating, as his wife said, a fantasy foster home, a haven for all those he could save; and the nursemaid was taking Marilyn as her life’s mission.

The object of this dangerous tangle of emotions was, however, stronger than most people believed. Determined to accept an invitation to join President Kennedy and other guests for the last weekend of March at Bing Crosby’s home in Palm Springs, Marilyn threw off her illness. At the Crosby home, she radiated grace and wit for the guests and spent her one night in the president’s bed.⁹ It was at this time that Kennedy invited her to join the Madison Square gala to be held in May;

9. “Not in her worst nightmare,” according to her confidante Susan Strasberg, “would Marilyn have wanted to be with JFK on any permanent basis. It was okay for one night to sleep with a charismatic president—and she loved the secrecy and drama of it. But he certainly wasn’t the kind of man she wanted for life, and she was very clear to us about this.”

she not only accepted the offer but said she would sing "Happy Birthday."

This pleasant weekend may at least partly explain why, the following Monday, Marilyn was (thus Walter Bernstein) "in good humor and full of energy" at a meeting with her producer, director and writer. While she was there, the studio doctor Lee Seigel arrived, took Marilyn into an inner office and administered one of his famous "vitamin shots," those venerable Hollywood drug concoctions that kept employees energetic or sedated, depending on the company's need and/or the star's wishes. "Seigel was the Dr. Feelgood of Fox," recalled the writer Ernest Lehman, who wrote and produced some of Hollywood's finest screenplays. "I remember him giving me an intravenous injection once, as he did to hundreds of people at Fox. It was a dangerous mixture of amphetamines and God only knows what else." The same sort of treatments were also being supplied to Marilyn every few days by Engelberg.

At the meeting, Marilyn learned that the start of *Something's Got to Give* was now postponed to the end of April, and with that—despite an executive order from the studio that she not risk a relapse of her illness by traveling to New York—Marilyn departed to discuss the film's problems with the Strasbergs. She was especially anxious, she told them, because an ending to the script still seemed beyond anyone's imagination, and in such a quandary Paula's assistance would be more than ever necessary as she groped her way through each day's scenes. This arrangement Lee negotiated at a fee of five thousand per week, half to be paid by Marilyn herself. Once an ardent Socialist, Lee now knew the value of a dollar.

As usual, Marilyn was as prodigal as she was needy of Paula. That season she wrote a check for a thousand dollars, becoming one of the founding members of something called the Hollywood Museum Associates, a group planning a movie and television archive that never materialized; her check was never returned. The Miller children continued to receive occasional gifts for no other reason than her affection for them; and Marilyn sent to one of her studio hairdressers, Agnes Flanagan, a duplicate of a garden swing Agnes admired one day at Fifth Helena. Such acts of spontaneous generosity were still typical, as Allan Snyder recalled "You had to be very careful shopping with Marilyn. If you went to a store with her and pointed out a

shirt or something you admired, you could be sure it would arrive at your home next day!"

This attitude was perhaps all the more remarkable because Marilyn, one of the handful of unfailingly bankable stars whose films, by this time, had earned Fox more than sixty million dollars, was honoring a commitment she could easily have simply torn up—to make *Something's Got to Give* for \$100,000. By comparison, Cyd Charisse (in a supporting role) was hired for \$50,000; Tom Tryon (in an even less important role) was to be paid \$55,000; and Dean Martin and George Cukor were receiving \$300,000 each for a film budgeted at \$3,254,000. "The arithmetic," as another Fox producer said at the time, "makes Marilyn look like a doll. She could have got a million and a percentage of the gross any day of the week. The studio has got itself a tremendous bargain." If this is so, it remains unclear why her representatives did not negotiate for a higher salary: as David Brown noted, "an agent should have come in to write a new contract—it would have been that simple."

But nothing in the executive offices at Pico Boulevard was ever simple, especially in 1962. The budget on the Burton-Taylor extravaganza *Cleopatra*, which shut down in London and was reshooting everything in Rome, sped toward thirty million dollars, and the studio back lot was sold to pay for it; in addition, the commissary and the talent school were shut down, and the lawns on the property went unwatered. In June 1961, Fox had twenty-nine producers, forty-one writers and 2,154 employees on its weekly payroll, working on thirty-one films; there were now fifteen producers, nine writers and 606 staff for only nine films. The fifty-five contract players in 1961 cost Fox a weekly total of \$26,995; a year later, there were twelve actors under contract at a total of \$7,480. Peter Levathes, his eye on the bottom line, announced proudly to Spyros Skouras that *Something's Got to Give* would be produced on time and within its budget, requiring only forty-seven working days. This was a well-meant but almost comical proclamation, for when shooting finally began on April 23 the script was still incomplete, Marilyn was ill and Dean Martin had not yet completed a prior commitment.

Marilyn engaged a limousine and driver from the Carey Cadillac Company that spring, and records provide a chart to the course of her life.

According to the detailed invoices charged to her and signed by her daily driver, Rudy Kautzky, her schedule up to the first day of shooting was unvarying, Mondays through Saturdays, from April 2. She began with a facial at Madame Renna's on Sunset Boulevard, usually around noon; this was followed by a session with Greenson in his Beverly Hills office and a reading of script lines with Paula, who was in residence at the Bel-Air Sands Hotel on Sunset. Marilyn then visited either Engelberg, Seigel or specialists who treated other ailments that plagued her; these doctors administered injections, sometimes wrote concurrent prescriptions and routinely gave Marilyn what she requested. She was then driven for food shopping at the Brentwood Mart on San Vicente Boulevard or at Jurgensen's in Beverly Hills, and in late afternoon she was driven back for a second session with Greenson at his home: by now he was sometimes bringing her in for twice-daily counseling.

The routine was broken only for costume and makeup tests at Fox on April 10 and wardrobe fittings at home on April 16. "She was so happy to be back at work," according to Henry Weinstein. "The tests were marvelous. I never saw anyone so pleased and delighted as Marilyn during those tests. According to film editor David Bretherton, Allan Snyder (still her preferred makeup artist and close friend) and Marjorie Plecher (costumer for the film and subsequently Mrs. Snyder), Marilyn was more beautiful than ever when she arrived for the tests: they all noticed a clarity of expression, a luminous radiance and eagerness to work hard.

Weinstein's recollection that all during mid-April she lay at home in a "barbiturate coma" and his panicky rush to the studio on April 11 to urge that the picture be canceled can only be due to his unfamiliarity with a Nembutal hangover. In fact, as the limousine records indicate, she left with her driver at nine-fifteen that morning for a usual day of appointments: Weinstein, youthfully eager but injudicious, had arrived at six.

Thenceforth, except for the final outcome of a hopelessly derailed and canceled picture, the making of *Something's Got to Give* paralleled the production of any other Monroe picture. Terrified of appearing before the camera, as Weinstein and the entire company recalled, Marilyn delayed, malingered and overrehearsed; frightened of not sleeping sufficiently, she frequently took too many pills—no one both-

ered to monitor her intake—and so she was groggy and confused for several early morning hours; but determined to acquit herself well, she was brilliant when she finally arrived. Word-perfect, willing to work and rework a scene to the director's pleasure, generous with her co-stars and fiercely dedicated to pleasing her audience, she was, as David Brown said, the consummate professional. As everyone became convinced—Snyder, Newcomb, Strasberg, Roberts, even Levathes—the source of the trouble was the conjunction of Greenson and Murray, a team they were powerless to counter. To her further alarm, Pat Newcomb discovered in mid-April that Eunice had moved into the guest room of Marilyn's home.

“Marilyn couldn't walk across a room without advice and counsel and people with vested interest,” Levathes said years later.

Her so-called advisors created the difficulties and caused her a terrible identity crisis. I thought Marilyn was a nice woman—not a shallow person who made no distinctions, but someone who thought about her life, who knew the differences between sham and reality. She had depth; it wasn't all fluff. She was enormously complex during her suffering and her absences from the production, but at her best there was no one like her.

Cukor agreed: the advice she was getting was utter rubbish.

On Sunday, April 22, after a session with Greenson, Marilyn rode down to Hermosa Beach, south of Los Angeles. There the veteran hair colorist Pearl Porterfield (who had cared for, among others, the wavy white coiffure of Mae West) prepared Marilyn for her first day on the set of *Something's Got to Give*. Eunice was so impressed with the look when Marilyn arrived home that henceforth she had her thin brown hair washed and styled by Pearl Porterfield, too.

Marilyn's first scene was scheduled for Monday morning, April 23, but when she awoke she had a blinding headache, no voice, and impaired respiration: she was seen by her dentist (the only physician she could reach at five in the morning), who diagnosed acute sinusitis. For the rest of that week, she was ordered to rest at home, visits to Greenson being the sole exception. But such occurrences are hardly rare in movie-making, and there were contingency plans. Her point-of-view shots (what her character sees) were photographed that day, and, from

Tuesday through Friday, scenes with Cyd Charisse and Dean Martin were filmed.

Finally, on Monday, April 30, Marilyn appeared on the set promptly at nine for her first scenes in the picture. With her hair brilliantly white, her skin unblemished, her eyes clear and alert, she wore the required costume for her entrance: a red and white floral-print sheath, a white coat and white shoes. For seven hours—and over forty times, according to a careful count of the outtakes—she repeated the closeups in which, as Ellen Arden, she returns to her home for the first time in five years. Standing at poolside, she gazes in silent wonder at her little boy and girl, splashing playfully, at first oblivious of her presence and then, when they chat with her, of her identity. The scene is a miracle, and not only because Marilyn in fact still had a severe sinus infection and a fever of one hundred and one degrees: she was forcing herself to work.

Finding her way through all the emotional complications of the character's scene, she is alternately happy to see her children, frightened of their reaction, concerned for their welfare, proud of their growth and charm. In fully thirty of the forty takes Cukor directed, there is preserved forever Marilyn Monroe at the peak not only of her beauty but of the depth of her inner resources. With the daily help of Paula Strasberg, Marilyn had reached into her own lost childhood, and perhaps into the sorrow of her own failed pregnancies, and there she had found the mysterious complex of feelings that enabled her to give a simple scene its wistful, fully human regret. As in nothing she had done since *Bus Stop* and *The Prince and the Showgirl*, there is in this incomplete film the relic of an astonishing performance. Her smile is unforced, her brows arch and her eyes just begin to glaze with tears, as if a wash of memories has evoked both penance and longing.

The Marilyn Monroe of this film is wholly unlike that of *All About Eve* or *Niagara*, of *Gentlemen Prefer Blondes* or *The Seven Year Itch*. She is mature, serene, fragile—but graceful and resplendent, too. None of the emotions were manufactured: they were, to the contrary, deeply felt, imagined, *lived* in some way. The laughter with the children moments later is neither cute nor manic, but joyous, wise, confident that somehow all will be well. No one who sees them (or the few moments preserved in the 1990 commercial documentary that bears the film's title) can for a moment see this as anything but the efforts of a responsi-

ble and sensitive actress evoking recognizable human feeling and continuing to grow as an artist, just as she wished.

Marilyn worked until four o'clock that afternoon, when she returned home and collapsed into bed. Next day, Engelberg pronounced her ill with a sinus infection and unable to work—a judgment confirmed when Fox sent Seigel, who rang the executive offices to say he would not ask even the film's cocker spaniel to perform in such a condition. Marilyn was ordered to bed for the remainder of the week, and the studio was so informed. There was an ancillary issue at stake, too: with the hugging scenes Marilyn was required to do with them, her closeness was considered risky for the health of the two children.

"She was genuinely ill," according to Marjorie Plecher, "as anyone could see. But the studio didn't want to believe her." Allan Snyder agreed: Marilyn, never strong physically, had been susceptible to colds and respiratory infections over the fifteen years he had known her, and that week she spiked a high fever with her sinus infection: "But no one wanted to hear about that." Pat Newcomb also knew this to be true.

On each day of the production call sheets from May 1 through 4, Marilyn's absence was announced as if it were a last-minute development each morning. Evelyn Moriarty said she was always informed a day or two in advance of Marilyn's continuing leave: "Marilyn did *not* simply not show up!" Alternate shooting could be hastily scheduled in her absence.

Despite illness, Marilyn worked with Paula for hours at home. But then Fox pulled another tactical error, sending a messenger at ten or eleven each night with revised script pages printed, according to tradition, on a different color paper from the previous or original pages of dialogue; these new lines had been composed by this writer or that one, by Cukor, by anyone willing to risk what now seemed impossible. With all this confusion, "Marilyn was shattered," according to Nunnally Johnson, who kept in touch with her and the production. She saw her comeback film as a terrible failure, and she was right. "And then more and more [revisions] arrived, until in the end there were only four pages left from the original script." When Cukor and Weinstein learned the distress this was causing Marilyn, they tried to mislead her by having the changes inserted into a freshly bound script with all pages on the same color paper as the original. "She was much too smart [not to say experienced] to be misled by that trick," concluded Johnson.

That same week, when she complained to Weinstein and Levathes, Marilyn reminded them that she had permission to attend President Kennedy's birthday gala in New York later in May. Evelyn Moriarty recalled that this absence was posted weeks in advance: indeed, the call sheet circulated on May 10 for May 17 noted that production would shut down that morning at eleven-thirty "because of Miss Monroe's permission to go to N.Y." It would have been unimaginable for the studio to deny the presence of Hollywood's most famous star at a command performance. In addition, performers with other commitments were readily released for this special event, each sent to provide a portion of the evening's entertainment. Marilyn's upcoming appearance was already known and promulgated in New York, as Hedda mentioned to Cherie in a letter posted the first week of May.

For the occasion, Marilyn was submitting to hours of fittings with Jean Louis, who had created the notorious gown worn by Marlene Dietrich in 1953 for her nightclub premiere—a skintight array of sequins, brilliants, rhinestones and chiffon that covered and flattered while giving the illusion of nudity. In Dietrich's case, a foundation garment was also required; Marilyn, however, would wear merely a sheer body stocking embroidered with sequins, so that she would seem to glitter in the spotlight. Literally sewn into it the evening of the party, she would wear, as *Life* magazine stressed later, "nothing, absolutely nothing, underneath," and would appear enveloped only by reflected, diffused light—a veritable star indeed. Eunice made plain her disapproval of such a daring outfit: "It might have been more graceful if it were looser," she said—to which Marilyn gaily replied, "Be brave, Mrs. Murray—be brave!"

Although both Marilyn's and the studio's physicians ordered her to remain home from Tuesday through Friday (May 1 through 4), Cherie—now working on Marilyn's behalf at Fox—was required to telephone Eunice daily to ascertain the patient's health. Her log for May 1 contains a curious annotation: "At 4:00, I called [Eunice], who said she would ask Marilyn how she felt and bring me back a message. But she didn't come back on the line. I didn't call her back and left at 6:30." There are several such omissions on Eunice's part during April and May: she seems to have been afflicted with either a gradually failing memory or an astonishing lack of courtesy. In any

case, Eunice seemed to be taking on the characteristics of one or another of Marilyn's doctors.

All that first week of May, Cukor shot around her, filming scenes with Dean Martin and Phil Silvers, Dean Martin and Cyd Charisse, a courtroom sequence on another sound stage, and Marilyn's point-of-view shots. Again, Greenson insisted on seeing Marilyn twice daily, and on these outings her limousine logs include daily stops to the Vicente Pharmacy, the Horton & Converse drugstore or one or another Westwood chemist. Her analyst was still providing abundant medications—not for her sinus condition (that would have been the responsibility of Engelberg or Rubin, whom she also visited), but for her anxiety and depression over *Something's Got to Give*. But the barbiturates and tranquilizers prescribed had exactly the opposite effect Greenson supposedly sought. Instead of encouraging Marilyn to work, the pills made her more and more dysfunctional: taken with the antibiotics, they became even more powerful sedatives and hypnotics, gradually rendering her confused, foggy and somnolent. Her condition could have been mistaken, by any passerby, as that of a confirmed alcoholic. To young Joan Greenson fell again the task of transporting Marilyn, often in a drug haze and with speech impaired, to and from her home when Rudy was off duty.

In such a condition, Marilyn's behavior toward friends would occasionally be demanding or socially inappropriate. She sometimes treated Pat like a personal servant rather than a professional assistant, ordering a second telephone line installed at Pat's home in order to have constant access to her publicist, for any request or complaint, any hour day or night. Yet when Pat's car went down with a terminal complaint, Marilyn presented her with a new one, waving away the cost.

At seven o'clock on the morning of Monday, May 7, Marilyn dutifully arrived for work, but a half-hour later, alternately perspiring and shaking with chills, she was sent home. Fearing this, Cukor and his unit manager had arranged an alternate schedule, and the company proceeded south to Balboa Island for other scenes. But by the time they arrived, the weather had turned inclement and remained so the next day. Everyone was back on the set Thursday, when *Something's Got to Give* completed fourteen days of shooting (only one with Marilyn) and was four and a half days behind schedule—by no means a morbid situa-

tion, and one typical of many productions. With the usual Hollywood ingenuities (to cover, for example, accidents, illness, weather, revised scripts or new sets), plans could be rearranged: in fact the May 10 call sheet proposes only one additional day of shooting to compensate for losses thus far incurred.

On Friday, May 11, Marilyn rang the studio and asked Evelyn to bring some items from her dressing room, a task her stand-in was glad to do. Arriving at Fifth Helena and hoping for the chance to visit Marilyn, Evelyn was summarily and curtly dismissed by Eunice: "I'm sorry, Miss Monroe is in conference." As Evelyn later learned, Marilyn was simply at the other end of the house, or in the bath, and unaware of her friend's arrival. "But what could I do?" Evelyn asked rhetorically years later. "Mrs. Murray was like a class monitor for Dr. Greenson"—or, one might add, like Mrs. Danvers, the nightmarish housekeeper who terrorized the second Mrs. de Winter after the death of Rebecca.

Saturday, Paula arrived at the house with her sister Bea Glass, who had prepared homemade soups and delicacies Marilyn liked. Joe had come to stay for the weekend, and so there was briefly a circle of affectionate serenity around Marilyn, who was cheerful despite her lingering illness. Pat summarized the feelings of several confidants when she said that of all Marilyn's entourage, "Paula was among the most loyal and helpful. She took the rap for Marilyn's lateness, but she gave Marilyn a great deal. And she never tried to own Marilyn, or to cut others out of Marilyn's life." Ralph Roberts, who also stopped to visit, saw a warm and supportive atmosphere around Marilyn: "Joe was really the only one in her life then, and that gave us hope, for the rest of us knew there was something terribly wrong in Marilyn's relationship with Greenson—even Rudy was aware of it."

Still, Greenson had established a profound dependency—and then he betrayed it. On May 10, he and his wife departed for a five-week trip abroad: he was to deliver a lecture in Israel and they were to proceed to Switzerland for a long overdue visit with her mother, who had suffered a stroke in February. Weinstein implored Greenson not to depart: "Ralph had made himself very central to her functioning," Weinstein recalled, "and frankly, I was surprised and annoyed. He left when all of this was going on." But the trip was one Greenson's wife much anticipated, perhaps as much for the chance to put some distance between her husband and the patient to whom he was inordinately and

inextricably attached: by this time, anyone who knew patient and therapist also knew that she had become virtually his career. Greenson himself admitted to a close friend that "Hildi was afraid to leave me home alone."

Greenson must have been fearful of leaving his patient, too—fearful for himself, his relationship with her, his control of her. What he did prior to his departure, however, was markedly injudicious.

When I left for a five-week summer vacation, I felt it was indicated to leave her some medication which she might take when she felt depressed and agitated, i.e., rejected and tempted to act out. I prescribed a drug which is a quick-acting anti-depressant in combination with a sedative—Dexamyl. I also hoped she would be benefited by having something from me to depend on. I can condense the situation by saying that, at the time of my vacation, I felt that she would be unable to bear the depressive anxieties of being alone. The administering of the pill was an attempt to give her something of me to swallow, to take in, so that she could overcome the sense of terrible emptiness that would depress and infuriate her.

With this, the countertransference to which he referred—his dependence on Marilyn's dependence on him—is as clear as the monumentally egocentric eroticism which had by this time taken control of him: Ralph Greenson was by now in the grip of an obsession over which, henceforth, he had no control. Hildi was quite right to be "afraid to leave [him] alone." As for Dexamyl, it was an acceleration of the drug routine—a combination of Dexedrine and amobarbital—an amphetamine combined with a short-acting barbiturate that was eventually removed from the drug market because of the difficulty of achieving the correctly balanced ratio between the two chemicals.

Before his departure, Greenson recommended that Paula be dismissed from the production of *Something's Got to Give*: still projecting his own feelings onto others, he told Marilyn that Paula was simply taking advantage of her and her money. Marilyn said nothing, and in fact, although Paula soon departed for a brief trip to New York, Marilyn conveyed no such notice of dismissal to her or the studio.

But she was annoyed with Eunice, and within days of Greenson's departure she handed her a check and dismissed her. "By this time,"

according to Pat, "Marilyn was on to Mrs. Murray. She resented her and wanted to get her out. Naturally those of us who were close to Marilyn were delighted." With this single action alone, as Marilyn told her friends, she was making an important step in self-assertion, in establishing her independence from a woman whose meddling interference she resented and whose snooping was offensive. Acting the adult and taking responsibility for her action—this was, she always thought, the goal of her psychotherapy in any case.

The deed must have encouraged and invigorated her, for that day Marilyn sped off to Fox and, for ten hours, submitted with remarkable patience and good humor to over fifty takes of a scene involving the family cocker spaniel. Expert in rehearsals, the dog (named Tippy by Marilyn, after the one she had lost in childhood to a neighbor's rage) refused to follow off-camera commands and cues, leaping around and behind her, panting and drooling over Marilyn for hours. Anyone else might have balked at kneeling so long on the ground waiting for an animal, but Marilyn laughed and joked that she knew how *The Method* could delay players until they find the right mood, and there was no reason a dog should not be similarly indulged. The hours of outtakes from this scene, often frustrating and uncomfortable for her, remain vastly amusing decades later. "He's getting good!" she calls to Cukor after something like her twentieth take with the dog, and several times the film clips show Marilyn collapsing with laughter over the recalcitrant animal's antics.

Her energy and good humor continued on Tuesday and Wednesday, May 15 and 16. But with writers scribbling furiously, Weinstein attempting to wrest from Cukor a sense of how this picture could continue without a firm finale and several key roles still uncast, the only scenes to be filmed were retakes of Marilyn with the children at pool-side.

The following morning, she was again on time for work, chatting excitedly about her departure for New York. At the same time, Fox's telephone lines were jammed with a succession of calls to and from New York, aimed at preventing her journey. First, Weinstein learned from Cukor that if she were absent for Thursday afternoon and Friday's shootings, the picture would be six days behind schedule, and the director would now have to account for the delays to the new executives. By this time, as Weinstein recalled, they had all forgotten an additional

reason Marilyn would not be at work on the seventeenth: she had a letter of agreement appended to her contracts since 1956, to the effect that she would not be required at the studio during her menstrual period. "She had set that day aside before we began production," Weinstein recalled years later, "and we had agreed we weren't going to shoot that day." This turned out to be a convenience for the film—but how could the producer and director say that her absence actually gave them time to work out the final script problems and complete the casting on this chaotic picture?

This was a matter of concern to Cukor and Weinstein only because of the fierce attention such matters were receiving from the financiers in New York and from Levathes, their legate at the studio. "I had no idea whether it was a good picture or not," Milton Gould said years later. "I was not a moviemaker. My job was to solve money problems." His was an honorable task bravely assumed: but not to care "whether it was a good picture or not" was also to act with pronounced myopia. Such an attitude in fact signaled the start of a trend that has long endured: creative decisions subsequently made by attorneys and business graduates, perhaps intelligent and benevolent, but ignorant of the fundamentally crazy and unpredictable nature of movie-making and the impossibility of maintaining religious dedication to production schedules. These new men were concerned only for the so-called bottom line, with no reference to the value of the entertainment product.

The result of this short-sightedness was predictable. Anxious, Weinstein ("whose termination I had already planned," said Gould) called Milton Ebbins, Lawford's man in charge of West Coast preparations for the gala: "You've got to do something, Milt. You're Peter's friend. You've got to help me. Marilyn is set to go to New York, and this just can't happen."

"What do you mean, it can't happen?" countered Ebbins.

"Milt, she can't go. We're in the middle of a picture. Can't you do something?"

"Listen, Henry. Number one, I don't represent Marilyn Monroe. And number two, what's this sudden problem? This has been planned for weeks. It's the president's birthday, for God's sake!"

"Well, there's going to be a lot of trouble, Milt. If she goes—I don't know—she may lose the picture."

“ ‘Lose the picture’? What does that mean?”

“You know—”

There was a moment of silence, as Ebbins recalled, and then he replied: “Look, Henry, I can’t believe she’s going to lose anything. Marilyn’s not that dumb. And Mickey [Milton Rudin] is not that dumb. Mickey never called me, never said a word!”

As Evelyn Moriarty recalled, there had been no effort to prevent Marilyn’s trip to New York until that week—and now every weapon in the corporate arsenal appeared. “When Peter [Levathes] called to tell me Marilyn was leaving for New York on Thursday,” according to Milton Gould, “I told him to forbid it. He did, but she went anyway. That’s when I told him to fire her.” This final drastic measure took several weeks, however much Gould may have hoped the matter would be adjudicated with all dispatch; at last, however, his bidding would be executed. The reasoning was simple: the studio could save over three million dollars by scrapping a film with only a half-dozen sets and twenty actors—a project doomed from the first day of script conferences and a project in which the director and the star had no confidence. If they could find a persuasive reason—a star’s illness, for example—Fox’s insurance company might be persuaded to reimburse the monies spent. At least the picture might be temporarily shelved, rewritten, perhaps recast and recommenced later.

Had Fox not rushed to production (as Milton Rudin, for one, wisely counseled against), *Something’s Got to Give* would either have been turned into a good film (first on paper, where all good films are made, and at which stage David Brown urged care and caution); or it would never have got beyond a prose treatment, saving money, jobs and the health of many. Of these machinations Marilyn knew nothing as she sped to New York.

“The whole thing was ridiculous,” Henry Weinstein said years later, reassessing the way the event was mismanaged.

At Fox, the men up front were trying to prove they were bosses. Had I been more experienced, I would have gone with her to New York with some press people from Fox. We could have made an advertising event out of it, going around with our own camera crew and signs reading *Something’s Got to Give—Marilyn Monroe!*—instead of worrying about the schedule. But these men were concerned

only about power, which of course is a Hollywood fixation. And to be concerned about power when you have Marilyn Monroe is stupidity.

At half past eleven on the morning of May 17, as previously agreed, Marilyn's scenes were concluded—just as Peter Lawford and Milton Ebbins, who were to escort Marilyn and Pat to New York, arrived at Fox by helicopter to whisk them away to Los Angeles International Airport. "Of course a car would have done just as well," as Ebbins later said, "but Peter loved to fly around in that helicopter. I told him I was surprised he didn't use it to go shopping at Sears."

An hour later, Fox's attorneys filed a breach-of-contract notice (dated the previous day, May 16), mailed to both MCA and to Milton Rudin, charging Marilyn with failure to work and a stern warning of dire consequences to follow. Had the studio's legal department collected every saber from the prop rooms, the sound of rattling could not have been louder; to follow, one might have expected the muted clanking of chains.

Marilyn arrived that evening at her New York apartment, where early next morning Fox's New York office delivered a copy of the breach-of-contract letter to her door: now she knew clearly that she was in danger of being fired. Her reaction (as Pat Newcomb and Ralph Roberts recalled) was undisguised, justifiable outrage: how could Greenson have blithely left her for Europe? Surely his connection to the production, to Weinstein and to Rudin put him in a unique position to know this action would be taken against her. How could her "team," as the men at Fox called Weinstein, Greenson and Rudin, not protect her at such a time? Why, indeed, ought she to be receiving this letter at all? Why did she have advocates if they could not be trusted to defend her against such ridiculous charges? Only her friends and her insistence on acquitting herself in the present task enabled her to prepare with a residual equanimity.

On Friday evening, the composer and producer Richard Adler, who was staging the birthday salute for the president, came to Marilyn's apartment to rehearse with her at the white piano. Over and over, for perhaps three hours, she sang "Happy Birthday to you . . ." Adler, recalled Ralph Roberts, "became more and more perturbed, because he was afraid she was going to sound too sexy. He even called Peter

Lawford to ask Marilyn to tone down her manner. But of course she just smiled and went right on preparing it the way she thought it would be best.”

Madison Square Garden, on Saturday evening, May 19, was packed with more than fifteen thousand people who paid from one hundred to one thousand dollars for a ticket to a vast birthday party that served to pay off the Democratic National Committee’s deficit from the 1960 presidential campaign.¹⁰ Jack Benny, the elegant and witty master of ceremonies, introduced the performers—among them Ella Fitzgerald, Jimmy Durante, Peggy Lee, Henry Fonda, Maria Callas, Harry Belafonte, Mike Nichols and Elaine May—but there had to be a musical interlude when Marilyn’s turn came, for she was as usual late. At last she arrived at the Garden, and was ready to go onstage after a last minute touch-up by Mickey Song, who styled the Kennedy brothers’ hair. “We kept working around her lateness,” remembered William Asher, the producer of the event, “and the comedian Bill Dana suggested that Peter introduce her as ‘the late Marilyn Monroe.’ ” Which is exactly what Peter did. In one of the most awkward and jarring moments in the history of events recorded by television, Marilyn—barely able to walk in her skintight body stocking—inched her way to the podium and Lawford announced, “Mr. President: the late Marilyn Monroe.”

Removing an ermine jacket and revealing herself in what Adlai Stevenson called “skin and beads,” a nervous Marilyn tentatively began to sing “Happy Birthday.” It was not, as Adler had feared, tawdry or inappropriate, but breathless, with just a hint of parody—as if she would wink at a hoary cliché. Did not a handsome young president deserve a new rendition, something different from what might be heard at the party of a seven-year-old? When the audience cheered and applauded after her smoky, nightclub rendition of the first verse, she jumped with delight, waving her arms and shouting, “Everybody—sing!” A second chorus accompanied the arrival of a six-foot cake with

10. Kennedy’s birthday was being celebrated ten days in advance of the date; that year he would turn forty-five.

forty-five candles, borne aloft by two chefs. Marilyn concluded her stint with a few lines sung to the tune of "Thanks for the Memories:"

*Thanks, Mr. President,
for everything you've done,
The battles that you've won—
The way you deal with U.S. Steel . . .*

Halfway into his twenty-minute address, Kennedy thanked the performers individually, commenting that "Miss Monroe left a picture to come all the way East, and I can now retire after having had 'Happy Birthday' sung to me in such a sweet, wholesome way." It was but one of many laugh lines in a typical Kennedy speech that combined political rhetoric, wit, good cheer and earnest allusions to important social issues. Backstage afterward, the actors and performers greeted the president. Marilyn, who had invited Isadore Miller to be her guest that evening, introduced him to Kennedy: "I'd like you to meet my former father-in-law," she said proudly.

After the gala, a private reception was held at the East Side home of Arthur Krim and his wife, Mathilde, who recalled, "Marilyn came dressed in a body stocking covered with sequins, which looked as if they were just stuck to her skin because the net was a flesh color." George Masters added that Marilyn "reveled in that Jean Louis gown. She was flamboyant but somehow elegant and subtle about her nudity, as if it were the most natural thing in the world not to wear underwear." Her main concern that evening was to see that Isadore, amid the crushing crowd of guests, had a chair and a plate of food. She never abandoned him to strangers, nor did she wander among the crowd seeking small talk, praise or compliments.

In a way the evening was unimaginably important to Marilyn Monroe. Not only had the lost child found her momentary place in Camelot—she had also made real the recurring dream of her childhood. For there she was, all but nude before her adorers, utterly without shame, somehow as innocent as a jaybird. "There was a softness to her that was very appealing," said Mathilde Krim. "She was—well, just extraordinarily beautiful."

Communication from Public

Name: Natalie Rogers

Date Submitted: 03/04/2024 03:59 PM

Council File No: 23-0953

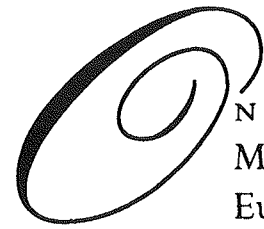
Comments for Public Posting: The Bank Family, who own 12305 5th Helena Drive, oppose designation of the house as a Historic-Cultural Monument. The attached is Part 2 (of 3) of exhibits in support of the Bank Family's March 4, 2024, letter opposing HCM designation.

The following documents are exhibits in support of the Bank Family's March 4, 2024, letter to the PLUM Committee. The exhibits are being submitted under separate cover due to file size restrictions.

EXHIBIT 4B

Chapter Twenty - one

MAY-JULY 1962



ON SUNDAY, MAY 20—the day following the great gala—Marilyn rushed back to Los Angeles, where she found Eunice Murray calmly cooking supper for her at Fifth Helena. The housekeeper had, it seems (or so she said), taken the check and dismissal as simply signifying time off for a vacation, and here she was, cheerfully back at her post. Marilyn, tired and frankly glad to have someone to awaken her next morning, to prepare the breakfast, make some calls and attend to some household details, tacitly rescinded the discharge, which was never again mentioned.

Next morning she was on the set, working eight hours after a cool reception from her producer, director and crew. They must have known of the threat against her, but the picture still had its own problems. For one thing, the script was unfinished—and they called *her* unprofessional, as Marilyn later told Paula sarcastically. She was, in fact, clear-headed in her suspicions against her team and the entire management at Fox: the latter's incompetence during the last weeks of production and the sophomoric degrees of inefficiency on and off the set suggest that the plan was indeed simply to justify Gould's order that Marilyn be dismissed and the picture shelved.

Despite all the commotion, all they could ask of Marilyn that Monday, May 21, was to do more retakes of her scenes with the children, for Dean Martin had come down with a cold. The production report for

Tuesday notes that Martin “reported for work, but that due to Marilyn Monroe’s susceptibility and on the advice of her doctor, she refused to work with him until his recuperation.” But that day, too, she worked all morning with the children, completing medium and close shots for their poolside conversation. Martin was still down with his cold on Wednesday and Thursday and remained at home until Friday. Marilyn worked those three full days, and one of them, as everyone hoped, made immediate international news.

On Wednesday, May 23, no other actor was required on the set but Marilyn for the scene in which, as the long lost Ellen Arden, she was to take a midnight swim after her return home. As she did so, she was to be seen by her husband from his bedroom upstairs, where he was with his new wife; this was to lead to some silent comic interplay and gesticulating between them to prevent her being discovered. From nine in the morning to four in the afternoon of the twenty-third (with only a twenty-minute break for lunch), Marilyn remained in the pool, paddling, swimming, splashing and waving, while closeup, medium and long shots were taken again and yet again. In the script, she was to be swimming naked, with the illusion of nudity easily obtained by the flesh-colored, two-piece bikini Marilyn wore all day.

There was, however, a problem. When cinematographer William Daniels gazed through his viewfinder at the long shot of Marilyn with her back to the camera, sitting at the edge of the pool towel-drying her hair, he noticed that the back strap of the bikini’s top was clearly visible to the Technicolor camera. This he reported to Cukor, who approached Marilyn—who in turn readily tossed aside her bikini top for this simple, quick, rearview image. In a few moments the shot was easily made.

But then Marilyn had an idea, one entirely natural for the woman who had posed nude for Tom Kelley on red silk in 1949; who had her skirt blown high for Billy Wilder over a subway grating in 1954; and who most recently had appeared at a presidential party with the merest covering. The shots she suggested were not in the script (and, she knew, would never be approved by the Motion Picture Production Code in 1962). But for publicity—to advertise *Something’s Got to Give* all over the world—why not take several shots of her nude as she wrapped round herself the blue terry-cloth robe for the next sequence? She had been so many icons, after all: why not Venus Rising from the

Waves? This would cost the picture not a cent, and it might bring in millions: Marilyn Monroe, soon to appear in *Something's Got to Give*—and, it was (wrongly) implied, naked, just the way you see her now in a magazine.

Weinstein and Cukor thought this was inspired, and things happened quickly. Two free-lance photographers (William Woodfield and Lawrence Schiller) were hastily summoned to join the Fox studio photographer (James Mitchell). For just under an hour, many stills were made of Marilyn from various angles—but with nothing like total nudity, front or rear.

By the end of the day she was exhausted, but there was a burst of applause from the crew and even an embrace from Cukor. “Do you think this was in bad taste?” Marilyn asked Agnes Flanagan as she headed for her dressing room. “I told her,” said Agnes, a dignified Irish grandmother, “that there was nothing suggestive about it at all.”

On Thursday, May 24, Marilyn was back on the set for solo close-ups and over-the-shoulder two-shots with Cyd Charisse—despite an earache from her watery scenes. Martin was in his fourth sick day and there were last-minute rearrangements, but no one seemed much concerned; the picture was only nine days behind schedule, and these could easily be justified (especially with this surprise new publicity campaign). The production required only a conclusion to the messy, tangled script. On Friday, May 25, ignoring a low-grade fever and a slight discharge from her right ear, Marilyn worked without complaint, joining Martin and Charisse for eight complicated shots. In these, she spoke with a brilliantly phony Swedish accent, Marilyn’s character trying to pass herself off as a foreign maid in her own home. The outtakes remain among the indisputable examples of her greatly underestimated talent: she wanted, Marilyn said, to do a sendup of every Garbo mimic in history, and that is just what she gave Cukor. Now he and Weinstein began to worry even more—that despite the rumblings from executive offices here and in New York, something might not have to give at all: they could be getting a film worth saving.

Marilyn spent the weekend mostly alone, but she and Pat shopped for food on Saturday; the atmosphere, they agreed, was far pleasanter without Eunice lurking on weekends. Marilyn had placed a cotton wad in her ear and was taking antibiotics she had left over from her bout of

sinusitis, but by Sunday there was a frank infection and her temperature had risen to one hundred two. A massive injection of penicillin cured her in record time, but she could not report for work on Monday.

On Tuesday, May 29, she and Dean Martin worked six hours on dialogue, doing forty-six takes of five shots and completing one and a quarter pages of script. As the outtakes reveal, Marilyn worked the scene carefully, executing a brief but gradually building anger, her voice always controlled, her eyes slowly blazing with resentment at an accusation of infidelity. Each time Cukor cut in, asking for a retake or giving direction, Marilyn listened patiently, sometimes asking a question, always nodding her agreement and eager to give what was best for the scene.

On Wednesday, Memorial Day, there was no call for anyone to report for work. On Thursday, May 31, Marilyn acted for the first time with her friend Wally Cox, for whom she had lobbied in the role of the shoe clerk roped in to pretend that he had been marooned on a desert island with her for five years. Not only was this an astonishing day's work—thirty-eight takes of four setups, resulting in two and a half pages of filmed script—it was also one of the most hilarious scenes Marilyn Monroe ever acted for film. Wearing a cashmere suit with a mink collar and matching mink hat, she whispered, cajoled, begged the Milquetoast character to lunch with her—all the while trying a pair of shoes two sizes too small (“Well, go barefoot for five years!”). Once again, she made an indifferent scene memorable by investing it with just the right, light comic touch—her voice lilting but confident, her gestures properly elegant. Had *Something's Got to Give* ever been released, the public would at least have seen Marilyn Monroe at arguably the loveliest point in her life.

The following day, June 1, 1962, Marilyn turned thirty-six. Evelyn Moriarty had planned a birthday celebration, but Cukor refused to allow any merriment until he had a full day's work from his cast. In an overlong, actionless scene with Wally Cox and Dean Martin, Marilyn gave one of the subtlest performances of her career; it was also, alas, her final performance in a motion picture. With few words but with mock innocence, she tried to convince Martin that the meek Cox was her island partner. Marilyn had only to smile, to turn slightly to the left, to glance ever so lazily to the right—and there was film acting of a high

caliber indeed, the result of fifteen years of hard effort at her craft. Here were gazes and intonations signifying wistfulness and victory, witty ruse and earnest yearning to be reunited with her husband: somehow, despite all the stress and pain of the last two months, she gave a performance of which any actress could be forever proud.

At six o'clock, Evelyn was permitted to wheel out a cake she had purchased that morning at the Farmers Market. Sparklers glittered atop it and the traditional song echoed as Allan Snyder and Wally Cox poured champagne for everyone. Eunice angled her way onto the lot, drifting through distractedly as if she were a slightly boozy fairy godmother, and left saying nothing. But birthday or not, people departed quickly—it was Friday evening, someone said. Something was dreadfully wrong; an unusually tense atmosphere prevailed. In a half-hour, the party was over, and there were only herself, Wally and Evelyn left, sipping Dom Perignon from paper cups. Marilyn and Wally climbed into the limousine; she had with her the wardrobe's cashmere suit and mink hat. There were no plans for the evening—Joe had put through a call from Europe, where he was on business with Monette—and so Marilyn had accepted an invitation to appear at a fund-raising baseball game for charity. She looked magnificent, posed happily for newsmen and retired alone at ten o'clock.

However memorable her appearance and significant her work that week, she must have been miserably lonely by Friday night, not to say frightened of losing her job. But most of all, as she told friends in telephone calls that evening, she was enraged at Greenson, on whom she had been conditioned to rely completely. To her, it seemed the ultimate act of betrayal: an axe was about to fall, and she had no defenses against it. Indeed, how else could she have felt after being so long a member of his family? Weinstein and Rudin had been right: a film at this time of her life, when she was so deeply (if ill-advisedly) committed to therapy, had been unwise, as even her tendency to a series of real physical maladies indicated. That she acquitted herself so brilliantly was a testament to her essential inner strength, her willingness to work, her desire not to let others down.

“What happened that weekend [after her birthday], I don't know, but to me it was more important than the weekend she died.” Thus spoke Henry Weinstein almost thirty years later.

At the time, he could not have known the bizarre events that were just beginning. Early Saturday morning, June 2, weeping uncontrollably, Marilyn telephoned Greenson's son and daughter, Dan and Joan, who had been instructed by their father to respond if she called; once again, it is hard to comprehend the appropriateness of involving his children in what Greenson himself called a dangerous case. They entered Marilyn's bedroom, where they found her indescribably lonely and depressed, then giddy and disoriented—the classic signs of Dexamyl overdose. Following their father's instructions, they called Milton Wexler, who sped to the house, found "a dangerous arsenal . . . a formidable array of sedatives on her bedside table and swept them all into his black bag" (thus Eunice). That night (actually June 3, at one in the morning), Dr. Milton Uhley was summoned, in the absence of Engelberg, to provide sedation.

On Monday, June 4, Marilyn, sober but livid with rage, felt no obligation to work in a situation from which she felt entirely disconnected. Eunice, unaccustomed to seeing her in such undiluted anger, put through a call to Greenson in Switzerland, but he had not arrived yet from Israel. At the same time, Paula—who had flown back to Los Angeles and was in residence at the Chateau Marmont, prepared to help—telephoned Fox that Marilyn would not report until she had discussions with her advisers. Prudently, Paula did not add her agreement with Marilyn that she ought not to work on a picture from which she was about to be dismissed. Marilyn, meanwhile, was on the telephone to Lee and to the Rostens, and to Ralph Roberts, Pat Newcomb, Allan Snyder and Agnes Flanagan. She had, it may be presumed, been taught in therapy to assert herself: now she was assuring that her friends knew how bereft she felt. That day, two pages of the script for *Something's Got to Give* were filmed; there would be no more work, although the picture was not formally shut down for a week. Just before six that afternoon, Phil Feldman, vice-president of business operations at the studio, telephoned Milton Rudin, who could provide no answer as to whether Marilyn would be on the set Tuesday or Wednesday.

On Tuesday evening, June 5, Fox warned Rudin that they were prepared to file suit against Marilyn for breach of contract, to which Rudin replied that he understood their position, and all he could say was that at Marilyn's request he had telephoned Greenson in Switzerland, requesting that he return to facilitate a resolution to the situation.

Weinstein, frantic, had also called Greenson, who was indeed en route even as they spoke: he arrived in Los Angeles the evening of Wednesday, June 6. "Fox needed a reason to shut down that picture," according to Evelyn Moriarty, who, along with the rest of the cast and crew, was piecing together the week's events. Paula, weary, called her and asked, "Evelyn, do we have any friends?" Well may she have asked.

Greenson went directly from the airport to Fifth Helena on the evening of June 6, then went home, and early next morning was back at Fifth Helena. And at this point events took a grotesque turn.

The contradictions in Greenson's conduct must be faced in all their complexity. On the one hand, he considered Marilyn's condition so perilous that he left specific instructions for her care with his children, three colleagues and his brother-in-law, her attorney. Having made the decision to depart, he then leaped at once to return, abandoning his wife and doing exactly what a therapist in such a situation is trained to avoid: playing the savior and making himself central in her life. Marilyn's anger notwithstanding, he could have left her career problems in the hands of Rudin and Fox, where they were rightfully being adjudicated; that, however, would have been to admit peers—for him, competition.

What transpired at their reunion cannot be determined, but his attitude toward Marilyn was clear from a letter he wrote two weeks later to a friend named Lucille Ostrow, which reveals the extent of his rage at himself, at Marilyn and at a situation he had permitted to go beyond control. He had not only missed his vacation, he complained to Ostrow: he also missed a few days in New York planned as an interval—a business meeting with Leo Rosten, a party in Greenson's honor to be given by Dore Schary and an appointment with his publisher. All these he canceled, he said, to rescue his patient. Greenson added that he felt like an idiot, for on his return Marilyn recovered quickly and was delighted to be rid of the burden of a terrible picture. Furious for the inconvenience, Greenson ended the letter by saying that he had canceled his other patients and was now seeing only this schizophrenic one regularly again: she had, in other words, completely taken over his time and his life—but (one might ask) at whose insistence? He was, Greenson told Ostrow, depressed and lonely; very likely without yet

admitting it to himself, he bitterly resented what he had allowed Marilyn to do to him and his family. The letter, dated and postmarked June 22, 1962, is a bitter diatribe of therapist against patient.

“Everybody [on *Something’s Got to Give*] was aware that Greenson had put Marilyn in a cocoon-like situation,” said Walter Bernstein.

I always felt that she had become an investment to people like him—an investment not only financially, in caring for her, but even in the fabrication of her illness. It had become a need for him and others that she be considered sick, dependent and needy. There was something sinister about Ralph Greenson. It was well known that he exerted enormous influence over her.

Susan Strasberg agreed: his close involvement with Marilyn was an open secret no one really discussed.

But the influence and involvement then led beyond resentment to outrage and anger—indeed, to a rage that far exceeded hers. “If I behaved in a way which hurt her,” he wrote to Kris on August 20, “she acted as though it was the end of the world and could not rest until peace had been re-established, but peace could be reconciliation and death.” This odd comment was followed by his admission that he became “impatient with her constant complaints” and that he was “being led by countertransference feelings.”

But it was Greenson himself who had a lifelong tendency to irrational fits of anger. An actor and writer who sought his help was told that he ought to go elsewhere because the man “needed a psychiatrist who could love him. You don’t understand—psychiatrists must *love* their patients.” The young man replied that he understood perfectly if “love” meant concern, but that otherwise this advice did not seem right. “But then Greenson became a violent, screaming hysteric. He completely lost control, and in fact it frightened me. ‘How dare you challenge me!’ he shouted. ‘I am the expert, not you! You are wrong, you are mad—you are a schizophrenic!’ ” The man found Greenson, after three meetings, a “profoundly unstable man. And then I learned that most of his patients were bored, tennis-playing Beverly Hills matrons or movie stars, and he hated them—in fact, he made no secret of it.” Other ex-clients felt uncomfortable at the constant intrusion of sex

and questions about intimate sexual matters, whenever possible, into therapeutic discussions.

The anger was evident with peers and friends, too: Ralph Greenson was simply not a man to be challenged. In 1957, he received a letter from his old friend John Frosch, editor of the *Journal of the American Psychoanalytic Association*, reporting that an essay Greenson had submitted was not suitable for publication in its present form. This infuriated Greenson, and he answered in angry disbelief, wondering why Frosch was treating him so badly and why he bore such an obvious vendetta. On February 4, 1957, Frosch replied, shocked at his friend's tone, saying that Greenson was behaving in a completely irrational manner, that he saw this as strictly a professional decision. Greenson should consider revising his article and resubmitting it, Frosch concluded, but that never happened.

There are several primary documents connecting Marilyn's final dismissal from *Something's Got to Give* with Greenson's return from Switzerland and the events of June 7 and 8: Greenson's letters to Ostrow and Kris; the memoranda of the Fox meetings on June 5, 6, and 7; Eunice Murray's incomplete 1973 memoir; and the account of an eminent Beverly Hills plastic surgeon named Michael Gurdin.

Dr. Gurdin became part of the story on the morning of June 7, when Greenson brought Marilyn to his office. "She was disheveled," Gurdin recalled,

and there were black and blue marks on both lower lids, poorly covered by makeup. The story Greenson gave me was that she was in her shower, slipped and fell. Now it was obvious to me that Miss Monroe was under the influence of drugs—her voice was thick and slurred. But her major concern was that she had a picture commitment, and that she was fearful that her nose was broken. She actually talked very little, and the questions I put to her regarding her injury were answered by Dr. Greenson. She did not answer. I did not take any X-rays because she did not want them. I examined her carefully, and I could find no evidence of a fracture.

According to Dr. Gurdin, Marilyn's injuries could indeed have been the result of a fall, as he was told,

but it is possible that she could have been struck on the face. Either a fall or an assault would give those same signs, for if an injury is sustained to the nose to have any bleeding under the skin, you won't see it on your nose, you'll see it under the eyes—because the tissues under the eyes are very soft and loose, and blood escapes into them. Also, there's a direct connection between the tissue under the nose and eyes.

Once Gurdin had pronounced Marilyn fracture-free, a flurry of telephone calls was made. First, Greenson telephoned Rudin (who was at Lake Tahoe), who asked his partner Martin Gang to call Feldman and report that Greenson, having returned, was now in charge of Marilyn's relationship with the studio. Since she had accused Rudin of being "with them" (i.e., of siding with Fox rather than with her) and since Greenson was "the medical member of the team in charge," Greenson would determine Marilyn's ability to return to the picture—which, he said, might occur within the week. Greenson asked to be quoted as follows: "I am convinced that she can finish the picture in the normal course," a statement vague enough to come from any politician. Greenson then telephoned Eunice and instructed her to say nothing to the press, nor to anyone who called from the Arthur Jacobs office, from New York or from the studio. He then advised her that the injury to Marilyn's face was no cause for concern and she should forget about it. Nothing was communicated to Weinstein.

In all these calls and announcements, there is clearly a serious problem. Greenson never mentioned Marilyn's accident and their visit to Gurdin, an occurrence that could ironically have helped her. Fox rightly expected a reason to be offered for her absence that week, but they received none. Instead of buying time for another week by simply showing Fox that a woman with bruises was hardly fit for the camera, not a word was spoken by Greenson (the only one besides Gurdin who knew about the accident, if such it was). Just as crucial, his letters to Kris and Ostrow (and Murray's memoir) are noteworthy for their presentation of Marilyn as a gravely ill patient, a schizophrenic and a desperate abuser of dangerous drugs: Would not his account of her nearly tragic, drug-induced accident have supported these allegations? She could have sustained career-threatening if not life-threatening injury, after all.

Why, then, did Greenson not mention this accident, telling Fox straightaway that Marilyn had hurt herself? Why did Greenson not invite a studio doctor to come to Fifth Helena to see for himself that Marilyn was unable to work that day and the next? Why was neither Pat Newcomb nor her boss, Arthur Jacobs, informed of the injury? It was their job to finesse such delicate matters with the press and public should the news somehow be leaked.

Would not Greenson have telephoned Engelberg if he found Marilyn injured, or taken her to Engelberg's office? To avoid publicity at all cost, would it not have better suited his purposes to have a doctor come to the house? No, these were not options because Marilyn herself—not hours but moments after the blow—had insisted on seeing the man who had cared for her face years earlier. Had the accident occurred as Greenson told Gurdin, why was it not mentioned by Eunice in her memoir; why did Greenson not use it to help keep Fox at bay? And why did Marilyn, who no longer trusted her advisers, not insist on attending the crucial luncheon meeting at Fox the next day, the conference that would determine her fate and that of the picture? Doubtless because she was temporarily disfigured (and very likely sedated).

There can be only one explanation. Greenson wanted to confide in no one and wished to prevent Marilyn being seen or questioned about the injury by Gurdin or anyone else for one reason only: he was the one responsible for it. Exhausted, frustrated, highly strung, confident of his authority to the point of egomania, he was a man known to become enraged when challenged. Furious at Marilyn for having sabotaged his vacation, having disobeyed his orders, causing him professional and personal embarrassment before his family and the studio and then saying that she was (thus the letter to Ostrow) not very ill after all and would be glad to be rid of the picture, Greenson had become violent and struck her. As long before with Joe, she silently endured the moment of abuse, convinced that she had been a naughty child and that punishment was due.

Hairstylist Sidney Guilaroff, not a man to be lightly dismissed, came to visit Marilyn that weekend but was brusquely turned away by Greenson, who came to Fifth Helena for weekend sessions on June 9 and 10: "I went to see her," Guilaroff recalled, "but Greenson kept me out. He kept a lot of people from her." For over a week, she was virtually incarcerated at home until her bruises healed and so was

forced to decline several social invitations she might otherwise have attended. Among these was an invitation from Pat and Peter Lawford, who were to be guests of honor at the home of Robert and Ethel Kennedy in Virginia. Her telegram of regret, dated June 13, linked her struggle with Fox to the famous "Freedom Riders" fighting on behalf of civil rights for minorities:

Dear Attorney General and Mrs. Kennedy:

I would have been delighted to have accepted your invitation honoring Pat and Peter Lawford. Unfortunately, I am involved in a freedom ride protesting the loss of the minority rights belonging to the few remaining earthbound stars. After all, all we demanded was our right to twinkle.

Marilyn Monroe

A second visit to Gurdin, on June 14, confirmed that all would soon be well. During that week, there were visits by Greenson and Engelberg, who later submitted bills (Engelberg's were for injections).

The meetings were held at Fox on Friday, June 8, and to them Greenson thus brought a double burden. He had to convince hostile studio executives that he could deliver Monroe to the set; and he had to prevent knowledge of her injuries—which, if ever known, would ignite a scandal and ruin his career forever, making Marilyn, in the bargain, a more sympathetic figure before the studio and the public.

Greenson performed brilliantly. He, Rudin, Feldman and Frank Ferguson (an assistant secretary of Fox) met in the executive offices, where Greenson began by stating that his patient had endured two unfortunate incidents: a virus she contracted in New York and (his ego ever uninjured) his absence from her life. He added that Pat Newcomb was "dispensable" as publicist and Paula Strasberg as coach (doubtless because, like Ralph Roberts, they were friends of Marilyn and disliked him). In addition, he reminded them that he had pulled Marilyn through a crisis once before, during *The Misfits*, and he could do so again.

The discussion continued along these lines, and when Feldman attempted to raise the stakes, asking if Marilyn would accept a new direc-

tor or cameraman, Greenson was unfazed. He said, according to Feldman's detailed notes, that he would "be able to get his patient to go along with any reasonable request and *although he did not want us to deem his relationship as a Svengali one, he in fact could persuade her to anything reasonable that he wanted.*"¹

Continuing this expression of egomania, Greenson astonished everyone by saying that he was ready to assume responsibility for all creative areas of the picture: to select the new director and cameraman, to decide which scenes Marilyn would or would not perform and which takes would finally be printed. "I pointed out to Dr. Greenson," noted Feldman, "that although I was sure he knew his business, I agreed with Mickey [Rudin] that he [Greenson] was not necessarily expert in our motion picture business."

The meeting, which began at half past twelve, continued through luncheon. A few minutes before four, when Rudin returned to his office, there was already a message awaiting him from Fox: the studio considered Marilyn Monroe in breach of contract and was prepared to proceed with all available legal remedies. In fact, they had so proceeded on Thursday afternoon, and thus the Friday meeting was an empty formality. Moments before the Los Angeles County Court closed that June 7, a suit was filed against Marilyn Monroe Productions, Inc., and its employee Marilyn Monroe, in the amount of \$500,000. Sheilah Graham, who got the news from Henry Weinstein on Thursday, published it in her column in the *Citizen-News* that night; otherwise it was unreported in the press until Friday and Saturday, June 8 and 9.

When the news broke widely over that weekend, Marilyn was, as Allan Snyder, Marjorie Plecher and others remembered, unutterably depressed, for she could not believe that Fox would go so far as to fire her. She had, after all, made twenty of her twenty-nine films there and longed to believe that at last she was valued and had friends.

The dismissal, said Peter Levathes in an official statement, "was made necessary because of Miss Monroe's repeated wilful breaches of her contract. No justification was given for her failure to report for photography on many occasions. The studio has suffered losses through

1. Italics are the author's. Considering the visit to Gurdin the previous day, Greenson's allusion to Svengali sounds chilling.

these absences.” This was a simple case of muscular exertion by Levathes, acting at last on orders from Gould, Loeb and the rest of the board. Then, Levathes seemed to admit that Twentieth Century-Fox was itself a place fit only for madmen: “We’ve let the inmates run the asylum,” he added, which meant that actors were lunatics and executives little more than keepers of a madhouse—not an allusion likely to win staff support.

Weinstein, years later, offered his own explanation, and it was at least partly correct. The real reason Marilyn was fired, he said, was that “*Cleopatra* was way behind schedule and costing millions, and here we had this small picture behind schedule. It looked as if Skouras and his appointed head Levathes were losing control of their talent. And so she was a pawn—an interesting pawn, a sad pawn, it’s tragic, it’s funny—but a pawn. And that’s the real Hollywood story.” And, he might have added, it is often enough the story of Hollywood.

“They just didn’t understand,” said David Brown, a veteran of problems more difficult even than this,

and they decided to play hardball like businessmen: “We’ll sue you. . . . We’ll hold you to every last clause. . . . You’ll never work in this town again,” and so forth and so on. These executives were storm troopers delivering messages. It was all so unnecessary.

It was also very soon regretted by the men at Fox, who scrambled to correct a potentially disastrous oversight.

That the company had much earlier begun negotiations for Marilyn’s replacement on the picture was obvious on Saturday, when newspapers showed a photo of George Cukor, smiling too broadly with Lee Remick, who was signed on Saturday to replace Marilyn; in fact, Remick landed the role only after Kim Novak and Shirley MacLaine turned it down. And with this single announcement about Remick’s employment, the men at Fox revealed their delirious incompetence, for Dean Martin’s contract gave him the right to approve his leading lady. Loyal to Marilyn, Martin at once telephoned his agent Herman Citron and announced he would not proceed with *Something’s Got to Give*—news that touched and cheered Marilyn to the point of tears.

The roller coaster continued its crazy route. Early Monday morn-

ing, a meeting room at Fox was crowded with Levathes, Cukor, Feldman, Martin, Citron and casting director Owen McLean. The purpose was to convince Martin not to force the studio to close down the picture; and Levathes begged him not to reject Lee Remick. But Martin replied that Levathes was not quite accurate: he was not rejecting Remick, he simply would not do the picture without Marilyn, for whose participation he had signed to do this silly movie in the first place. "Mr. Martin," reported the transcript of the meeting,

said that he felt the chemistry between himself and Miss Monroe was right and that was why he took the picture and for no other reason, and that Miss Monroe meant a lot more at the box office than Miss Remick and that the point of the end of the story seemed to be that he would leave Miss Charisse for Miss Monroe—and that therefore this was not a role for Miss Remick, and that he wanted to do the picture only with Miss Monroe.

That was that. The studio was caught short by Dean Martin's loyalty, his insistence on his contractual rights and his canny sense of the best casting.

At this point, the vigilant Milton Rudin stepped in. He called Feldman on Monday afternoon to ask why he had not been informed that a lawsuit had been filed, since he assumed conversations were continuing in good faith. He then rightly asked why Fox was giving out derogatory statements to the press about Marilyn, since he fully expected her to return to work very soon. Contrariwise, Rudin added, he had advised Arthur Jacobs and his staff to issue no defensive publicity at all on Marilyn's behalf, nor to provide any reply to the many calls everyone was now receiving. The conversation concluded when Rudin asked Feldman who was to replace Martin if they went forward with Remick. Feldman replied that he did not know, whereupon "Mr. Rudin said maybe we ought to get President Kennedy."

Bumbling along with their strong-arm tactics, Fox instructed their law firm (Musick, Peeler and Garrett) to continue to turn a skirmish into outright war. That same Monday, an amended lawsuit was filed, raising the ante against Marilyn from \$500,000 to \$750,000. This they had to do very hurriedly, before anyone learned that their suit from the previous week contained an error that could have led to an instant

dismissal of the case: the first brief claimed that "since April 16, the defendant failed, refused and neglected to render services" on *Something's Got to Give*. Marilyn had not begun work on the picture until April 30, after which she willingly and satisfactorily rendered very much service indeed. This clause, omitted from the June 7 suit, was supplemented by an inclusion of the May 16 warning.

Nothing, Fox seemed to reason, would succeed like overkill, and so on June 19 they continued in their litigious actions, suing Dean Martin (whose company, Claude Productions, was producing the picture) for \$3,339,000—the entire cost of the shelved production as they then computed it. This, like the suits against Marilyn, was eventually abandoned by Fox when an entire new platoon of executives strode through the studio gates. The shakeup began before the end of June, when the (forced) retirement of Spryos Skouras was announced.

Meantime, Peter Levathes quickly realized that in abandoning *Something's Got to Give* and losing Monroe and Martin, the company was also losing the fantastic publicity from the photos of the swimming scene and the peekaboo nude shots—glorious color images that by this time had appeared worldwide. Where and when, it was being asked, would this film be released? And as for the matter of cost, Lee Remick came at no bargain price: her salary was \$80,000, and more than fifteen days of footage would have to be scrapped. It would in the long run be easier to find the budget for, essentially, a new picture.

Thus (hooray for Hollywood), discussions for an eventual resumption of *Something's Got to Give* were resumed just a week after Marilyn's dismissal, as negotiations began for a complete script revision by Hal Kanter. At the same time, there were telephone calls and meetings to determine how Marilyn Monroe and Dean Martin could be brought back in October, after Martin had completed another scheduled picture. "When [Levathes] made his announcement that he was going to fire Marilyn," said Nunnally Johnson, "I phoned him to suggest that if anyone was to be fired it should be the director. It was Marilyn who brought people into the theaters, not this director." All this was being discussed throughout June and July, despite the objections of Milton Gould, who left the board of Fox on the departure of Skouras.

Meanwhile, Marilyn was far from idle, for there were discussions about other films, too. In addition, the brouhaha with Fox and subsequent news of renewed negotiations led every magazine in America to

ask for a photo story and interview. For those she agreed to accommodate, her good friend Allan Snyder was as usual asked to do her makeup. About the same time, Truman Capote (on familiar terms with the messy business of serious drug addiction) was surprised to find that "she had never looked better . . . and there was a new maturity about her eyes. She wasn't so giggly anymore." As Marilyn herself said at this time, "There's a future, and I can't wait to get to it."

By June 23, a week after her second visit to Gurdin, her bruises had vanished, and Marilyn met photographer Bert Stern, on assignment from *Vogue*, for the first of five photo sessions between that day and July 12; she also spent three days (June 29 through July 1) on and around Santa Monica beach with photographer George Barris for a *Cosmopolitan* photoessay. Believing that she was at her best posing rather than acting, and proud of her lithe and youthful figure, she was as ever the most patient and cooperative model, at ease with her lover the still camera, for which she had to remember no dialogue. For these long sessions, Marilyn wore mink for glamour shots, cavorted in bikinis and, draped in diaphanous veils and beneath a white sheet, posed seminude.

"She was very natural, without the affectation of a star complex," according to Stern. "There was a rare quality that I haven't seen before or since—as if there were no other person in the world while you were there. Marilyn devoted herself single-mindedly to the task and was ornery or impatient only when she was fed up with the glamour shots, the fashion shots *Vogue* wanted. She did not seem depressed or anxious about anything: she sipped her Dom Perignon and was delighted to be doing what she most enjoyed."

"How's this for thirty-six?" she asked Stern, holding a sheer scarf over her naked breasts. George Masters, who was her hairstylist for the Stern sittings, recalled that "she said she never felt better, and she looked utterly fantastic, like something shining and ethereal. This was a lady who talked a lot that week about the future. She had no time for brooding over the past, even the recent past."

Regarding her age and her prospects, Marilyn was frank and articulate when speaking to a reporter: "I'm thirty-six years old," she said,

I don't mind the age. I like the view from here. The future is here for me, and I have to make the most of it—as every woman must. So when you hear all this talk of how tardy I am, of how often it seems

that I make people wait, remember—I'm waiting too. I've been waiting all my life.

She continued to speak with quiet sincerity, but her tone changed. For a moment it was as if Cherie had sprung from some lost scene of *Bus Stop* and was alive again in Marilyn:

You don't know what it's like to have all that I have and not be loved and know happiness. All I ever wanted out of life is to be nice to people and have them be nice to me. It's a fair exchange. And I'm a woman. I want to be loved by a man, from his heart, as I would love him from mine. I've tried, but it hasn't happened yet.

The reporter naturally followed up with questions about her marriages, but Marilyn was as always the soul of discretion. Joe was "Mr. DiMaggio," and Arthur "Mr. Miller," and she would not be led to a discussion of her private life. In the fifteen years he knew her, said Allan Snyder, he never heard an unkind or vindictive word about an ex-husband or a former lover—not even about those professionals who treated her unfairly. "To think of Marilyn Monroe calling a press conference to air her grievances against anyone is laughably out of character. Why, she wouldn't even say a single bad word to a friend or a reporter!" Nor did she extend a problematic relationship with an individual to include that person's family: on July 19, showing her gratitude for their concern during Greenson's absence, Marilyn invited Dan and Joan (without their parents, it should be noted) to Fifth Helena for a casual supper celebrating Joan's birthday.

Marilyn recognized that something was askew in her relationship with Greenson, for she confided to friends that she felt it was unhealthy for her to depend on someone whose attitude and actions were unpredictable (she provided no details) and with whom she seemed to be making no progress. But in the paradoxical way of many patients in therapy, she continued to consult him daily during July. Greenson had, after all, successfully convinced Marilyn of her need of him. And in this regard, he enlisted Hyman Engelberg as accomplice.

According to invoices later submitted, Engelberg visited Marilyn at home every day but six during July: except for the fourth, the sixth

through the ninth and the sixteenth, she received injections—liver and vitamin shots, she said. But these transformed her mood and energy with alarming rapidity. “She asked to postpone our talk,” recalled Richard Meryman, who arrived late one afternoon for the second of a series of interviews for *Life*. “She was tired out, she said,” after meetings at Fox. But then they were interrupted by the arrival of Engelberg: Marilyn bounded out to the kitchen, received a shot and returned to Meryman—suddenly eager to talk on and on, which she did until midnight and after. That evening (unlike the other meetings) her speech was rapid and disjointed—hardly the effect of “liver and vitamin shots.”

These were Engelberg’s so-called youth shots. When Pat Newcomb learned of them, she told Marilyn to remember she was only thirty-six, “but she implied that whatever she was receiving was going to keep her young. Of course it was hard to argue with her, because she looked so great—better than I’d ever seen her in films.” But this was cause for alarm, for Engelberg tracked down Marilyn wherever she was to provide the injections: Pat never forgot the day he found the two women at a Brentwood restaurant, where “he took her back to some private place to give her the shot.” In his way, Engelberg was clearly as proprietary with Marilyn as Greenson; his first wife recalled him almost dancing with schoolboyish glee, showing off to his friends and announcing as he shook a set of keys, “I have access to Marilyn Monroe’s apartment,” and then, “I have the keys to Marilyn’s house!” When therapy or the usual dose of Nembutal failed to put Marilyn to sleep, Greenson routinely telephoned Engelberg, who in 1961 dashed down from his house on St. Ives Drive to Doheny, and in 1962 made the longer trip to Fifth Helena. Greenson was quite open about the arrangement: as he said, he had an internist provide the injections “so that I had nothing to do with the actual handling of medication.”

The issue of her doctors and her work may have been among the items on her agenda when Marilyn placed a total of eight telephone calls that summer to the office of her new friend, Attorney General Robert Kennedy. According to Pat Newcomb and Edwin Guthman, their conversations were simply social, friendly calls, brief and uncomplicated, for they were not encouraged by the busy Mr. Kennedy. But he had assured her during their last meeting in June that he was indeed interested in her career and concerned for her health during and after the

trials of *Something's Got to Give*. In light of their several conversations about matters political and social at two previous dinners, Kennedy may not have anticipated that Marilyn, from afar, would depend on his compassion and encouragement in her private life, too. According to Edwin Guthman, however, there was never time in Kennedy's office for him to devote to lengthy social calls, and Marilyn was gently but firmly discouraged from prolonging their conversations.

In support of this, the telephone records document very brief calls. On Monday, June 25, Marilyn called Kennedy's office to confirm his presence at the Lawfords' on Wednesday evening and to invite him and the Lawfords to visit her home for a drink before dinner; she spoke only with his secretary, Angie Novello, for one minute. On Monday, July 2, she placed two calls, again to Novello and for the same length of time. The remainder of the calls were placed during the last two weeks of July, only one of them lasting more than one minute: on the thirtieth, Marilyn called Kennedy to say that she was sorry to have missed his Los Angeles speech the previous weekend; she had gone to Lake Tahoe.² These calls and four meetings comprise the entire relationship between the two.

During July, Marilyn relied on three sources of encouragement: friends like Ralph Roberts and Allan Snyder (and, by phone, Norman Rosten in Brooklyn); the admiration and encouragement of a few journalists and photographers; and the return to her life of Joe DiMaggio.

"We often stopped in at her house in the evening for a drink in June and July," according to Allan Snyder and Marjorie Pelcher. "She was in very good spirits, showing us her newest addition to the house—some tiles, a carpet and a new chair."

Since his return from Europe, Joe and Marilyn had frequently exchanged telephone calls, and he visited her once in June (on the twentieth) and twice in July (on the eighth and twenty-first); as all her friends knew, Joe's presence and concern were her great strength, and

2. All these calls were put through the main switchboard at the Department of Justice (REpublic 7-8200) and then transferred to the attorney general's secretary. Her address book lists only this number; she never had access to Kennedy's private line.

ever since he rescued her from Payne Whitney they had maintained constant contact. Now, they shared simple suppers on the floor of her living room, since the shipment of Mexican furniture was delayed; they rented bicycles at the Hans Ohrt Bicycle Shop in Brentwood and free-wheeled along San Vicente Boulevard toward the ocean; and they shopped together.

Joe and Marilyn seemed much like the happy couple of ten years ago—but they were more serene, both of them respectful of their differences, he less alarmed by her public persona, yet somehow touched by her essential sweetness and simplicity, and perhaps impressed with her courage and core of strength. He agreed with her concern about the ongoing therapy with Greenson, and promised to support whatever decision she made.

A decade had made a difference. Joe sat quietly, nodding appreciatively as she purchased an entire new wardrobe in Beverly Hills, at Saks Fifth Avenue and Jax: cashmere sweaters; blouses; two evening dresses; unfussy, spike-heeled shoes; a half-dozen pairs of pants in various pastel colors. The morning of July 21, he brought her home from Cedars of Lebanon after yet another procedure to alleviate her chronic endometriosis.³ As subsequent events revealed, his presence then must have marked a major step forward in the reunion of Joe with Marilyn, for the following week he informed Monette that he was resigning his position and would no longer be working for the company after the end of July.

As for the interviews, it is no surprise that Marilyn was most articulate, secure and frank in Engelberg's absence. On the fourth, fifth, seventh and ninth of July, for example, she gave what was her last interview, for *Life* magazine, a series of conversations conducted by Richard Meryman at Fifth Helena. Only during the second meeting, after Engelberg's visit and treatment, were her remarks unusable; the final draft was drawn from the other three, during which Marilyn was at her best:

3. The notes of her regular surgeon, Leon Krohn, M.D. (chief of the gynecological service at Cedars), leave no doubt that the later rumors of an abortion are sheer fiction.

- Regarding some unflattering remarks in the gossip columns: “I really resent the way the press has been saying I’m depressed and in a slump, as if I’m finished. Nothing’s going to sink me, although it might be kind of a relief to be finished with movie-making. That kind of work is like a hundred-yard dash and then you’re at the finish line, and you sigh and say you’ve made it. But you never have. There’s another scene and another film, and you have to start all over again.”

- Leading Meryman on a tour of her home, she pointed out her plans for a small guest suite, “a place for any friends of mine who are in some kind of trouble. Maybe they’ll want to live here where they won’t be bothered till things are okay for them.”

- On fame: “What goes with it can be a burden. Real beauty and femininity are ageless and can’t be contrived. Glamour can be manufactured. Fame is certainly only a cause for temporary and partial happiness—not for a daily diet, it’s not what fulfills you. It warms you a bit, but the warming is only temporary. When you’re famous every weakness is exaggerated. Fame will go by and—so long, fame, I’ve had you! I’ve always known it was fickle. It was something I *experienced*, but it’s not where I live.”

- Replying to Meryman’s question as to how she “cranked herself up” to do a scene: “I don’t crank anything—I’m not a Model T. Excuse me, but I think that’s kind of disrespectful to refer to it that way. I’m trying to work at an art form, not in a manufacturing establishment.”

- On her chronic tardiness: “Successful, happy and on time—those are all the glib American clichés. I don’t want to be late, but I usually am, much to my regret. Often, I’m late because I’m preparing a scene, maybe preparing too much sometimes. But I’ve always felt that even in the slightest scene the people ought to get their money’s worth. And this is an obligation of mine, to give them the best. When they go to see me and look up at the screen, they don’t know I was late. And by that time, the studio has forgotten all about it and is making money. Oh, well.”

- On her recent troubles at Fox: “Executives can get colds and stay home and phone in—but the actor? How dare you get a cold or a virus! I wish *they* had to act a comedy with a temperature and a virus infection! I’m there to give a performance, not to be disciplined by a studio. This isn’t supposed to be a military school, after all.”

- On being a sex symbol: “A sex symbol becomes a thing, and I just hate to be a thing. You’re always running into people’s unconscious. It’s nice to be included in people’s fantasies, but you also like to be accepted for your own sake. I don’t look on myself as a commodity, but I’m sure a lot of people have, including one corporation in particular which shall be nameless. If I’m sounding ‘picked on,’ I think I have been.”

- On her interest in social and humanitarian causes: “What the world needs now is a greater feeling of kinship. We are all brothers, after all—and that includes movie stars, laborers, Negroes, Jews, Arabs—everyone. That’s what I’m working on, working to understand.”

- On her future: “I want to be an artist and an actress with integrity. As I said once before, I don’t care about the money. I just want to be wonderful.”

But Marilyn had been burned so often by the press that she seemed not to trust Meryman entirely, and by the conclusion of their sessions she seemed to him cool and withdrawn. When photographer Allan Grant arrived to take the photos that would accompany the interview, Marilyn was, as Pat and Eunice recalled, in a giddy mood, making funny faces and joking. “What are you, some kind of a nut?” Meryman asked with remarkable insensitivity. This stopped her cold, for his remark had obviously hurt, and she was wary when he delivered a transcript of their conversation on July 9.

Marilyn requested only one cut from her taped remarks: “She asked me to take out a remark she had made about quietly giving money to needy individuals.” Like the best of herself, her charity would remain private, a secret between her and those she longed to help. She walked with him to the driveway, and then, just as he was about to

depart, she stepped forward. "Please," she said in a whisper, "please don't make me a joke."

After completing the month's scheduled photo sessions and interviews, Marilyn and her old friend Sidney Skolsky were reunited—the first meeting in over a year—for a project that had long been important for both of them: he would produce and she would star in a film of Jean Harlow's life. But first they would need the cooperation of Harlow's mother, "Mama Jean" Bello, and so on Sunday, July 15, they traveled to Indio, a town near Palm Springs. There they found the charmingly eccentric old lady, surrounded by relics, photographs and mementos of her beloved "Baby Jean." Her approval was immediately forthcoming, for she took one look at Marilyn and declared that she could swear her baby had come back from the dead.

To those who knew the continuing parallels in the lives of the two platinum blondes, Mama Jean would not have sounded far from the mark. In fact, an outline of Jean Harlow's last months provides an eerie stencil for Marilyn's:

On January 30, 1937, the newly re-elected Franklin Delano Roosevelt invited Jean to his Birthday Ball in Washington; in order to attend, she had to leave the filming of *Personal Property*, which caused a dustup in Hollywood—at least until Louis B. Mayer realized the enormous publicity value of her appearance.

That spring of 1937, Jean spoke with Carolyn Hoyt, an interviewer from *Modern Screen*: "I have achieved, of late, a degree of peace. I feel now at peace with myself and with my world. I have attained this by forcing myself to realize that all I can do is done in the best way I know—and that, as they say, is that." The sentiments might have been uttered by Marilyn to Meryman.

Also during the spring of 1937, Jean's recurring illnesses were blithely treated with only sedatives and narcotics by the notorious Dr. E. C. Fishbaugh, who prescribed the same, and with the same harmful effects, for Fay Wray's alcoholic husband.

On June 7, 1937—twenty-five years to the day before Marilyn was fired from *Something's Got to Give*—Jean Harlow died of kidney failure, her last film incomplete. She was twenty-six, a creature of Hollywood, loved by millions, at last recognized for her talents—yet in the end failed by her Hollywood colleagues.

After taking tea with Mrs. Bello, her guests returned to Los Angeles. The three agreed to meet again in August, and before that, Marilyn and Sidney decided to meet two weeks later, at four o'clock on the afternoon of Sunday, August 5, to work on a treatment for *The Jean Harlow Story*.

Despite her almost daily injections, the difficulties of her sessions with Greenson and the uncertainties of the future, there was a fresh maturity in Marilyn Monroe that summer. And although she was dependent on certain chemicals, they seemed only fitfully to stymie her life—and this itself may be testimony to her fundamental strength, her resolve to overcome obstacles past and present. “Summarizing this time,” said Pat Newcomb, “I would say that yes, she was in control of things.”

Ralph Roberts heartily agreed. “She was really taking control of her life and asserting herself that summer,” he said, sentiments echoed by, among others, Rupert Allan and Susan Strasberg. Roberts recalled that during the last months of her life, Marilyn was more optimistic than she had been in two years. She nurtured a close friendship with Wally Cox and renewed one with Wally’s special friend, Marlon Brando. “And she saw,” Roberts added, “that Greenson was severing all her close relationships, one by one. He had tried to cut me and the Strasbergs and Joe out of her life—and now Marilyn said he thought it would be better if she dismissed Pat Newcomb, too. By the end of July, Marilyn realized that if she was going to have any friends left, any life of her own at all, she might have to disconnect from Greenson.”

This decision would soon be firm, but first there was the matter of her relationship with Fox. By Wednesday, July 25, Hal Kanter had completed his revision of *Something’s Got to Give* and submitted it to Peter Levathes, Weinstein’s future being now as uncertain as that of Skouras and company.

Marilyn welcomed Levathes to her home on that same day, July 25. Before his arrival, Marilyn was awake early and, determined to look her best, greeted Agnes Flanagan (who washed and styled her hair) and Allan Snyder (who deftly applied a morning makeup). Cautious about a discussion without an agent or attorney present, Marilyn then asked Pat Newcomb to come over and stand unseen behind a bedroom door, to witness her meeting with Levathes.

In 1992, Levathes provided an account of that morning with Marilyn, and his recollection was later confirmed by Pat:

As so often with Marilyn's history at Fox, we simply decided to reinstate her. I was the one responsible for firing her, so I wanted to be the one to personally rehire her. No one wanted bad blood. She told me she didn't want her name tarnished, nor did she wish to ruin anyone. She did not seem unhappy or depressed at all, she asked if we could review the new script and we did. She read it and was very astute about it, thinking carefully before she made some excellent suggestions. Marilyn saw, for example, great comic potential for a scene she had in mind: "A woman who has been off on a desert island for years wouldn't eat so delicately with knives and forks . . ." And she suggested another scene in which her character just forgot about shoes, because she was unused to wearing them. I remember saying, "Marilyn, these are beautiful ideas!" She was very happy and creative and glad to have a say in the revised script. She was in fine spirits and looking forward to getting back to work.

It seemed to Levathes that all the anguish, all the pain could have been avoided but for "her so-called advisers, who caused her a terrible identity crisis." He told her that the lawsuits would be dropped, and that she was to be rehired at a higher salary; to whom, he asked, ought the new contract be sent? Marilyn hesitated, then said she would reply later that week. She seemed to him very pleasant and reasonable, and before he departed she said something that stayed with him over the years:

You know, Peter, in a way I'm a very unfortunate woman. All this nonsense about being a legend, all this glamour and publicity. Somehow I'm always a disappointment to people.

He never saw her again, for very soon his fortunes changed, if not as dramatically as hers.

When I said good-bye, she returned to the task she was engaged in when I arrived. There was an array of photos of her [by Bert Stern and George Barris], contact sheets and prints all over the floor, and she was making decisions about them. This was not, I thought, a

shallow person, and I was sorry I never really knew her. She was a woman who made distinctions, who thought about her life, who knew the difference between sham and reality. She had depth. Of course she was enormously complex and I had a sense of some real underlying suffering there. But at her best there was no one like her. The wounds with Fox were healed, and when I last saw her, she was like a young and beautiful starlet, eager to do a picture that now had real possibilities.

Their hopes were unrealized, for soon there was another corporate earthquake at Fox. Darryl F. Zanuck was elected president of Twentieth Century-Fox, Levathes was booted out, and Milton Gould and John Loeb resigned from the board. Every decision made before Zanuck's return was to be reevaluated, but after forty years in the business, even he (who never had a great appreciation of Marilyn's talents) knew something about the box office. If anything had to give, he said, it would not be Marilyn Monroe. Zanuck personally attended the meetings on the recommencement of *Something's Got to Give*.

For the last weekend of July, Marilyn had been invited to be the Lawfords' guest at the new Cal-Neva Lodge in Lake Tahoe, where Frank Sinatra was going to sing. To this she had readily agreed, and (as Ralph Roberts and Rupert Allan knew) she had telephoned Joe and asked him to meet her there. Although Robert Kennedy was due to arrive in Los Angeles that weekend and she had originally planned to hear an address he was to give, there were now more important matters on Marilyn's agenda. Except for her appearance at Sinatra's Saturday evening performance, she and Joe kept a low profile during the entire weekend. "She didn't want to be seen about too much," recalled Roberts, "because she was afraid of any discord between Joe and Frank."

Marilyn did, however, want to meet briefly with Dean Martin, who was also at the Lodge that weekend—not only to express thanks for his support during the June crisis but also to discuss briefly a movie project that Arthur Jacobs wanted to produce for her and Dean, a comedy called *I Love Louisa*. Next week, Marilyn said, she was going to watch some of the films of director J. Lee Thompson, whom Arthur had suggested.

For years, there were scurrilous and unfounded rumors of Marilyn accidentally overdosing on barbiturates that weekend and requiring

emergency revival; and rumors of Marilyn socializing with various figures from the criminal underworld with whom she became sexually involved (among them, Johnny Roselli, Bugsy Seigel and Sam Giancana). But the actor Alex D'Arcy, who knew Marilyn (since appearing with her in *How To Marry a Millionaire*) and was also a close friend of Roselli—a key mob figure in Los Angeles—hotly denied both insinuations: “There was absolutely never any affair between Marilyn and any of these men,” he said. “In fact there was no connection between Marilyn and the mob at all! She was in Lake Tahoe to be with Joe!” Betsy Duncan Hammes, who also knew Roselli and Sinatra well, agreed: “I was in Lake Tahoe that weekend, and I saw Marilyn eating dinner. Giancana and his crowd weren’t there, and I would have known if they were.”

On Sunday evening, Marilyn returned to Los Angeles with the Lawfords, and Joe headed for San Francisco, to appear in an exhibition game and to tell his family what he and Marilyn had decided that weekend. As Valmore Monette confirmed, Marilyn had finally agreed to remarry Joe. “He loved her a great deal and they had always been in contact,” according to Monette, “and he told me that he had decided to remarry her. He thought things would be different than they had been before and that everything would work out well for them now. I knew that was why he left us and was going back out there in 1962.”

Marilyn and Joe planned a wedding date of Wednesday, August 8, in Los Angeles, and a radiant Marilyn returned home with Joe’s pajamas. “She was fighting to take responsibility for her own life,” said Susan Strasberg, “and so she was getting out of relationships that were not good for her and back into one that was. She knew she needed some sort of emotional and spiritual anchor.” The same need could be said of Joe, who had become a kind of commercial Flying Dutchman, respected but lonely.

On Monday, July 30, Marilyn saw excerpts from Thompson’s films in Arthur Jacobs’s screening room and, on the spot, agreed to accept him as director for *I Love Louisa* early in 1963.⁴ Jacobs added that

4. The film, starring Dean Martin, Robert Mitchum and (in the role designed for Marilyn) Shirley MacLaine, with songs by Jule Styne, was released in 1964 as *What a Way to Go!*

Jule Styne, who had given Marilyn “Diamonds Are a Girl’s Best Friend” for *Gentlemen Prefer Blondes*, had agreed to write new songs for her. The same day, Marilyn tried to reach Milton Rudin, for she wished to make a new will; as attentive and supportive as he had been, however, Rudin felt that he could not sign a will and certify that she was of sound and disposing mind, for he believed her to have serious problems with both pills and paranoia. In a way, Rudin was correct, for Marilyn’s problems were far from solved, and she knew she had to face her dependence on drugs and on Greenson just as she had to continue a maturation that in many ways was just now beginning. But that she was of unsound mind is quite another assertion.⁵

Since her teens, Marilyn had long believed she had nothing else to offer but what Grace Goddard, photographers and studios claimed: the mass appeal of her beauty and her body. She also believed that “Marilyn Monroe,” although at least partly a false pretender, represented a part of her true self. She had indeed encouraged an image of sexual allure and availability, and the endorsement and acceptance of her in those terms were important.

But there was another aspect of her personality—or more accurately, a real identity behind the persona. Marilyn had often tried to repress and disguise the image with black wigs and dark glasses, without makeup. She tried to separate herself from “Marilyn Monroe” by reducing “her” to another, a third person—“her”—“Would you like to see me be her?” Unlike other screen stars, Marilyn never fused the two. Marlene Dietrich, for example, eventually believed the illusion created for her, and the fall that injured her body at the age of seventy-five also wounded something within. Believing her youth and illusory self were all she had, Dietrich had to withdraw from public

5. As for her will, the 1961 draft stood. At the time of her death, Marilyn left only the house, assessed at a value of \$60,000; furniture, furnishings and personal effects valued at \$3,200; \$2,200 in bank accounts; and \$405 cash on hand. The value of her Estate over the years grew as a result of the subsequent commercial marketing of her name and image.

view when the youth and glamour faded, and for the last sixteen years of her life she was virtually a recluse.

Marilyn, on the other hand, always reaching for an *integration* of her personality, knew in some way that her emotional health depended on a *separation* between the public Marilyn and the private self. Sorrow, confusion and neuroses prevented her rising above the image she deplored to become the woman she yearned to be. Her film roles continually forced her to rely on what she wanted to put behind her; no wonder, then, that most of all she longed to sleep. When she awoke, she was restrained, forced to assume "Marilyn Monroe" again, the conundrum of the sexually available, ever-popular teenage waif who somehow retained her innocence. That she recognized her popularity was caused by an image she hated—and that now, for the first time in 1962, was openly admitting—showed how clearly she realized the split in herself. This can hardly, however, be called "schizophrenic"; in fact it reveals a remarkable clarity of self-perception.

Had she not been a woman who (as Levathes said) "made distinctions, who thought about her life, who knew the difference between sham and reality," there would have been no need for a struggle, no need for her to admit that she needed to grow, no anguished cries to get on with her life: "There's a future and I can't wait to get to it."

When Marilyn left Fox in 1954, she had taken a bold step in abandoning the identification of herself with its false image; new friends, new work, studies—all these would, she hoped, enable her to transcend her own limitations. Only a courageous woman would so act.

But part of the problem was, then as in 1962, that part of her still depended on outer approval, still considered herself a child—only a body without a soul worth probing, and in this regard we are very close to sounding the reasons for her mass appeal decades later. She still believed the Gladys/Grace tales of family madness, and her refuge into an adopted false self was something she could not entirely abandon. Something in Marilyn still feared that she might forever slip back to being the patronized child-bride, the girl who would do best to forget her unknown lineage and assume the identity of America's ultimate pin-up darling after World War II.

In a profound sense, she was still telling the culture about the Kinsey Report a decade later, for she was still the worrisome union of

national needs: sex with innocence; worshipful gaze with the fear of experience; adolescent longing and adult responsibility; desire and, in its aftermath, too often disappointment when too much is demanded. What was endemic to a culture—from just after the war, when she entered movies (1947) to the beginning of a social revolution (1962)—was almost inextricable from Marilyn Monroe.

Kinsey spoke of sex, wrote about it, inquired into its most intimate details, and Hollywood was more and more parading the new sexual frankness. The boys he interviewed had been in the war and were entitled to be considered men. But the men seen on television and in the movies in the 1950s were mostly boys: Cary Grant in *Monkey Business* is nothing so much as a handsome preppie; the “romantic lead” of *Gentlemen Prefer Blondes* turns out to be a rich child; even in *River of No Return*, where the wild man to be tamed is no less than Robert Mitchum, a boy is necessary to link the couple.

Amid all this confusion, Marilyn Monroe and her aspirations had to be mocked by the culture. The thought of so independent a woman was anathema: the country wanted a child-woman—a busty, sexy gal, not too bright, whom distance made somewhat unreal, the stuff of dreams, someone who would not (and whom we could not allow to) grow up.

Just as harmful as the studios that reflected the culture and in ways more tragic, she had become unwittingly trapped in the pop-Freudian circle that urged her continually to consider her childhood—the worst possible agenda for the orphan’s unending absorption with self. But her parent surrogates—Strasberg, Miller, Kris, Greenson—suggested it, demanded it. And so to please them she underwent Freudian therapy. Instead of freeing her, it froze her. In the end, it was wondrous that she did not break down sooner, for each time she tried to go forward there were those whose advantage it was to keep her ever the subordinate child.

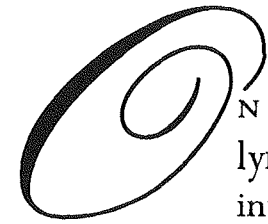
On the morning of Tuesday, July 31, Marilyn telephoned Jean Louis’s assistant, Elizabeth Courtney, who was to come over as soon as possible for the final fittings of a new gown Jean had designed for her. “She was so happy,” recalled Courtney—and with good reason, for this was to be her wedding dress. That afternoon, after a ninety-minute session with Greenson, Marilyn returned home and spent several hours

on the telephone, placing calls to (among others) a florist, her local wine shop and a caterer.

“I want to be loved by a man, from his heart, as I would love him from mine,” she had said in an interview that June. “I’ve tried, but it hasn’t happened yet.” Now at last, the fulfillment of that longing seemed very close indeed.

Chapter Twenty-two

AUGUST 1-4, 1962



ON WEDNESDAY, AUGUST 1, Nunnally Johnson told Marilyn's old friend Jean Negulesco that he was going to be invited to direct *Something's Got to Give* "because Marilyn has asked for you." Negulesco, who had directed her in *How To Marry a Millionaire*, said he would be delighted to replace Cukor, for he considered Marilyn "a hurricane of glamour [who] had such a right sense of knowing the character she was playing—the way to enter a scene, to hold singular attention as the scene developed [and] the way to end a scene."¹ With Negulesco's acceptance, everything was in place for the picture to recommence at the end of October. Marilyn was signed at a salary of \$250,000, two and a half times the amount of her original contract.

Evelyn Moriarty heard the news about Negulesco and telephoned Marilyn, who was, according to Evelyn, "in great spirits—she was so happy to be going back to work. We talked about the script and the new director—all sorts of things. She was really in tip-top condition, and we all looked forward to starting the picture." Marilyn also told Evelyn

1. In a desperate move to save the picture, Fox had decided to replace Cukor.

that Arthur Jacobs was going to produce *I Love Louisa* for Fox later that year, so there was even *more* to anticipate. With these projects and *The Jean Harlow Story* being developed, Marilyn's career had never seemed brighter.

As for her immediate plans, Marilyn was preoccupied with preparations for a small reception to follow her wedding, and was drawing up a list of friends to be invited at the last moment. She also confirmed that the wine, sandwiches and salads would be delivered the following week from Briggs, the local emporium she frequented on nearby San Vicente Boulevard. Joe was due in Los Angeles Sunday night or Monday morning; they would be married on Wednesday and then proceed for a honeymoon in New York, where they both had close friends. Then perhaps they would spend a week on Long Island or Cape Cod.

Marilyn's telephone records for August 1 also list a call to Leon Krohn's office at Cedars of Lebanon Hospital. Krohn, whom she trusted without reservation and to whom she often went for advice on other than medical matters, had by this time attended her for a decade. From the 1952 appendectomy through the anxieties and heartbreak of *Some Like It Hot* and her subsequent third miscarriage right up to her recent minor surgery, "Red" Krohn was the gentlest of men and her most perceptive physician. He had been a good friend to her and Joe during their divorce proceedings, too, and so it was natural for her to call him with brighter news. She asked Krohn to dine with her that evening, saying she had something important to tell him; he replied that he would ring back after his hospital rounds. Then she telephoned again, late in the afternoon, and said she would call him in a few days.

The reason for this postponement is not entirely clear, but before the day was over Marilyn had gone to Greenson for a two-hour session and Engelberg had come to Fifth Helena thereafter, in early evening. The sudden change of dinner plans may have been the result of an injection, or just simple exhaustion; it may also, however, have been related to the tensions of Marilyn's relationship with Eunice, whom she could at last dismiss permanently—and now had the perfect opportunity to do so, on the eve of her renewed life with Joe.

Besides Eunice's proprietary attitude, her attempt to control Marilyn's life and her alliance with Greenson, there were three final moments that pushed Marilyn's patience too far and sealed the house-

keeper's fate. First, as Cherie Redmond wrote from the studio to Marilyn at the end of July, Marilyn's mail from Fox and from her private post-office box were now "being held by Mrs. Murray," whose liberties were becoming more and more presumptuous. Informed of this, Marilyn was rightly angry, since she felt once again like a child in her own home under the supervision of her own employee.

Second, at Marilyn's invitation, Ralph Roberts had come that Wednesday morning to give her a massage. Eunice "made her presence known," as he recalled, "and she looked at me with such hatred and venom, as if she were saying, 'I thought we'd gotten rid of you.' It was chilling how intimidating this little woman could be, how manipulative of Marilyn and divisive with Marilyn's friends. Mrs. Murray was Greenson's minion, that's all, his on-the-spot representative." Eunice's attitude to Ralph did not escape Marilyn, who was further annoyed.

The third incident fixed Marilyn's determination. Eunice had planned to accompany her sister and brother-in-law on a European vacation beginning Monday, August 6. But she had chosen not to tell Marilyn of this in advance and had not even made travel reservations: apparently she was unsure about leaving Marilyn at all. Cherie Redmond remarked on this indecision when she wrote to Hedda, "It seems to me that Mrs. Murray's devotion to MM is so intense—that may not be the right word, but you know what I mean—that she wouldn't want to go away."

Whatever the rationale, several things are clear: on Wednesday, August 1, Eunice at last told Marilyn she would like to take a vacation on the following Monday. Marilyn, who must have been delighted with the news but perhaps did not show it, wrote her a check for a month's wages and told Eunice not to return in September. Thus Marilyn, who always avoided confrontations, could fire the housekeeper for good with the excuse that she herself would be traveling for an indeterminate time and that her own future plans were as uncertain as Eunice's sudden announcement. Although she made no mention of it in her memoir, Eunice probably also learned from Marilyn that afternoon about the marriage plans, for Marilyn knew that Eunice disliked DiMaggio as much as she did Roberts. In addition, Marilyn put through several calls to her New York maid, Hattie Stevenson, apparently to ask if she might be available on a short-term basis in Los Angeles that autumn.

* * *

Eunice's reaction could only have been shock, hurt and possibly even anger. Here she was, finally in the ideal situation she longed for, in the replica of the dream house she had chosen, working with the wise father figure Ralph Greenson, determining more and more the life of her "daughter" Marilyn, nursing her as her sister Carolyn nursed children. At last she seemed to have fulfilled her lifelong dream of living up to the standard set by her sister; at last she had been able to correct the situation of her unhappy marriage and, through Marilyn, regain her lost home and head a kind of family.

Marilyn . . . Marilyn's busy life . . . Marilyn's house . . . Marilyn's insecurities . . . Marilyn's dependency on Greenson—all these had become the emotional accoutrement of Eunice Murray's identity, had provided her with a purpose. Without the house on Fifth Helena and its famous resident, without Greenson to serve and Marilyn to "nurse," there would be no life for Eunice at all. Like Rupert Allan (who had returned to Los Angeles from Monaco for six weeks), Ralph Roberts and Pat Newcomb recalled that the final departure of Eunice Murray was in fact one of the important things Marilyn did in her own best interest. "I knew her attitude toward Greenson had changed," Roberts recalled, "and concerning Mrs. Murray—well, Marilyn simply said how much the woman annoyed her, bored her to distraction." The end of the employment, in light of the temporary separation in May, was not unexpected. "Marilyn just couldn't stand her living there anymore," said Pat. "The truth is that Marilyn at last felt in control of things, and so she fired Mrs. Murray. It was over." Her last day of work would be Saturday, August 4; until then, there was a good deal of work to occupy them both. This was only the beginning of Marilyn's healthy self-assertion, but the real challenge still lay ahead—confronting Greenson with her new autonomy.

Marilyn spent that afternoon at Fox, conferring about the resumption of *Something's Got to Give*; this was so cordial and creative a meeting that an outsider might have thought there had been only a brief hiatus for some minor reason, with no troubled history at all.

On Thursday morning, August 2, Marilyn went to Greenson for a session and, as his subsequent invoices to her Estate testified, he drove to

her house for a second meeting later that day. Clearly, there was a crisis. It is unimaginable that she would not have told him about the dismissal of Eunice and her forthcoming marriage, and to these news items he could not have reacted with any pleasure or approval. It also would have been logical for her to have discussed her temporary interruption of therapy in light of her travel plans, and with that, Greenson may have thought he, too, was about to be dismissed.

“Greenson’s connection to the studio she perceived as the ultimate betrayal,” said Ralph Roberts.

She deeply resented what she saw as his use of her. And she saw at last what was fundamentally true: that Hollywood was not her life, and that dependence on him was not her life. Her resentment of Greenson had reached the breaking point—so much was clear to all of us. He had tried to get rid of almost everyone in her life, and she didn’t have that many people to begin with. But when he tried it with Joe—I think that’s when she began to reconsider the whole thing. As for Engelberg and the pills and the shots, well it was obvious, wasn’t it? If you can’t control Marilyn one way, there were always drugs.

Emboldened by her action with Eunice, Marilyn was about to take the step that she believed would free her as much as her remarriage to Joe. “She realized she had to get rid of Greenson,” according to Roberts, “and she seemed ready to do so. After all, she had support from a lot of us for that!”

Marilyn had been, as Pat Newcomb knew firsthand, furious with her analyst over three things in three months: first, Greenson was in Switzerland when she returned from New York to find trouble brewing at Fox. “Marilyn was very angry about his not being there for her,” according to Pat—just as Marilyn had subsequently experienced physically *his* anger, which was a second cause of her resentment and whose perfidy she needed several days or weeks to realize. Third, she never forgot the way Greenson had tried to separate her from Joe.

“Several times, she threatened to fire Greenson—to leave him,” Pat recalled, “but I never took her threats seriously.” Now at last Marilyn was about to turn a warning into a promise fulfilled. Eunice was to be booted out and Marilyn was about to marry, effectively aban-

doning Greenson and his therapy for a husband and a honeymoon. She may not have been explicit about a firm termination of their relationship, as she had been with Eunice, but it was certain that she was moving on.

In his essay "Special Problems in Psychotherapy with the Rich and Famous," Greenson neatly described the end of his relationship with this special client in a passage immediately following a lightly veiled disquisition on Marilyn, her background and her problems. The glittering generalizations show how emotional an issue this was for him, for all scholarly discretion is crushed beneath the weight of his unhappy memories:

Rich and famous people believe that prolonged psychotherapy is a rip-off. They want their therapist as a close friend, they even want their wife and their children to become part of the therapist's family. . . . These patients are seductive.

Anyone in the audience who knew of his most famous client must have thought of Marilyn as he continued his projection of feelings onto her, and the implicit admission of his own history and dejection:

Rich and famous people need the therapist twenty-four hours a day and they are insatiable. They are also able to give you up completely in the sense they are doing to you what was done to them by their parents or their servants. You are their servant and can be dismissed without notice.

For Greenson, Marilyn had indeed become the rival Juliet, one to be controlled through the appearance of the most benevolent counsel. Talented, adored, applauded, beautiful, the actress in a way had taken the place of his sister Juliet in his complex feelings.

For her part, and to his satisfaction, Marilyn had come to a point where she had worked only with Greenson's approval; she arranged her social life according to his lights; she accepted or rejected roles only with his approbation (Huston's film about Freud, for example, was out of the question, no matter how much she longed to be in it). Muffling by proxy the applause for Juliet that he so resented, he had kept Marilyn in his home. Putting forth the notion of her schizophrenia and receiving

the blessing of his colleague Milton Wexler for such unorthodox treatment (but apparently not for the prodigal administration of a drug regime), Greenson had brilliantly orchestrated everything under the pretext of reordering her life. "Come inside with me," he seemed to say. "Renounce your fame, and therefore affirm my supremacy," his actions said. With Marilyn Monroe, Ralph Greenson finally became not only a musician but orchestrator and conductor.

But he was indeed, as he himself had feared anyone thinking, the incarnation of the musician Svengali to this new Trilby, the performer of the world. Just as Eunice had done, Greenson was, with Marilyn, reversing the resented past pattern: he was subjugating the other. Eunice Murray had become a crippled version of the increasingly healthy Marilyn: now Ralph Greenson was himself retreating into a psychoneurotic fear of abandonment and rejection, precisely the mental attitudes Marilyn was learning to put behind her.

Apparently, no firm decision was taken that Thursday about a termination to her therapy: this was to be something discussed by them over the next several days, or perhaps when Joe arrived and they announced their future plans; in any case, it would not have been an easy task for Marilyn to confront Greenson with this dramatic news.

Whatever the substance of their sessions, Marilyn asked Eunice to drive her on several errands in Beverly Hills and West Hollywood. Their last stop was The Mart, an antique collector's paradise on Santa Monica Boulevard, where Marilyn went in search of a bedside table. "I have a Spanish house in Brentwood," she told the store's owner, Bill Alexander, "and I'm so happy, because I'm going to be married to someone I was married to once before." They chatted about furnishings, and Marilyn selected a table to be delivered on Saturday. She would have lingered to browse and talk further, but (thus Alexander) "her housekeeper and companion seemed anxious and nervous and said, 'Marilyn, we should be leaving. I will wait for you in the car.' " Around six o'clock, Marilyn invited Allan Snyder and Marjorie Plecher to the house for champagne and caviar. They recalled how happy and optimistic she was, radiating charm and wit and good health.

On Friday, August 3, 1962—as reported by the Associated Press wire service that evening and by the *Los Angeles Times* next morning—Robert and Ethel Kennedy and four of their children arrived by airplane in San

Francisco, where they were met by their good friend John Bates and his family. The Kennedys were guests at the Bates ranch outside Gilroy—eighty miles south of San Francisco, three hundred fifty miles north of Los Angeles and high in the Santa Cruz Mountains—for that entire weekend, prior to the attorney general's opening address at a convention of the American Bar Association on Monday, August 6.

This social note would have no relevance at all to the life and death of Marilyn Monroe were it not for the fact that from 1962 on, the most outrageous assertions were made—not only about a tryst between Robert Kennedy and Marilyn Monroe that weekend, but also about Kennedy's direct involvement in her death. The origin and accumulation of these claims—and the absurd alternate theories of a murder cover-up variously involving organized crime, the FBI and the CIA—are dispatched in the Afterword to this book. But a brief outline of the attorney general's weekend, and of the several witnesses who attest to his considerable distance from Los Angeles, should be herewith provided.

The Kennedys and the Bateses were already friends, and in a way the Bates family was reciprocating a previous weekend they had enjoyed at Hickory Hill, Robert Kennedy's Virginia compound. John Bates, then forty-four, had graduated from Stanford University in 1940 and had served for three years in the Navy. Through a college fraternity brother named Paul B. Fay, a close friend of John F. Kennedy, Bates met and also became a friend of Kennedy. After the war, Bates took his law degree from Berkeley in 1947 and joined the San Francisco firm of Pillsbury, Madison & Sutro, where he worked with such distinction that he eventually became a senior management partner.

By the time John Kennedy became president, John Bates was one of California's most prestigious and respected attorneys, holding, among other positions, the chair of the judiciary committee of the Bar Association of San Francisco. It was no surprise, then, that the new administration invited him to head the antitrust division of the Department of Justice. This position Bates considered but rejected, preferring instead to remain with his law firm and to retain his California residence, where he and his wife were raising their three children.

"It was a difficult decision," said Bates years later, "but I gratefully declined. When I learned that the attorney general was to address the bar convention, I wanted to show my appreciation for the offer to

join the Kennedy administration, and so my wife and I invited Bob to join us for the weekend.” Kennedy’s presence at the remote Bates ranch in Gilroy that weekend is beyond dispute: in fact it was documented not only by the Bates family and household employees in detail, but also by the *Gilroy Dispatch* the following Monday. “The attorney general and his family were with us every minute from Friday afternoon to Monday,” said John Bates, “and there is simply no physical way that he could have gone to Southern California and returned.” Accounts to the contrary by the media and so-called eyewitnesses Bates always considered “outrageous, ridiculous and disgraceful.”

Bates is quite correct, for the airstrip nearest to his ranch is at San Jose, an hour’s journey by car. Because of the deep canyons, steep mountains and high power lines, helicopter flights have been always dangerous in and out of Mount Madonna, the site of the Bates ranch. The only practicable means of transportation from Gilroy to Los Angeles in 1962 was by car, a journey of no less than five hours each way.

Since 1962, the Kennedy schedule for that weekend has been well preserved in the Bates family guest books and documented in their photo albums. On Saturday morning, August 4, both families rose early and ate large breakfasts before Robert and Ethel Kennedy joined John and Nancy Bates for a horseback ride.

The foreman of the Bates ranch, Roland Snyder, was another witness to the weekend. “I saddled the horses for Mr. and Mrs. Bates and for Mr. and Mrs. Kennedy, then they lined up and I took their picture and they took off for Mount Madonna. They were here all weekend, that’s certain. By God, he wasn’t anywhere near L.A.—he was here with us.”

The morning ride was followed by swimming and a barbecue lunch back at the compound. “I was fourteen at the time,” recalled John Bates, Jr., “and was about to go off to boarding school. I remember Bob [Kennedy] teasing me about it, saying, ‘Oh, John, you’ll hate it!’ ”

During Saturday afternoon, the attorney general—in a typical Kennedy-style challenge—suggested that everyone race a mile to an open field for a game of touch football. “The best flat meadow for field games,” according to John Bates,

was at the top of the ranch. So off we went, and all eleven of us played. We then went back to the compound for a swim and some

games, and then the children showered and dressed for dinner. I remember Bobby sitting with the children as they ate and telling them stories. He truly loved his children.

After the children were put to bed, the four adults sat down to dinner: Nancy Bates remembered their discussion of Kennedy's upcoming speech, which was reviewed and edited by Ethel (and on which the attorney general worked intermittently during the weekend). "Dinner lasted until about ten-thirty," said John Bates, "and we were in our bedrooms not long after that."

Sunday morning, August 5, the Bates and Kennedy families were up early for the trip to Mass in Gilroy, their presence documented by the local press next day. After luncheon back at the Bates ranch, John drove the Kennedys to San Francisco, where they were to stay at the home of Paul Fay during the convention. That afternoon and evening the Kennedys spent in San Francisco with John and Nancy Bates and other friends of both the Bates and Kennedy families (among them Mr. and Mrs. Edward Callan and Mr. and Mrs. Joseph Tydings). It is significant that over a span of more than thirty years not one of the dozen people who were with Marilyn on August 3 and 4—at her home and at Lawford's—ever mentioned the presence of Robert Kennedy. In fact, when the stories began to be taken for truth, everyone took pains to deny these allegations. Finally, the FBI records confirm without any doubt precisely this schedule kept by the attorney general and his family that weekend.²

Friday, August 3, was a warm and unusually humid summer day, full of activity for Marilyn. She awoke early and refreshed, perhaps because she had not taken sleeping pills the night before. Then she spent ninety minutes with Greenson at Franklin Street and stopped at Briggs to add some items to her party list for the following week. Back at her home, Hyman Engelberg was waiting, apparently at Greenson's request. He injected her and gave her a prescription for twenty-five Nembutal capsules. These were added to a store of chlo-

2. See FBI File # 77-51387-293, dated August 6, 1962 and registered August 21, 1962.

ral hydrate, the instant “knockout pills”—actually a liquid enclosed in a gelatine capsule—that had been prescribed by Greenson to wean Monroe off barbiturates, as he later detailed. Lee Seigel had also written for her a prescription for an unknown quantity of Nembutal on July 25 and refilled it on August 3. The precise numbers of pills available to Marilyn Monroe during the last months of her life was lost in the confusion of the days after her death and the conflicting accounts of several medical and legal sources, but clearly she had no trouble obtaining drugs in quantity.

The ease and redundancy of drug availability was partly due to a failure of communication between Greenson and Engelberg, made more difficult by Engelberg’s protracted and painful divorce from his wife, and he was often difficult to locate in late July and early August. Engelberg said later that he was careful to limit Monroe’s supply of Nembutal to one a day, and Greenson claimed that a primary object of his therapy was to break his patient’s drug dependency—but if their statements accurately expressed their protocols, both doctors were failing spectacularly.

That Engelberg’s injections were something more than vitamins is evident from the thirty-two-minute call documented by her General Telephone records. Norman Rosten recalled that during their conversation she was “cheerful, excited . . . high, bubbly, breathless. She seemed high. . . . She raced from one subject to another [with] barely a pause.” But although her tone seemed manic, Marilyn had a lot of news and was clear about her plans: she said she was feeling better than ever, that she would soon be back at work, that her house was nearing completion, that she was getting several film offers. It was, Marilyn said, time for them all to put the past behind them and begin to live before they were too old; no doubt Eunice Murray and Ralph Greenson were in her mind even as she spoke.

Other telephone calls kept Marilyn busy throughout Friday afternoon, as her records document. She spoke with the handyman Ray Tolman at his home in Fullerton, to arrange for him to work at the house early the following week: there was heavy cleaning to do, as well as some important repairs necessary. She then telephoned Elizabeth Courtney and Jean Louis to ask if they could deliver her new dress for a final fitting the next day; but suddenly remembering that would be

Saturday, she corrected herself, said she did not want to interrupt their weekend and added that she could wait until Monday.

In midafternoon, Jule Styne, who was looking forward to composing her songs for *I Love Louisa*, telephoned from New York with another idea. He proposed to Marilyn a film musical version of Betty Smith's novel *A Tree Grows in Brooklyn*, which had been a successful Fox film in 1945. To this idea she responded enthusiastically and added that since she was coming to New York the following week, they could meet in his office. Thus an appointment was fixed for the following Thursday, August 9, at half past two: "She was very excited about the idea," recalled Jule Styne, "and she would have been wonderful in it. We spoke of [Frank] Sinatra for the other leading role." Marilyn also agreed to give a long interview for a photoessay accompanying her appearance on the cover of *Esquire*, and there were various social engagements as well. "My husband and I were expecting her to arrive that week," according to Paula Strasberg, who had begun to purchase theater tickets for her visit.

Arthur Jacobs called to say that their meeting with J. Lee Thompson was scheduled for Monday at five o'clock to discuss *I Love Louisa*. Marilyn was delighted at the rapid progress of this project, too. Her calendar was filling up fast, and as even Eunice had to admit later, there was nothing somber about her attitude: "There was too much to look forward to." The phone calls were interrupted when Marilyn decided she should dash over to Frank's Nursery, where she ordered several citrus trees, flowering plants and succulents; delivery was arranged for the following day. Very likely she planned her wedding to be set outdoors, and the garden and pool area needed plantings and color.

Yet Marilyn Monroe was functioning soberly and creatively even after a second meeting with Greenson that Friday afternoon. She called Pat Newcomb, whom she invited to dine out with her. Pat, however, was suffering a bout of bronchitis—to which Marilyn replied, "Why don't you come out here and stay for the night? You'll have all the privacy you want, you can sun in the back yard and have all the rest you want." As Pat said later, "I accepted her invitation. She was in a very good mood, a very happy mood."

And so the two women dined quietly that Friday evening at a local restaurant, and then returned to Fifth Helena. Eunice Murray had gone to her home for the night, and Marilyn and Pat retired early. Pat slept

soundly in the small second bedroom diagonally opposite Marilyn's, but Marilyn endured another night of only intermittent sleep.

A few minutes after eight on the morning of Saturday, August 4, Eunice Murray arrived at Fifth Helena for her last day of work, which was to include supervision of the garden plantings. Marilyn wandered into the kitchen at about nine, wrapped in her white terry-cloth robe, and poured herself a glass of grapefruit juice. An hour later, Lawrence Schiller drove up: he had been one of the trio photographing the swimming scene on the set of *Something's Got to Give*, and he had come to discuss a magazine feature exploiting the pictures; as ever, Marilyn had retained the right to approve or reject photos for American magazines. That morning, according to Schiller, Marilyn was fresh and alert, "seemingly without a care," and tending a flower bed in front of the house when he arrived. She gave him a tour of her remodeled guest cottage and then marked the photos with a grease pencil, indicating her selection and rejection.

The morning was hardly a dramatic one. Marilyn signed for several deliveries (the bedside table from The Mart, the trees from Frank's Nursery) and spoke with friends on the telephone. Ralph Roberts called, and they arranged to have a barbecue at Fifth Helena the following evening, after she returned from her second visit to Mama Jean Bello with Sidney Skolsky. It seemed, that sunny summer morning, the crisis with Fox that past season had somehow propelled her to a stage of freedom and a strength of purpose that had been her goal since 1955, when she deserted Hollywood for New York. Never before had her professional prospects been so various or so potentially rewarding, both financially and artistically.

Just before noon, Pat Newcomb arose, only to find her client and friend surly and sarcastic. "Marilyn seemed angry that I had been able to sleep and she hadn't—but something else was behind it all." Nevertheless while Marilyn telephoned friends, Eunice prepared lunch for Pat, who remained throughout the afternoon. She lay quietly, sitting under a heat lamp for her bronchitis and taking the sunshine at poolside while Marilyn attended her own business.

Shortly after one o'clock, Ralph Greenson arrived. Except for an interval between three and four-thirty, he remained with Marilyn until

after seven that evening: "He spent most of the day with her," as Milton Rudin said, based on his later conversations with Greenson. While Marilyn and Greenson retreated to her bedroom for a therapy session, Eunice as usual answered the telephone; there was apparently only one caller—a collect call, from Joe DiMaggio, Jr., then on duty with the Marines in nearby Orange County. Then twenty, he had maintained close ties with Marilyn, as had the Miller children, and scarcely a month passed without their exchanging several phone calls. But because Marilyn was closeted with her doctor, Eunice told Joe that Marilyn was not home. This occurred, as he told the police, at about two o'clock.

At about three, according to Pat Newcomb, Greenson "came out and told me to leave, that he wanted to deal with Marilyn alone. She was upset, and he told Mrs. Murray to take her out for a walk on the beach, in the car. And that's the last I saw of her."

With that, Greenson returned home, while Eunice drove Marilyn to Peter Lawford's home; the housekeeper then went shopping for groceries as Marilyn instructed (so Eunice documented in her memoir) and then returned for Marilyn within an hour.

William Asher, who had directed the presidential gala, was a director in Lawford's production company and was also a regular at Lawford's social events, recalled Marilyn's visit to the beach that afternoon between three and four. "I was there along with a few other people who had dropped by, when Marilyn arrived and took a walk on the beach." Asher knew Marilyn through his frequent visits to the Lawfords, and through negotiations for yet another prospective new film project then being discussed—a comedy about a train heist to star Marilyn, Lawford, Sinatra, Dean Martin and Sammy Davis, Jr. Screenwriter Harry Brown (who had written *Ocean's Eleven* for the same quartet of men) had completed a treatment for the new project, and Milton Rudin was already negotiating contracts.

But there was a drastic change in the sober manner and clear speech Eunice and Pat had observed in Marilyn that morning. After Greenson's visit and by the time she arrived at the beach she was drugged, according to Asher—"not staggering, but clearly under the influence, and she wasn't too steady in the sand." Whether at Greenson's suggestion or by her own choice, Marilyn during or after their session had

taken sufficient sedation that her speech was now slurred and her gait wobbly: as her autopsy later revealed, there was a high concentration of sodium pentobarbital (Nembutal) in her liver, for which several hours of accumulation would be required.

There were several reasons for Marilyn to be given or to resort on her own to her habit of taking tranquilizers that day, and they were the same causes of the scratchy humor Pat had seen that morning. Eunice's final hours in her employment must have made the atmosphere at Fifth Helena awkward, as would the imminent interruption of her therapy necessitated by her marriage and trip to New York. Marilyn was also restless because of her insomnia the previous night; she was eager for Joe's arrival; and however enthusiastic she was about her many projects, she was as usual nervous and insecure about her participation in any professional activities. Asher remembered that Marilyn watched part of a volleyball game on the beach and then departed at about four o'clock.

At half past four, Joe DiMaggio, Jr., put through a second collect call to Marilyn, and Eunice Murray again told him she was not at home—but this cannot have been true, for by this time Eunice and Marilyn had returned from the beach together. The fact is that, as Greenson mentioned in his August 20 letter to Marianne Kris, he returned to Marilyn at exactly that time to continue what was becoming virtually a day-long therapy session, during which Eunice again answered the telephone. Greenson also wrote to Kris words that reveal most pointedly the extent of his emotional upset and the likelihood that they had at least discussed terminating her therapy: "I was aware that she was somewhat annoyed with me. She often became annoyed when I did not absolutely and wholeheartedly agree [with her]. . . . She was angry with me. I told her we would talk more, that she should call me on Sunday morning. . . ."

At about five, however, Marilyn did take a call from Peter Lawford, who was trying to assemble a few friends for the usual Saturday night casual Mexican supper; he hoped Marilyn would return to the beach to join them—George Durgom, a personal manager of (among others) Lawford and of Jackie Gleason; Lawford's closest friend, the agent Joe Naar, and his wife, Dolores, and Milton Ebbins and his wife (Patricia Lawford was in Hyannis Port visiting her ailing father). This invitation she declined, but Peter persisted: "Oh, Marilyn, come on

down. You can go back early.' Lawford then said he would call again, hoping she would reconsider.³

But there were two other telephone calls that Marilyn was not able to intercept. The first came from Isadore Miller, to whom Eunice said that Marilyn was dressing and would call him back; Isadore never received a return call. The second call was from Ralph Roberts, at about five-forty or five forty-five, just before he drove to Jurgensen's in Beverly Hills to purchase the food for their barbecue next evening. "But it was Greenson who picked up the phone," according to Roberts. "When I asked for Marilyn, he said abruptly, 'Not here,' and immediately hung up on me without asking if I wanted to leave a message. Nothing else, just a blunt 'Not here,' and he put down the receiver."

His manner may not have sprung from simple rudeness, however clear was the resentment of Ralph the analyst toward Ralph the friend. At precisely this time, Greenson was expecting a call from Hyman Engelberg, whom he had been trying to reach, and whom he wanted to come and provide Marilyn with medication—most likely an injection to help her sleep, as the internist so often did. Earlier that same day, amid the awkwardness of separating from his wife, Engelberg had received a message through his answering service from Greenson, asking him (as Engelberg's first wife clearly recalled) to come to Fifth Helena. The internist had refused. Now, just after six, Greenson traced him to his home on St. Ives Drive. To Greenson's dismay, Engelberg again declined, leaving the psychiatrist to cope alone.

At seven o'clock or seven-fifteen, Greenson claimed, he departed, leaving Marilyn alone with Eunice Murray. And shortly thereafter begins the series of inconsistencies, misrepresentations and outright lies masking the truth of the tragic and unnecessary death of Marilyn Monroe.

First, there is a conflict between Ralph Greenson's account of Eunice's remaining with Marilyn, and Eunice's tale. In *The Last Months*, Eunice's co-author and sister-in-law Rose Shade wrote that "before he left, [Greenson] asked [Eunice] if she planned to stay over that night,

3. The Naars and the Ebbinses eventually withdrew, too, after Lawford told them Marilyn, Marlon Brando and Wally Cox—the original trio invited—had all begged off.

and she said she did. That was all.” Two weeks after Marilyn’s death, however, Greenson expressly noted in a letter to Marianne Kris, “I asked the housekeeper to stay over night, *which she did not ordinarily do on Saturday nights.*”⁴ In 1973, Greenson said he made this request because he “didn’t want Marilyn to be alone,” which was curious in light of the fact that by then everyone knew this was to be Eunice’s last day of employment under Marilyn. Things become more ominous still in light of what Eunice told the district attorney in 1982: that “this was the *first time Dr. Greenson had asked Murray* to spend the night at Monroe’s residence,” and that she had no knowledge of Marilyn’s ordinary sleeping habits or attire.⁵

Greenson and Murray were less than forthcoming and much less than consistent in subsequent accounts over the years. But two telephone calls provide important clues to a final resolution of the mystery surrounding Marilyn’s last night.

The first call came from Joe DiMaggio, Jr., who persisted in his day-long effort to get through to Marilyn. He finally succeeded between seven and seven-fifteen, when she picked up the telephone and the two had a pleasant conversation during which he informed her that he had decided to break his engagement to a young woman Marilyn did not like.⁶ As Joe, Jr., told police, he found her alert, happy and in good spirits—especially when he shared this news. Their chat lasted about ten minutes. Even Eunice Murray confirmed that during this conversation Marilyn was “happy, gay, alert—anything but depressed.” Greenson repeated a similar impression: he said Marilyn called him after hearing from Joe, Jr., and that she sounded “quite pleasant and more cheerful.”

4. Italics are the author’s.

5. Italics are the author’s.

6. Joe DiMaggio, Jr., was able to fix the time of his conversation. In his subsequent police interview, he said that Marilyn picked up the phone while he was watching on television the seventh inning of a baseball game: the Baltimore Orioles against the Anaheim Angels, being played in Baltimore that Saturday evening. The game began just after seven-thirty Eastern Daylight Time, which would have put the seventh inning at about ten o’clock (or seven o’clock Pacific Daylight Time).

The second call came from Peter Lawford, still hoping to persuade Marilyn Monroe to attend his little supper party. Lawford spoke with Marilyn soon after Joe, Jr.—at seven-forty or seven forty-five—and heard a woman in a very different condition from that heard by Joe, Jr.

Lawford heard Marilyn muttering in thickened speech, her voice slurred and almost inaudible. Distressed and disoriented, she frightened Peter, himself no stranger to the effects of barbiturates, alcohol and other drugs, and familiar with Marilyn's own habits in this regard. Attempting to rouse her to consciousness, he shouted her name several times over the telephone, asking what was wrong. Finally, with a great effort, she seemed to inhale, and then Marilyn Monroe said, "Say goodbye to Pat, say goodbye to the president, and say goodbye to yourself, because you're a nice guy." At that point, Lawford said later, "I really started to get angry and frightened." Oddly, Marilyn whispered, "I'll see, I'll see," and then she was silent.

Thinking Marilyn had hung up the telephone, Lawford immediately tried to call Monroe back, but he heard only a busy signal that engaged the line for the next half-hour. When he asked an operator to interrupt the conversation, he was told that the phone was off the hook or out of order. Frantic, he telephoned Milton Ebbins, who had also been invited to and declined the now defunct supper party. "Peter was obviously deeply concerned," Ebbins recalled—and he would remain concerned through the evening, despite repeated assurances from several people that Marilyn was well and there was no cause for alarm.

There was, of course, very much cause for just that.

In less than a half hour, something terrible happened to Marilyn Monroe, as the coroner later noted:

Monroe was laughing and chatting on the telephone with Joe Di-Maggio's son . . . and not thirty minutes after this happy conversation, Marilyn Monroe was dying. . . . This was one of the strangest facts of the case.

Peter Lawford understood her few words as indicating that she was dangerously drugged or even dying. Something was so wrong and different that he was convinced this was not what some people later claimed—a cry of "Wolf!" With panic in his voice, he then tried to

obtain help for her from whomever among his friends he could enlist. And in this effort he persisted so fiercely that even an eventual call from no less than Milton Rudin was not enough to allay his fears.

First, there was Ebbins:

Peter said, "Let's go over there [to Marilyn's house]. I want to go over there right away—I think something terrible is happening to Marilyn." But I said, "Peter, don't do it! You're the president's brother-in-law! If you go over there, if she's drunk or drugged or something, you'll see headlines all over the place and you'll get yourself involved. I'll tell you—let me call Mickey Rudin, and if he says so, then you can go, because otherwise, if you go, you're really opening a can of worms."

Ebbins then called Rudin—a logical choice, since he was Marilyn's attorney—reaching his office at eight twenty-five. He learned that Rudin was attending a party at the home of Mildred Allenberg, the widow of Sinatra's agent, and Ebbins called Rudin there. "Rudin asked me to let him check it out—to see if there was any trouble," Ebbins recalled. "So he telephoned Mrs. Murray." With this account Rudin concurred: "I did not call [Greenson]. He had had enough, quite frankly. He had spent the day with her. But I did call the housekeeper."

Rudin reached Eunice at about eight-thirty or a few moments later, in the room at the guest cottage. After asking her to check on Marilyn, he waited "for about four minutes, and then she came back to me and said, 'She's fine.' But I had a feeling she never went out to take a look." Rudin's intuition served him well, as Eunice's account of his call suggested: "If only [Rudin] had told [me] that he had received a worried call from someone," she lamented in her book. "If only . . .," then *what*? She would have actually taken the trouble to ascertain Marilyn's condition? But in her memoir, Eunice wrote nothing about Marilyn's nonresponse: she did not say that she went to the door, that she knocked, called out to her—nothing.

Rudin then called Ebbins and reported his conversation with Eunice; Ebbins in turn reported to Lawford. Still, Lawford was neither satisfied nor convinced: becoming more and more drunk as the evening

progressed (and Ebbins knew from subsequent calls), he persisted in his anguished concern for Marilyn, calling other friends to enlist help.⁷ Among these was Joe Naar, who lived on Moreno Avenue, a half-mile from Fifth Helena. Lawford called him at about eleven, asking him to drive over to determine Marilyn's welfare "because she sounded as if she might have overdosed," as Naar said later. As he was dressing to do just that, Naar received another call—this time from Ebbins, countermanding Lawford's request and saying that everything was fine: Rudin had just contacted him to the effect that "Marilyn's doctor has given her a sedative [thus Naar, quoting Ebbins] and she was resting. The doctor was Greenson."

While Ebbins continued to keep people away from Fifth Helena, Lawford repeatedly sounded the alarm, calling Asher as late as one o'clock Sunday morning, imploring him to make the trip to Marilyn's house. Only at one-thirty did Lawford desist in his efforts—because by then he had learned the truth in a telephone call from Ebbins, who had heard the news from Rudin. According to Lawford, Rudin had telephoned Ebbins at exactly that time from Fifth Helena, where Rudin and Greenson "had found Marilyn dead at midnight." Lawford's confidence as to the time was based on his simultaneous glance at a bedside clock.

In fact, according to Milton Rudin, Marilyn was dead before midnight. He recalled, in his first full discussion of this night for the record, that he returned home early from the Allenberg dinner party and before he prepared to retire, he received a call from his brother-in-law Ralph Greenson: "I got a call from Romey. He was over there. Marilyn was dead." Rudin said he drove at once to the scene.

The brief timespan during which Marilyn's death must have occurred becomes narrower still in light of another telephone call, this one received by Arthur Jacobs at the Hollywood Bowl, where he was attending a concert with the producer Mervyn LeRoy and his wife, and with

7. However, he heeded the advice to stay away. As both his maid Erma Lee Riley and his friend George Durgom insisted, Lawford never left his home that night.

the actress Natalie Trundy—later to be Mrs. Arthur Jacobs—on the eve of her birthday. “At about ten or ten-thirty,” according to Natalie Jacobs,

someone came to our box and said, “Come with us right now, please, Mr. Jacobs. Marilyn Monroe is dead.” That I will never forget. Arthur asked the LeRoys to take me home. I don’t know why, but I had the distinct impression it was Mickey Rudin who called Arthur at the Bowl, and that he [Rudin] had been called by Greenson from Marilyn’s house.

Well before midnight, then, several people close to Marilyn were aware of a terrible disaster and were moving to control it.

According to Natalie Jacobs, Arthur arrived at Fifth Helena, conferred with those already present and then departed. The burden of the worldwide public-relations tangle that was soon to begin would be handled by Marilyn’s friend, Pat Newcomb. Pat was not at home that evening and could not be reached until several hours later. She was finally informed of Marilyn’s death about five o’clock Sunday morning by Rudin. “I remember his exact words,” according to Pat. “He said, ‘There’s been an accident. Marilyn has taken an overdose of pills.’ I asked, ‘Is she okay?’ and he said, ‘No, she’s dead. You’d better get over here.’ That I remember.”

These firsthand reports fully contradict the entire official report of Marilyn Monroe’s death, which depends on Ralph Greenson’s and Eunice Murray’s versions of the events.

To be accepted, the accounts of Greenson and Murray relied on the consensus that no one thought there was anything amiss until around three o’clock Sunday morning, August 5—fully ninety minutes after Lawford’s telephone call from Ebbins and almost five hours after the news was reported to Jacobs.

At three, Eunice said, she awoke, “for reasons I still don’t understand” (as she said with her typical blend of feigned innocence, coy vagueness and a *souçon* of bogus mysticism). She then noticed a light under the door to Marilyn’s room, tried to open the door, found it locked and then, her concerns aroused, telephoned Greenson. He in-

structed her to take a fireplace poker, then to go outside the house and part the draperies through the open grille-covered front casement windows, to see if Marilyn was asleep and apparently well. Eunice did as she was told and saw Marilyn lying nude and motionless on the bed. This she reported back to Greenson on the telephone. He rushed over and, using the same fireplace iron, broke a second, unbarred window (on the side of the house), which he unlatched, thereby climbing into Marilyn's bedroom. A moment later he unlocked the bedroom door from within to admit Eunice, saying quietly to her, "We've lost her." At three-fifty, Greenson telephoned Engelberg, who pronounced Marilyn dead. At four-twenty-five, the two doctors then called the police, who arrived at the house ten minutes later.

The first flaw in the story was the idea that light shone under the door: new, deep-pile white carpeting had recently been installed in Marilyn's bedroom, so thick that for two weeks it had prevented the door from being fully closed, which it could not be until a slightly pressed arc was worn into the carpet. No light could be seen beneath the door. Confronted with this later, Eunice quickly amended her account to say that she became alarmed when she noticed the telephone cord leading under the door.

But there were even more serious problems.

For one thing, there was never an operating lock on Monroe's door, a fact Murray conceded years later in written correspondence. On February 9, 1987, archivist and genealogist Roy Turner wrote to Eunice (whom he had befriended), asking, "Was Marilyn's door locked when you found her?" She replied in one handwritten word following his question: "No." This would have been entirely true, for Marilyn never locked her bedroom door; leaving the door unlocked had been a lifelong habit, especially reinforced since the Payne Whitney experience. "She didn't lock doors," Pat said years later. "I never thought about that, but it's true." Ralph Roberts and Rupert Allan concurred.⁸

8. Between March 15 and June 30, according to their invoice #7451, the A-1 Lock & Safe Company of 3114 Wilshire Boulevard, Santa Monica, installed only two locks in the house: a cabinet lock for Cherie Red-

Moreover, the idea that Eunice parted the draperies of Marilyn's bedroom window with a fireplace poker and found the actress, sprawled dead across her bed, is impossible to accept. The window coverings were not draperies but the heavy blackout fabric from Doheny Drive, nailed across the casement and beyond both sides of the window by Ralph Roberts soon after Marilyn moved in. Disturbed by the slightest light when trying to sleep, Monroe had them installed in one piece: there was no part in the middle for Eunice to push aside even if the windows had been open.

The question of timing also proved troublesome for Eunice. When she was interviewed by Sergeant Jack Clemmons, the first police officer arriving on the scene at four-thirty-five on the morning of August 5, Eunice said she had called Greenson to the house at about midnight. But soon she must have realized the problems this would cause, for Greenson had not called the police until four and a half hours later. And so, by the time a detective interviewed her later that Sunday morning, she changed the time of her call to Greenson to three. The summons at about midnight would, however, have been consistent with the news reported to Lawford by Ebbins, that Rudin and Greenson were at the house before one-thirty, and that Marilyn was already dead.

Greenson told the police the same story as Murray, but his version never changed because he agreed to be interviewed but rarely, never wrote a memoir and was never challenged. The failure in both versions to mention the presence of Milton Rudin further damages the credibility of Greenson's account.

The weakness of this official version effected many results, not least among them a series of fantastic conspiracy theories, the inventions of nefarious plots and counterplots, government-inspired murder and so on. The problem is obvious for any theory involving the FBI, the CIA, organized or disorganized crime, the Kennedys or Kennedy cronies: there is simply no concrete evidence to support any such claim.⁹

mond's files, and a replacement lock for the front door of the house. Additional locks were not installed until August 15 and 21, after Marilyn's death (A-1 invoice #7452).

9. For a detailed treatment of the alternates proposed for the death of Marilyn Monroe, see the Afterword.

The psychiatrist and the housekeeper always neatly escaped scrutiny themselves—he because of his accomplishments, prestigious position and canny retreat behind the curtain of professional confidence, and she by virtue of a brilliantly calculated public image, reinforced via print and television interviews, as a dear little old lady.

But as their individual histories and their actions that final evening revealed, and as the medical record would soon confirm, it was these two alone who had something to hide.

Chapter Twenty-three

AUGUST 5, 1962

IN THE EARLY MORNING HOURS of August 5, Sergeant Jack Clemmons was serving as acting watch commander, replacing an off-duty lieutenant normally in charge at the West Los Angeles station of the Los Angeles Police Department. At four twenty-five, his desk telephone rang and a caller said simply, "Marilyn Monroe is dead, she committed suicide." Because this was a quiet night at the station, Clemmons decided to investigate the matter personally.

Arriving at 12305 Fifth Helena Drive about ten minutes later, Clemmons was led into Marilyn's bedroom, where he found her lying nude, prone and lifeless, with a sheet pulled over her body. In the room were Greenson and Engelberg; by this time, Milton Rudin had departed. Clemmons then observed (and later wondered about the fact) that Eunice was busy operating the washing machine at the time of his arrival.

According to the sergeant, Eunice then offered him a sketchy account of the night's events, including the fact that she had discovered Marilyn's body "at midnight." Clemmons asked immediately why it had taken so long for police to be notified, and at once Greenson replied that the doctors "had to get permission from the publicity department at the studio before we could notify anyone"—an absurdity as stated,

but at the same time a possible allusion to the earlier presence of Arthur Jacobs.

By this time, word of this tragic case was quickly circulating as newspapers and wire services monitored police radio frequencies; within minutes, more policemen began to arrive on the scene—among them were Officer Marvin Iannone (later chief of police in Beverly Hills) and Detective Sergeant Robert E. Byron, who assumed control of the case and who proceeded to question Greenson, Engelberg and Murray. At this point, Eunice changed the time of her discovery of Marilyn's body to about three o'clock.

Like Clemmons before him, Byron was unimpressed with the statements he was able to elicit, especially those of Eunice: "It is officer's opinion that Mrs. Murray was vague and possibly evasive in answering questions pertaining to the activities of Miss Monroe during this time," he noted in his official report.

Another officer who responded to the scene before dawn that Sunday morning was Don Marshall, a plainclothesman also in the West Los Angeles division. Marshall arrived to find Clemmons still in charge of the scene, and he was assigned to "take a look around and see if Monroe had left a suicide note." Marshall spent the next several hours carefully examining any and all papers he could find in the house.

Near the bed was an English-language telegram from Paris, offering Marilyn an opportunity to appear in a one-woman show, but otherwise Marshall's thorough search satisfied him there was indeed no suicide note. He remained on duty at Fifth Helena throughout the day, during which he questioned Marilyn's neighbors, Mr. and Mrs. Abe Landau, who lived at 316 South Carmelina, only a few yards away at the corner of Fifth Helena Drive. The Landaus, reported Marshall, assured him they had heard no disturbance the night before, and that in fact Miss Monroe had been "a very good neighbor."

At this point, the level of activity increased, as Pat Newcomb had joined the gathering crowd that now included Greenson, Engelberg, several police officers and Milton Rudin, who by now had returned to the scene. Pat remained at the house for about two hours before returning home to cope with a stream of calls from the press worldwide. Then, shortly after five-thirty, Marilyn Monroe's remains were covered with a pink woolen blanket, strapped onto a steel gurney, trun-

dled out the driveway and loaded into a battered Ford panel truck for an interim stop at the Westwood Village Mortuary—exactly why is unclear, for the circumstances of death required an autopsy, which could only be done downtown, at the office of the coroner. Most likely, this hiatus occurred until Rudin, as Marilyn's attorney, had the opportunity to contact Inez Melson, her business manager and the conservator of Gladys's affairs, and Joe DiMaggio, who Rudin rightly foresaw would best manage the funeral details.

Just after eight o'clock that Sunday morning, August 5, the remains were at the City Morgue. At ten-thirty, deputy coroner Dr. Thomas Noguchi, on weekend duty, completed the autopsy.

Back at Fifth Helena, the police remained in charge. Later, there were ridiculous reports that Fox executives had ordered the "burning [of] a pile of documents in the huge Mexican fireplace." There were also rumors that "the locks on Monroe's metal filing cabinet had been smashed with a crowbar and the drawers rifled" in order to remove documents compromising the security of the United States government. This is all utter nonsense, according to Officer Don Marshall, who was present all day: "Nobody was destroying anything."¹

There was, however, some repair in progress. Eunice telephoned her son-in-law Norman Jeffries, asking him to replace the small pane of glass Ralph Greenson had supposedly shattered with the fireplace poker; this would prevent any disturbance to the interior of the house once the property was legally sealed off by police late Sunday night. With that and her laundry done, Eunice finally departed Fifth Helena Drive—one day beyond her scheduled date. She had left Marilyn Monroe's home in very tidy condition indeed.

Miles away, another kind of care was being taken by Thomas Noguchi as he performed the autopsy on Marilyn Monroe. With him was a brilliant observer who would also be crucial toward an understanding of Marilyn's death.

1. As for a small cache of Marilyn's personal letters and papers, they were duly removed next day by Inez Melson, after whose death in 1986 they passed first to a collector, thence to DS.

In 1962, John Miner was deputy district attorney of Los Angeles County and chief of its Medical Legal Section; as such, he was also liaison officer to the chief medical examiner—coroner's office. Miner also taught forensic psychiatry at the University of Southern California and was particularly respected for his legal and medical expertise assessing suicides and deaths judged possible suicides. During his tenure as liaison officer to the coroner, Miner attended the postmortem examination for every death reported as unnatural, which numbered over five thousand autopsies. That year, the medical examiner—coroner of Los Angeles County was Dr. Theodore Curphey, who appointed Dr. Thomas Noguchi, deputy medical examiner, to perform the autopsy on Marilyn Monroe.

The preliminary report from the Office of the County Coroner, dated and signed by Noguchi at ten-thirty on Sunday morning, is contained in File Number 81128 in the Los Angeles County Coroner's Mortuary, Hall of Justice, City of Los Angeles. The first supplement, a report of chemical analysis of the blood and liver, was dated and signed by R. J. Abernethy, Head Toxicologist, at eight o'clock on the morning of August 13 (file Number 81128-I). Subsequently, on August 10, Curphey's preliminary judgment was that death occurred because of a "possible overdose of barbiturates." On August 17, this was amended to be a "probable suicide," and on August 27, Curphey made his final statement still more forcefully, as "acute barbiturate poisoning—ingestion of overdose."

This decision was based on the major chemical findings of toxicological analyses, which seemed clear and unambiguous.

First, there were no external signs of violence. Second, there was in the blood a count of eight milligrams of chloral hydrate and four and a half milligrams of Nembutal—but in the liver there was a count of thirteen milligrams, a much higher concentration of Nembutal. These figures are crucial toward a comprehension of how she died.

On her bedside table, police had found full and partly full bottles of several drugs, among them antihistamines and medications for her sinusitis. There were also an empty bottle that had contained twenty-five 100-milligram Nembutal capsules, a prescription dated August 3, 1962, on authorization of Dr. Hyman Engelberg; and ten capsules remaining from an original bottle of fifty 500-milligram chloral hydrate

capsules, a prescription dated July 25 and refilled on July 31 on authorization of Dr. Ralph Greenson.

This was important information for the Suicide Prevention Team, convened at the coroner's request to come up with a psychological profile of the deceased at the time of death and thus the likelihood of suicide. "It was obvious to us, after speaking with Dr. Greenson about Marilyn's psychiatric history," said Dr. Robert Litman, a member of the team, "that the only conclusion we could reach was suicide, or at least a gamble with death." But Litman and his colleagues did not believe that Marilyn took her life deliberately: "Since our studies from 1960, we have found no authenticated case where barbiturates were involved that a person was so drugged he didn't know what he was doing."

And yet Litman and his colleagues submitted a verdict of suicide because that had been Curphey's initial judgment, because they had consulted only their colleague Greenson and because, as the Suicide Prevention Team, they pursued and rightly dismissed other options. She was neither psychotic nor, as Dr. Norman Farberow, another member of the team, added significantly, "an addict among addicts, and she had no physical dependency on drugs. Her intake could be considered light to medium. And she was certainly not mentally unbalanced so far as I could determine." Besides, as Litman said, "We wanted to get this over with, to come to a decision, close the case, issue a death certificate and move on. But of course, that turned out to be a misplaced hope. Nobody ever moved on."

Thomas Noguchi, John Miner and at least three other highly respected forensic pathologists reached a quite different conclusion from that of Curphey and the Suicide Prevention Team.²

2. For what follows, the author is grateful for corroborative reports filed with John Miner by two internationally renowned pathologists: Dr. Milton Halpern, former chief medical examiner of the City of New York; and Dr. Leopold Breiteneker, medical examiner for the City of Vienna, professor at the University of Vienna and one of the great European forensic pathologists. In 1982, Dr. Boyd G. Stephens, chief medical examiner—coroner of the City and County of San Francisco, pro-

"I did not think she committed suicide," said John Miner thirty years later. "And after interviewing Dr. Greenson I was even more convinced that Miss Monroe did not commit suicide. In fact, he did not believe it himself."

Miner's medical reasons for disbelieving the suicide verdict were supported by his interview with Greenson, from whom he learned that Marilyn was not only making plans for the future but that "she felt that she had put everything bad behind her and could now go forward with her life."

A systematic review of the postmortem chemical analyses provides the final crucial step from John Miner's informed intuition to positive conclusions about Marilyn Monroe's death. Whatever drugs caused it could only have been introduced into the body in one of three ways: by mouth, by injection, or by enema.

Marilyn could not have died by oral ingestion of capsules for several reasons.

First, the ratio of Nembutal found in the blood compared to that in the liver suggested to any competent forensic pathologist that Marilyn lived for many hours after ingestion of that drug. There was also "not a large reservoir left in the stomach or gastrointestinal tract to be drawing from"; in fact, as Noguchi's report stated, there was no trace of drugs in the stomach or in the duodenum, where absorption occurs. This means that while Marilyn was alive and mobile, throughout the day, the process of metabolizing the Nembutal she had taken had already reached the stage where much of the toxic material had reached the liver and was beginning the process of excretion. "The barbiturates were absorbed over a period not of minutes but hours," according to John Miner, "precisely as is indicated by the high concentration in the liver." This report is consistent with what is known of Marilyn's activities earlier that day, and what Greenson himself called her "somewhat drugged" condition.

vided the City of Los Angeles with an independent review of the autopsy evidence. In 1992, DS further consulted Dr. Arnold Abrams, medical director of Pathology at St. John's Hospital, Santa Monica.

Second, suicide by deliberate Nembutal overdose would have been an action entirely inconsistent with everything in Marilyn Monroe's life at the time—especially after the call from Joe DiMaggio, Jr., as reported by him and by both Murray and Greenson.

Third, had she for some unknown reason suddenly decided to commit suicide, she would have taken a large dose at one time (not many capsules throughout the day, which she well knew how to ingest intermittently and at which dosages). The barbiturate would have reached a toxic level rapidly, and she would have died. But in that case, there would almost certainly be a residue of pills in the stomach: "Forty or fifty pills simply are not going to dissolve so quickly in the stomach," as Dr. Arnold Abrams reported. "The odds that she took pills and died from them are astronomically unlikely."

The possibility of barbiturate injection must also be rejected. A dose large enough to be lethal, injected intramuscularly or intravenously, would have resulted in an instantaneous death and a much higher level of barbiturate in the blood. As the district attorney observed in his 1982 review of the case and specifically of these blood levels, "This leads to a reasonable conclusion that Miss Monroe had not suffered a 'hot shot' or needle injection of a lethal dose." Such a massive injection would also have left a swelling and bruise, the gradual disappearance of which would have ceased with death. But "every inch of her body was inspected with magnifying glasses," according to Miner (thus, too, Noguchi), "and there was simply no needle mark."

The only possible route of administration of a fatal dose of drugs is confirmed by the discovery, during autopsy, of a bizarre condition, which Miner said was unique in his review of autopsies: a major area of Marilyn's colon bore "marked congestion and purplish discoloration," a condition consistent with a rectal administration of barbiturates or chloral hydrate. "This abnormal, anomalous discoloration of the colon has to be accounted for," said Miner in 1992. "Noguchi and I were convinced that an enema was absolutely the route of administering the fatal drug dose."

Abrams agreed:

I have never seen anything like this in an autopsy. There was something crazy going on in this woman's colon. And as for suicide, I

simply can't imagine a patient self-administering a fatal dose of barbiturates or even a sedative dose by taking the trouble to prepare and administer the solution! You don't know what the necessary fatal dose will be, and you have no guarantee that it's going to be absorbed before it's expelled. Look: if you're going to kill yourself with barbiturates, you do it with pills and glasses of water.

As for Nembutal suppositories (sometimes fancifully suggested as the cause of death), these would only have reached about ten centimeters into the rectum: but in Marilyn's case, the entire sigmoid colon, a section very much higher, was grossly discolored. Administration by enema was indeed the route by which the fatal dose was administered.

In this regard, it must be recalled that Marilyn had a history of taking enemas "for hygienic and for dietetic purposes," as Miner said (and as her designers, like William Travilla and Jean Louis, had known for a long time). "This was also much the fad among actresses in that era."

But this conclusion does not solve the problem of what was administered in this enema and by whom. An explanation is still required of exactly what happened in Marilyn Monroe's bedroom between the end of her conversation with Joe DiMaggio, Jr., at seven-twenty or seven-twenty-five, and her almost incoherent replies to Peter Lawford at seven-forty or seven-forty-five. Perhaps the most poignant fact is that Marilyn seems to have been aware, as she answered Lawford's call, that she was slipping over the edge from the kind of normal drug-induced sleep or sedation she knew so well, toward death—and she knew there was nothing she could do to reverse the situation. Quite contrary to those who say that Marilyn was crying "wolf" is the plain, tragic fact that she knew she was dying and could neither rouse herself nor summon help: "Say goodbye . . ."

The exact circumstances of Marilyn Monroe's sad and unnecessary death can, in light of all this, at last be established.

First, it is important to remember that Ralph Greenson had ceased prescribing Nembutal for Marilyn Monroe. He was, as he said, "cutting down her dependence on Nembutal [which he no longer prescribed] by switching her to chloral hydrate [which he did] as a sleep-inducer." In fact, he said he had asked Hyman Engelberg not to

prescribe Nembutal without his permission: they were to monitor the drugs each was providing. But the previous day Engelberg wrote Marilyn a prescription for Nembutal without Greenson's knowledge.

"On Friday night," Greenson wrote to Marianne Kris two weeks after Marilyn's death, "she had told the internist that I had said it was all right for her to take some Nembutal, and he had given it to her without checking with me, because he had been upset for his own personal reasons. He had just left his wife." During Saturday, however, Greenson observed that Marilyn was "somewhat drugged," as he told Kris; he was too sophisticated and familiar with Marilyn not to recognize on what medication she was "somewhat drugged."

While the precise amount of Nembutal was unknown to him, the ineffectiveness of it was clear—she was awake, angry and difficult to manage. Greenson's solution to this was revealed in the toxicological analysis: chloral hydrate, his drug of choice for her, was present in the blood and not the liver. And because the level of chloral hydrate was twice that of the Nembutal (which had accumulated in the liver, having been ingested gradually over many hours), it is clear that the chloral hydrate was administered after the Nembutal had been taken.

In his haste that evening, Greenson perhaps overlooked one crucial factor, the adverse interaction of the two drugs. Chloral hydrate interferes with the body's production of enzymes that metabolize Nembutal. It was the chloral hydrate that pushed Marilyn over the edge. Some of the Nembutal was being processed by the liver, but much (four and a half milligrams, more than a lethal dose) had not been metabolized. As Milton Rudin recalled Greenson saying on the night of Marilyn's death: "God damn it! Hy gave her a prescription I didn't know about!" John Miner recalled a similar, incomplete statement: "If only I'd known about that other prescription. . . ."

"If only," then what? Would Greenson indeed have forgone that last heavy dose of chloral hydrate?

Two weeks later, he described his departure that night to Marianne Kris in the most pacific tone: "I told Marilyn," Greenson wrote to Kris, "that she should call me on Sunday morning when she awakened, and I left." But in the event, Greenson felt irritated, resentful and rejected; unable to accept that his romantic self-image of savior had been terminated and aware that he could no longer continue in the mode of control he had so carefully constructed, he chose the easier

route. "He'd had enough, he was exhausted, he'd spent the day with her," as Milton Rudin said of him. And so, before departing, Greenson arranged for Marilyn to take a sedative enema, since she was physiologically resisting the effects of oral medication. Chloral hydrate would enable her to sleep. Short of the usual Engelberg injection, which Greenson tried but failed to obtain, the most powerful route of administration, as he knew, was an enema—something on which Marilyn often relied for other purposes. But she did not know that a chloral hydrate enema could be dangerous, even fatal, as a sequel to Nembutal.

"She probably regarded this as an ordinary enema being given to her," said Miner. "It would have been inserted slowly, not unpleasantly, not causing any immediate urgency for evacuation. After several minutes"—during which time she took Lawford's call—"she then would have lapsed into unconsciousness. The absorption continued, and though still alive, she was dying."

But who, at last, gave the chloral hydrate enema?

The only person who could have done it was Eunice Murray, and this was indeed her last act as Marilyn Monroe's employee and Ralph Greenson's watchdog. "I always felt the key was Mrs. Murray," said John Miner thirty years after the fact, speaking fully for the first time.

But Eunice was acting under orders from Greenson, the man she had looked to for fifteen years as her protector and employment provider. As her son-in-law Philip LaClair insisted years later, "Eunice did only what Ralph Greenson told her to do. She always followed his orders closely, because she had no formal training as a nurse. There's a lot I could say about Greenson, but I won't."

Accustomed to delegate the administration of medicine to others, it was logical for Greenson to ask Eunice to do this particular deed. Moreover, giving an enema is not within the range of a psychiatrist's duties, especially not a male psychiatrist with a female patient: no matter how obsessive his attachment, Greenson's ego would not permit so intimate a physical act. But asking an untrained woman with no nursing credentials to give a drug in such a way that its method of administration is potentially lethal—no matter how careful the instruction might have been—is professionally imprudent and in fact downright reckless.

On the other hand, it is possible that Ralph Greenson never actually left Fifth Helena Drive that night—he may not have had to return at all. For years he claimed he went out to dinner with friends, but even

when Greenson was questioned, his “friends” were never named, they never stepped forward of their own accord, and the Greenson family, interviewed frequently after his death, never identified anyone. Milton Rudin, for one, believed that Greenson was at home all evening. Even had he remained at Fifth Helena, Greenson would likely have absented himself (however proximately) during Eunice’s nursing task; either way, responsibility for that task was his.

This scene of the drama closes with another important detail previously remarked upon but never taken into account: Eunice’s inexplicable washing of garments and linens, as Clemmons attested and as Miner later learned. “Why, under these circumstances,” as Miner asked rhetorically, “would a housekeeper be doing the laundry at such an hour—unless the bedclothing had become soiled as a result of the administration of these drugs?” Abrams concurred: “Eventually, of course, when she slipped into her terminal coma, the enema had to be expelled. Thus the washing of the sheets,” which, as Miner added, “was an especially hard thing to understand unless Mrs. Murray was destroying evidence.”

To the horror of everyone involved, what may have been intended as Marilyn’s long, deep sleep became her death.

There were numerous details to be arranged that night, along with the sanitizing of what was, to say the least, an ugly situation. “Arthur said it was horrendous,” Natalie Jacobs recalled him saying after that night. “He never gave me any details, and I never asked him. He said only that it was too dreadful to discuss.”

This appalling situation explains the long delay between the arrival of Greenson at Fifth Helena and the summons to police five hours later. If indeed he left at all, Greenson returned immediately after Rudin’s call to Eunice had sent her to Marilyn’s room—where everything had gone wrong. Marilyn was unresponsive; she had expelled the enema; and there were other aspects of the “horrendous” scene occurring in the case of someone comatose, moribund or even, by this time, dead.

Certainly, as the telephone calls indicated and as Rudin conceded, Greenson arrived before the small hours, locating Engelberg only later at his temporary residence in West Los Angeles, where he lived because of his marital separation. Presumably there was an attempt to revive Marilyn, to reverse the effects of the drug. (Henry Weinstein recalled

that at least once before, Greenson summoned Engelberg to pump out Marilyn's stomach when she had apparently taken too many Nembutal in her Doheny Drive apartment.) Also, according to both Eunice and a note in the district attorney's 1982 report, an ambulance was summoned around midnight and then dismissed on arrival—because she was dead, and because California law prohibits the transport of a corpse in an ambulance. Greenson and Murray must have felt an almost paralyzing panic as the enormity of the disaster became clear to them. How does one announce one's involvement in, or explain one's discovery of, the death of Marilyn Monroe, so much adored by all the world?

Once it was clear that Marilyn was beyond resuscitation, there were details to be staged. A window had to be broken, so that it would appear as if a forced entry had been necessary. There was the blackout fabric to be removed (which it was, and neatly folded by the time police arrived), to substantiate the story concocted about Eunice retracting the drapes with a fireplace iron. Most of all, there was an account that Greenson and Murray had to fabricate and which they had to rehearse. And there were soiled linens to be cleaned.

Had Ralph Greenson himself administered the fatal enema, Eunice Murray would have said so—if not during his lifetime, then after his death, when she had a great deal to gain financially and the public's lingering suspicion of which to unburden herself. After Marilyn, Eunice worked neither for Greenson nor anyone else as nurse or housekeeper. One imaginative suggestion has been that Greenson provided her with hush-money, making a financial settlement to cover his own calamitous indiscretion. But a payoff does not accord with the poverty in which Eunice subsequently lived, moving from one small Santa Monica apartment to another until her daughters took her in frail old age.

Very soon, then, there was a dark and dreadful collusion firmly in place.

Ralph Greenson could never reveal what he knew about Eunice Murray because this would have effectively ended his career. He had hired a nonprofessional—and a troubled woman, at that—and asked her to perform a medical task because he could not locate Engelberg. This was a rank and reckless lack of professionalism, perhaps subconsciously justified by him because of his anger at his beloved but unresponsive patient. This was, after all, the most famous movie star in the

world: he could not tell the truth of the matter. In fact, Greenson could be rather smug about the success of the cover-up, for when photographer William Woodfield later asked him about the large prescriptions of chloral hydrate he had allotted Marilyn, Greenson replied casually, "Well, I've made a number of mistakes in my time."

For her part, Eunice Murray could not point the finger at anyone else because she had done the actual deed. All she and Greenson could do was weakly state that they did not believe Marilyn Monroe took her own life deliberately. "Nobody then or later," as John Miner said, "undertook to realize that Mrs. Murray was concealing information. She simply wasn't telling the whole truth and never did thereafter." Miner was correct, for apart from the insufficiency of her stories about the light and/or telephone cord beneath Marilyn's bedroom door, Eunice did not lie so much as deny. Rightly, she denied the presence of Robert Kennedy: "I don't recall him being there at all" in July or August, she said—because, indeed, he was not. Rightly, she denied the presence that night of Peter Lawford and of unknown assailants. Asked about her published memoir as a basis for solving the mystery, Eunice's last statement on the record about the death of Marilyn Monroe sounds very like the beginning of a confession: of her book *The Last Months*, she said in 1987, "I wouldn't swear to my version at all."

As for Engelberg, his distribution of dangerous and habit-forming drugs, not to say his continued reliance on Greenson, put him in no position to expose anyone's deeds—which he very likely considered at worst an unfortunate accident.

But of course it was much more than that, and herein lies the unspeakable sadness of Marilyn Monroe's fate.

She had been under the supervision of a man who can at best be termed obsessive, and this she realized to the extent that she knew their relationship had to end. This he realized, too, admitting to colleagues that he had reached a classic state of countertransference; his work with her could no longer be justified.

"Dr. Greenson took her death very personally," said John Miner,

for he was involved with this lady to a strong degree. He was deeply shaken, even devastated by it. Even though a psychiatrist is supposed to maintain a defense mechanism, he could not restrain himself. In his own way, he loved this girl in the sense that she was a

wonderful person to him. He had become very emotionally attached to her.

And more than attached, for Greenson deeply resented her increasing independence—thus his systematic attempt to separate her from good friends. His patient's death indicates the awful possibilities when an analyst does not keep to his boundaries and yet continues, knowing full well that his own emotions are intimately intertwined with his patient. In the end, he no longer regarded either his own responsibilities or her needs. When he said he had “tried to help but ended up hurting her,” Greenson spoke perhaps the truest self-assessment of his life.

Out of patience, fearing the loss of his best beloved, enraged at himself and at what he considered her ill-advised dismissal of Eunice and of himself (which was imminent if not actual), Ralph Greenson ordered Marilyn Monroe sedated—as he had for so long, with Engelberg's assistance—so that the rupture of their relationship might not occur: “Call me on Sunday morning.”

But it was finally just as the other Ralph, the loving Ralph Roberts, had said: “If you can't control Marilyn one way, there are always drugs.” John Huston may have known more than he let on when, told of her death, he said angrily, “Marilyn wasn't killed by Hollywood. It was the goddam doctors who killed her. If she was a pill addict, they made her so.”

As for Eunice Murray, she had experienced the fullness of her life with Marilyn, in the replica of her own house, with a surrogate daughter and working with a surrogate ministerial husband. But the situation had failed her, and so in a way as she administered the sleeping drug she was putting this entire part of her life to rest, however ignorantly and unaware of the final effect. She was the stooge of Ralph Greenson—an unpretty term but in this case an accurate one for an emotionally crippled and dependent woman, and so she must have felt when she cried out at the age of eighty-five, twenty-five years later, “Oh, why—at my age—do I have to keep covering up for this thing?”

The monumental self-absorption and ego-neuroses of her two major caregivers enabled them to observe Marilyn at the happiest time of her

life, at a stage of growth so full of promise—yet they strove to keep her dependent on them and on them only.

At the last, the custodians could not sustain what they perceived as her rejection of their tyranny. “We’ve lost her,” Greenson said ironically to Murray, announcing her death. On his utterance of this statement they both agreed: in a way they already had lost her, when she made her decision to dismiss them.

Ralph Greenson may have helped patients to whom he did not become obsessively attached. But in a serious way he was a personal and professional failure: an egocentric, slick entertainer; a storyteller jealous of the limelight; a possessive and tyrannical man who could pass for a brilliant therapist only in Hollywood, where even social performance is applauded and admired. He treated Marilyn Monroe not as a growing, maturing woman, one who was becoming healthier and stronger. On the contrary, he wished to keep her frail, collared to dependence on him forever. Weary of interrupting his personal life to deal with the struggles of his primary patient—an involvement he had himself worked hard to create—he was at the end resentful that Marilyn was withdrawing from his orbit, was moving out of his control, toward Joe and therefore away from him. Having spun for himself the mantle of guardian and protector, father and caregiver, he found it was an intricate web. He had worked tirelessly to limit Marilyn’s outside contacts, to make his devotion her only love and his care her only support. In any relationship, this is a dangerous program; in a therapeutic situation, it is catastrophic.

Her imminent departure was intolerable to him, the ultimate rejection by his ultimate patient. He considered her, therefore, as one who failed to be his, and in the end he treated her just as such a man would: capriciously, placing her in a perilous situation. In some dark corner of his mind, he may have known or feared or even wished that his temerity would lead to tragedy.

And herein lies the tragedy of Marilyn Monroe’s death. Something brave, new and mature was emerging in her those last months, as every deed, interview, human interaction and performance witnesses. She was finally taking control of her life, as those closest to her testified; she was in some inchoate way banishing the crippling ghosts that had so long surrounded her. Never contemptuous of those who had hurt or

misguided her, she was now kinder still, more concerned than ever for those her life had touched. Only in this spirit can her finest qualities be appreciated—her refusal to malign husbands or lovers for the sake of a good interview; her rejection of self-pity; her devotion to Isadore Miller, to Arthur's children, to the young DiMaggio. There were remarkable, almost miraculous acts of hope in her own future: her return to Joe, her new projects, her willingness to cast out the unhelpful people, the old and the jaded parts of her life.

This buoyant spirit had been activated before, when she first turned her back on Hollywood in 1955, feeling that her life was stymied. That spirit returned to her now, too, and it must have had something to do with Joe DiMaggio—although not everything, for theirs was hardly a passionate love in its first full bloom, and they were both too wise not to know there were shoals yet to be negotiated. "But there's a future, and I can't wait to get to it," she had recently told one reporter. Enthusiasm and humility, a green hope coupled with the longing to go on, to transcend what had been—rarely has so graceful a spirit been so cruelly silenced.

Silenced indeed. Marilyn Monroe died at the mercy of those who believed their mission was to save her—not for her sake, but for themselves. They wanted to own her. Marilyn Monroe's death gives new meaning to the phrase California Gothic.

Late Saturday afternoon, Marilyn had begun to write to Joe, whom she so anxiously awaited; it would be pleasant to think that she was writing it after he telephoned. But something interrupted her, and the note was found, folded in her address book. When the house was searched for a suicide letter before her body was removed next morning, the address book was left untouched, or perhaps the note was discreetly left in place by the searcher. Like her life, it was something good, in process:

Dear Joe,

If I can only succeed in making you happy, I will have succeeded in the biggest and most difficult thing there is—that is, to make *one person completely happy*. Your happiness means my happiness, and

Chapter Twenty-four

AUGUST 6-8, 1962

THE BODY DESIRED BY MILLIONS belonged to no one: on Monday morning, August 6, Marilyn Monroe's remains still lay unclaimed at the Los Angeles County morgue. And so, to no one's surprise, Joe DiMaggio stepped in to adjudicate the last details. Late that afternoon, she was brought back to the Westwood Village Mortuary on Glendon Avenue, a few steps from busy Wilshire Boulevard.

Ten years earlier, at the start of her great dash to stardom, Marilyn had asked her friend Allan Snyder to come to a hospital just before she was to be discharged: she wanted to look her best for the public and the cameras. For fifteen years, no one understood her fears and her features better than he, no one was more patient and loyal in devoting his craft to her benefit.

"Promise me something, Whitey," she had said, using his familiar nickname, while he brushed and lined, highlighting here and toning there.

"Anything, Marilyn."

"Promise me that if something happens to me—please, nobody must touch my face but you. Promise you'll do my makeup, so I'll look my best when I leave."

"Sure," he said, teasing. "Bring the body back while it's still warm and I'll do it!"

EXHIBIT 5

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MILTON H. GREENE ARCHIVES, INC.,
Plaintiff-Appellee,

v.

MARILYN MONROE LLC, a
Delaware Limited Liability
Company; ANNA STRASBERG, an
individual,
Defendants-Appellants,

and

CMG WORLDWIDE INC., an Indiana
Corporation,
Defendants.

No. 08-56471

D.C. No.
2:05-cv-02200-
MMM-E

MILTON H. GREENE ARCHIVES, INC.,
Plaintiff-Appellee,

v.

CMG WORLDWIDE INC., an Indiana
Corporation,
Defendant-Appellant,

and

MARILYN MONROE LLC, a
Delaware Limited Liability
Company; ANNA STRASBERG, an
individual,
Defendants.

No. 08-56472

D.C. No.
2:05-cv-02200-
MMM-E

THE MILTON H. GREENE ARCHIVES,
INC.,

*Plaintiff-counter-defendant-
Appellant,*

TOM KELLEY STUDIOS, INC.,

*Defendant-counter-plaintiff-
Appellant,*

v.

CMG WORLDWIDE INC., an Indiana
Corporation; MARILYN MONROE
LLC, a Delaware Limited Liability
Company; ANNA STRASBERG, an
individual,

*Defendants-counter-plaintiffs-
Appellees.*

No. 08-56552

D.C. No.
2:05-cv-02200-
MMM-E
OPINION

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Argued and Submitted
October 13, 2011—Pasadena, California

Filed August 30, 2012

Before: Alfred T. Goodwin and Kim McLane Wardlaw,
Circuit Judges, and William K. Sessions III,
District Judge.*

Opinion by Judge Wardlaw

*The Honorable William K. Sessions III, District Judge, United States District Court for Vermont, sitting by designation.

COUNSEL

Douglas E. Mirell, Laura A. Wytsma and Benjamin R. King, Loeb & Loeb LLP, Los Angeles, California for appellants and cross-appellees Anna Strasberg and Marilyn Monroe LLC.

Theodore J. Minch, Sovich Minch LLP, McCordsville, Indiana, and William Weinberger, Parker, Milliken, Clark, O'Hara & Samuelian, Los Angeles, California for appellant and cross-appellee, CMG Worldwide, Inc.

Surjit P. Soni, Leo E. Lundberg, Jr. and M. Danton Richardson, The Soni Law Firm, Pasadena, California for appellees and cross-appellants The Milton Green Archives, Inc. and Tom Kelley Studios, Inc.

OPINION

WARDLAW, Circuit Judge:

An enduring American celebrity, Marilyn Monroe continues to inspire both admiration and litigation a half-century after her death.¹ At issue is whether appellants inherited a

¹Just within the past year, Monroe was the subject of both a major motion picture, *My Week with Marilyn*, and a network television series, *Smash*. Numerous books tell and retell her life story and hypothesize about her death. Several new books were released to coincide with the fiftieth anniversary of her death, and a Westlaw search yields 153 articles about Monroe that were published on the day of the anniversary of her death. Hip hop artist Nicki Minaj sings about her. See Nicki Minaj, *Marilyn Monroe*, on Pink Friday: Roman Reloaded (Universal Republic Records 2012). Plans have been announced for Monroe-themed cafes and nail salons. See Maureen Dowd, *The Love Goddess Who Keeps Right on Seducing*, N.Y. Times, Aug. 5, 2012. And in the wake of deceased rapper Tupac's recent performance at the Coachella Valley Music and Arts Festival, there are even plans to resurrect Monroe as a holographic "performer, spokesperson, cultural pundit and computer avatar." Eriq Gardner, *Holograms: A New Dangerous Frontier*, The Hollywood Reporter, June 8, 2012.

right of publicity, which was created and deemed posthumous by the states of California and Indiana decades after her death, through a residual clause in her Last Will and Testament. The will was subject to probate in the state of New York, which does not recognize a posthumous right of publicity. The issue of appellants' rights turns on whether Monroe was domiciled in California or New York at the time of her death. We conclude that because Monroe's executors consistently represented during the probate proceedings and elsewhere that she was domiciled in New York at her death to avoid payment of California estate taxes, among other things, appellants are judicially estopped from asserting California's posthumous right of publicity. We therefore affirm the district court's order so holding.²

I.

Following her divorce from Arthur Miller, while in New York City, Marilyn Monroe executed her Last Will and Testament on January 14, 1961. She named New York attorney Aaron Frosch executor. She then traveled to California in the spring of 1961, where she first stayed in a hotel, then moved to a rental apartment, and again moved into a home in Brentwood which she purchased in 1962. In April 1962, Monroe began filming *Something's Got to Give* on the 20th Century Fox Studios lot in Los Angeles. Fox fired her during filming in June for repeated absences and tardiness. Monroe was found dead in her Brentwood home on August 5, 1962. She maintained her New York apartment and staff throughout this period.

²The district court issued a number of orders, culminating in its July 31, 2008, order granting summary judgment in favor of Milton Greene. See *Milton H. Greene Archives, Inc. v. CMG Worldwide, Inc.*, 568 F. Supp. 2d 1152 (C.D. Cal. 2008).

A.

Consistent with New York law, the New York Surrogate's Court admitted Monroe's will to probate on October 30, 1962. Frosch, who drafted the will, served as the executor of the estate from that time until his death in 1989. The will sets forth several bequests, but does not explicitly address the right of publicity asserted here. Assuming that such a right existed, it could pass, if at all, through only the will's residual clause, which distributed the "rest, residue and remainder" of Monroe's estate as follows:

- (a) To MAY REIS the sum of \$40,000.00 or 25% of the total remainder of my estate, whichever shall be the lesser.
- (b) To DR. MARIANNE KRIS 25% of the balance thereof, to be used by her as set forth in ARTICLE FIFTH (d) of this my Last Will and Testament.
- (c) To LEE STRASBERG the entire remaining balance.

May Reis, Monroe's private secretary, inherited the sum of \$40,000 because the residual estate was "significantly greater than \$160,000." The estate distributed 25% of the remainder to Dr. Marianne Kris, Monroe's psychiatrist, "for the furtherance of the work of such psychiatric institutions or groups as she shall elect." Kris passed away in 1980, bequeathing her interest in the Monroe estate to the Hampstead Child-Therapy Clinic of London, England (now the Anna Freud Center for the Psychoanalytic Study and Treatment of Children). Frosch apportioned 75% of the remainder of the estate to Lee Strasberg, Monroe's acting coach and close friend. Lee Strasberg died testate in 1982, leaving his share of Monroe's estate to his wife, Anna Strasberg. Following Frosch's death in 1989, the Surrogate's Court appointed Anna Strasberg executor of

the Monroe estate. In 2001, the Surrogate's Court decreed the estate settled and authorized the estate to transfer all remaining assets to Marilyn Monroe LLC ("Monroe LLC"), a newly-formed Delaware Limited Liability Company, managed by Anna Strasberg. Anna Strasberg and the Anna Freud Center are the only members of Marilyn Monroe LLC, holding 75% and 25% membership interests, respectively.

B.

During the forty-year probate proceedings, Frosch, in his capacity as executor of the estate, consistently represented in numerous judicial and quasi-judicial settings that Monroe was domiciled in New York when she died.³ In New York, Frosch (and later Anna Strasberg) represented to the Surrogate's Court that Monroe died a domiciliary of New York. In California, Frosch also represented to the California tax authorities that Monroe died a domiciliary of New York.

Because Monroe owned property in California when she died, her estate, represented by the California law firm of Gang, Tyre, Rudin & Brown, initiated ancillary probate proceedings in Los Angeles Superior Court. Frosch successfully avoided substantial California estate taxes by proving that Monroe was a domiciliary of New York. On behalf of the Monroe estate, he sought a "no tax certificate" from the Inheritance Tax Appraiser. The Tax Appraiser required additional substantiation of Monroe's New York domicile to accept California counsel's representation that she died a non-California resident. On April 24, 1964, Hermione Brown, the estate's California counsel, wrote Frosch seeking "information to counteract the fact that Miss Monroe owned a home and actu-

³Frosch used the term "residence" in his representations about Monroe's domicile. Under California's inheritance laws, residence and domicile are synonymous. *See* Cal. Code Regs. tit. 18, § 13303.4 (formerly Cal. Code Regs. tit. 18, § 640 (1945)) ("For the purpose of the Inheritance Tax Law the term 'residence' is synonymous with legal residence or domicile.").

ally was living in California at the time of her death, and that her mother is physically in California.” Brown further advised Frosch that it was important that he answer all the questions in the “Affidavit Concerning Residence,” and “in doing so build as strong a case as possible.”

Frosch provided Brown with a completed Affidavit Concerning Residence, and supporting affidavits from four Monroe intimates. Brown, in turn, sent the affidavits to the Inheritance Tax Appraiser, representing that “Miss Monroe was a non-resident of the State of California at the time of her death” in a letter dated March 4, 1966. In the Affidavit Concerning Residence, Frosch represented that Monroe filed her last income tax return in New York City, New York in April 1962, and that she purchased her home “in Los Angeles to live at while engaged in performing services in a motion picture film.” To the next question, which asked where she was “actually living at the time of her death,” Frosch declared that Monroe was “[r]esiding temporarily in Los Angeles while performing as aforesaid,” and that she “had a fully furnished apartment in New York City, which was her permanent residence.” Frosch explained that Monroe resided “temporarily in California performing services as a motion picture actress . . . for approximately six months prior to death.” In response to a question about Monroe’s business interests outside of California, Frosch attested that she was “[a]ctive as principal, sole shareholder and officer and director in Marilyn Monroe Productions, Inc., A New York Corporation with offices in New York City.”

In response to questions about any statements or acts by Monroe indicating her intended residence, Frosch elaborated that Monroe’s actions before her death showed that she intended to remain a resident of New York. He represented that Monroe: “in all respects retained her New York Residence. Said residence was not sublet. It remained fully furnished and contained Decedent’s personal effects, clothing, and substantially all of its contents. Furthermore Decedent’s

maid continued to look after and maintain said residence.” Finally, Frosch represented that on a number of occasions, Monroe told Ralph L. Roberts and May Reis that she “was returning to New York after completing [her] motion picture commitment — that she considered N.Y. her residence.” Frosch attached affidavits from Ralph L. Roberts, Hattie Amos, May Reis and Patricia Newcomb recounting statements by Monroe that indicated her intent to remain a New York resident.

In Roberts’s affidavit, he attested that he and Monroe had been “close personal friends” since 1955, and that from April 1962 “until her death, [he] spoke to her on an average of at least once each day and had personal meetings with her on an average of at least three times a week.”⁴ According to Roberts, Monroe purchased the Brentwood home

primarily for the reason that she disliked living in hotels and preferred both the comfort and privacy of a private home. She indicated that her California house would be used only on such occasions when she was in California performing in a motion picture film or otherwise engaged in similar activities.

He explained that in several conversations shortly before her death, Monroe “specifically told [him] that she intended vacating her California house and was going to return to her New York apartment which she considered her permanent home and residence and to reside permanently thereat.”

The Hattie Amos affidavit identified her as Monroe’s personal housekeeper for four years before her death. Amos declared that Monroe instructed her “to be at her said New

⁴Although his affidavit does not so state, Roberts is widely reported to have been Monroe’s personal masseur, close friend and confidant. See Lois Banner, *Marilyn: The Passion and the Paradox* 57 (2012); Keith Badman, *Marilyn: The Final Years* 157 (2012).

York City apartment every day while she was temporarily away, and to clean said apartment and perform all of the same functions that [Amos] had been performing while she had been in residence thereat.” Monroe told Amos “on several occasions that she considered her said New York apartment as her permanent residence and told [Amos] that her said New York apartment was her permanent home.” Amos knew “for a fact that [Monroe] intended returning to her permanent residence in New York.” She recounted that, approximately two days before Monroe’s death, Monroe requested that Amos “proceed to her California house to stay with her for approximately one month and then . . . return back to New York with decedent.”

Reis, Monroe’s private secretary from 1958 to 1961 and a beneficiary of her will, declared that:

When decedent was required to leave New York for the purpose of appearing in a motion picture film, it was generally her practice and custom to temporarily depart from her New York apartment approximately two to three weeks prior to the commencement of the motion picture film. . . . Generally she would remain away from her New York residence until after the completion of the film and any consultations thereafter required. She would then return to her permanent residence in New York.

It was always Reis’s understanding that “subsequent to decedent’s divorce and while [Reis] was employed by decedent, she considered her said New York apartment as her official and permanent residence.”

Patricia Newcomb, a close personal friend who served as Monroe’s Public Relations Counsel, attested that Monroe usually stayed in hotels while in California making films. Monroe “advised [Newcomb] at the time she purchased the [Brentwood house], that she acquired same solely for the reason that

she disliked living in hotels, and that she desired and preferred the privacy of living in a private home, even though it was a temporary residence.” Newcomb further stated that Monroe “had no intention of making her permanent residence in her said California house, but intended leaving California and returning to her New York residence upon the completion of her assignment in [*Something’s Got to Give*].” Newcomb explained that “[a]t the time of her death, [Monroe] was still living in California because the said film had not as yet been completed, and she was awaiting resolution of certain controversies relating thereto.” Monroe told Newcomb “that she intended to return to her New York residence for the reasons, among others, that her closest personal friends resided in New York, and that she wished to continue her permanent activities at the Actors Studio, which activities she considered most important to her, and with which project she was closely affiliated with her close personal friends, Mr. and Mrs. Lee Strasberg.”

On April 5, 1967, the Inheritance Tax Appraiser reported to the Los Angeles County Superior Court that Monroe had died a resident of the County of New York, State of New York. Although this conclusion exempted substantially all of Monroe’s assets from California taxes, a small portion of her estate remained taxable under California law. The estate paid a total of \$777.63 in California inheritance taxes.

Monroe’s estate also received a stream of royalties from profit participation agreements for motion pictures in which Monroe had appeared. *See Milton H. Greene*, 568 F. Supp. 2d at 1186-88. This income in California led to additional assertions by the estate, separate and apart from those made in the probate proceedings, that Monroe died a domiciliary of New York. In 1971, the California Franchise Tax Board found that the estate owed income taxes on a portion of Monroe’s profit participation for the films *Some Like It Hot* and *The Misfits*. Frosch paid income taxes for the estate on the participation income in New York, but took the position with the Franchise

Tax Board that no California income tax was owed because the estate was a resident of New York, not California. Frosch appealed the tax decision to the California State Board of Equalization, which, on April 22, 1975, found the estate liable for \$51,243 in past due California income taxes and \$12,810 in penalties. The Board also concluded that, because Monroe and the estate were residents of New York, the estate was not entitled to any credit for taxes paid in New York.

Until recently, Anna Strasberg also represented in judicial proceedings on behalf of the estate that Marilyn Monroe died domiciled in New York. For example, in 1992, Nancy Miracle sued Anna Strasberg as the executor of the Monroe estate in the federal district court for the District of Hawaii, claiming that she was Monroe's biological child and seeking 50% of the Monroe estate as a pretermitted heir under California law.⁵

Strasberg moved to dismiss the complaint for failure to state a claim and for lack of personal jurisdiction, arguing that New York law applied because "the decedent's domicile at the time of death determines what law will be applied," and that it was undisputed that Monroe "was a New York domiciliary at the time of her death." Agreeing with Strasberg, the district court determined that New York, and not California, law applied to Miracle's pretermitted heir claims. This distinction was "critical" because "under the California law in effect at Monroe's death, pretermitted children could bring claims even if [, like Miracle,] they were born prior to execution of a will, while under the relevant New York law, claims could be brought only by 'after-born children.' " Because New York law applied, the district court held that Miracle failed to state

⁵A pretermitted heir is a child or spouse omitted from a will, most commonly when the marriage or birth of the child postdates the execution of the will. See Black's Law Dictionary 792 (9th ed. 1999). Many states provide that, unless intentionally omitted, a pretermitted heir receives the share of the estate they would have received if the testator had died intestate. See, e.g., Cal. Prob. Code §§ 21620-23; N.Y. Est. Powers & Trusts Law § 5-3.2.

a claim.⁶ In 2002, Miracle petitioned the New York Surrogate's Court to reopen and vacate its orders in the probate of the Monroe estate. Strasberg, on behalf of the estate, argued that the claims were foreclosed under New York law and that the Hawaii court's decision to apply New York law precluded Miracle's claims under the doctrine of *res judicata*. The Surrogate's Court ultimately applied New York law and dismissed the petition on the merits.

C.

In March 2005, Marilyn Monroe LLC and its licensee, CMG Worldwide, Inc., sued Milton Greene Archives, Inc. and Tom Kelley Studios, Inc. (collectively, "Milton Greene")⁷ in the federal district court for the Southern District of Indiana, claiming ownership of Marilyn Monroe's right of publicity and alleging that Milton Greene was violating Monroe LLC's rights by using Monroe's image and likeness for unauthorized commercial purposes, including the advertising and sale of photographs of Monroe. Shortly thereafter, Milton Greene sued CMG Worldwide, Monroe LLC and Anna Strasberg in the federal district court for the Central District of California, seeking a declaration that Monroe LLC does not own Monroe's right of publicity. Although Anna Strasberg is named as a defendant in her personal capacity, she does not assert that she owns Monroe's right of publicity other than through her interest in Monroe LLC. The Indiana cases were transferred to the Central District of California and consolidated with the California cases. In addition to the dueling

⁶The Hawaii district court dismissed the case both for failure to state a claim and for lack of personal jurisdiction. A district court may decide that a complaint fails to state a claim even when it does not have personal jurisdiction. *See Wages v. I.R.S.*, 915 F.2d 1230, 1234-35 (9th Cir. 1990) (discussing a court's authority to address alternate bases for dismissal when it finds a lack of personal jurisdiction, as opposed to when it finds a lack of subject matter jurisdiction).

⁷Milton Greene and Tom Kelley were well known photographers whose bodies of work include collections of Monroe photographs.

declaratory relief claims about Monroe's right of publicity, each of the complaints asserted numerous other claims, including business torts and violations of the Copyright and Lanham Acts. In the course of the litigation, the parties dismissed all claims other than those alleging violations of Monroe's right of publicity and those seeking declaratory relief regarding Monroe LLC's claim to own that right.⁸

On May 14, 2007, the district court granted summary judgment in favor of Milton Greene, holding that Monroe LLC did not own Monroe's right of publicity. The court concluded that, at the time of Monroe's death in 1962, the states of New York, California and Indiana did not recognize "a descendable, posthumous right of publicity." Acknowledging that "California created a descendable, posthumous right of publicity in 1984, with the passage of its post-mortem right of publicity statute,"⁹ the district court held that as of 1962, applying either New York or California law, no right of publicity could have passed through Monroe's will, reasoning that Monroe "had no testamentary capacity to devise, through the residual clause of her will, statutory rights of publicity that were not created until decades after her death." The district court granted summary judgment in favor of Milton Greene,

⁸We deny Milton Greene's request to take judicial notice of appeals pending in the Second Circuit in cases related to *Shaw Family Archives, Ltd. v. CMG Worldwide, Inc.*, 589 F. Supp. 2d 331 (S.D.N.Y. 2008). Although those cases also involve claims about the ownership of Marilyn Monroe's right of publicity, the issues on appeal bear no relation to the claims at issue here. See Fed. R. Evid. 201; *United States ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) ("[W]e may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.") (quotation marks omitted).

⁹Before the passage of Civil Code § 3344.1, which created the posthumous right of publicity, California courts had held that a celebrity's right of publicity terminated upon the individual's death. See *Lugosi v. Universal Pictures*, 25 Cal. 3d 813 (1979). As enacted in 1984, Civil Code § 3344.1 did not address whether it was intended to have retroactive effect.

concluding that, because Monroe LLC was not entitled to exercise Monroe's posthumous right of publicity, it lacked standing to assert those rights against Milton Greene.

On June 28, 2007, in direct response to the district court's grant of summary judgment, California State Senator Sheila Kuehl introduced Senate Bill 771 ("SB 771"), which, when enacted in early September 2007, amended California Civil Code § 3344.1.¹⁰ The bill states:

It is the intent of the Legislature to abrogate the summary judgment orders entered in *The Milton H. Greene Archives, Inc. v. CMG Worldwide, Inc.*, United States District Court, Central District of California, Case No. CV 05-2200 MMM (MCx), filed May 14, 2007, and in *Shaw Family Archives Ltd. v. CMG Worldwide, Inc.*, United States District Court, Southern District of New York, Case No. 05 Civ. 3939 (CM), dated May 2, 2007.¹¹

SB 771 amended Civil Code § 3344.1 to provide that the California statutory right of publicity is deemed to have existed at the time of death of any deceased personality who died before January 1, 1985; is a property right, freely transferable and descendible; and, in the absence of an express testamentary transfer, could pass through the residual clause in the will of the deceased personality.

¹⁰In her formative years, Senator Kuehl was a child actor, best known for her role as Zelda Gilroy in the television series *The Many Loves of Dobie Gillis*. Kuehl originally introduced SB 771 on February 23, 2007 as a stem cell research law, but then revised it in June to make it an amendment to Civil Code § 3344.1.

¹¹In *Shaw Family Archives*, the district court for the Southern District of New York held, like the district court here, that before the 2007 amendment, Civil Code § 3344.1 did not retroactively allow deceased personalities like Monroe to transfer the statutory right of publicity through a will. 486 F. Supp. 2d at 319-20. Briefing in the appeal from that decision to the Second Circuit was stayed pending the outcome of this appeal.

Based on the passage of SB 771, Monroe LLC sought reconsideration of the district court's grant of summary judgment for Milton Greene. Granting the motion for reconsideration, the district court held that SB 771 applied retroactively and that Civil Code § 3344.1, as amended, permitted Monroe's right of publicity to pass to Monroe LLC through the residual clause of her will, if California's substantive right of publicity law applied. Unlike the California legislature, the New York legislature had rejected Monroe LLC's efforts to amend its laws to enact a similar descendible, posthumous right of publicity. Therefore, if New York law applied—which it would if Monroe was domiciled in New York at the time of her death—Monroe's right of publicity would have been extinguished at her death. Addressing the questions of domicile and choice of law, the district court again granted summary judgment to Milton Greene, reasoning that principles of judicial estoppel precluded Monroe LLC from advocating that Monroe was domiciled in California when she died.

II.

We review a district court's order granting summary judgment de novo. *See Bamonte v. City of Mesa*, 598 F.3d 1217, 1220 (9th Cir. 2010). We view the evidence in the light most favorable to the nonmoving party on each issue and determine whether the district court correctly applied the relevant substantive law. *Id.* We also review a district court's interpretation of a statute de novo. *Beeman v. TDI Managed Care Servs., Inc.*, 449 F.3d 1035, 1038 (9th Cir. 2006). We may affirm a district court's judgment on any basis supported by the record. *Id.*

Federal law governs the application of judicial estoppel in federal courts, and a district court's application of judicial estoppel is reviewed for abuse of discretion. *Johnson v. Oregon*, 141 F.3d 1361, 1364 (9th Cir. 1998). We apply a two-part test to determine whether a district court has abused its

discretion. See *Associated Press v. Otter*, 682 F.3d 821, 824 (9th Cir. 2012). First, we determine de novo whether the trial court identified the correct legal rule to apply to the relief requested. *Id.* If the trial court identified the correct legal rule, we then evaluate whether the trial court’s application of the correct legal standard was (1) “illogical,” (2) “implausible,” or (3) “without support in inferences that may be drawn from the facts in the record.” *Id.* (quotation marks omitted).

III.

[1] Monroe LLC now asserts that Monroe died domiciled in California, not New York, and contends that the district court improperly extended the doctrine of judicial estoppel to preclude litigation of the question of Monroe’s domicile at death.¹² “[J]udicial estoppel, ‘generally prevents a party from

¹²CMG Worldwide separately appeals the district court’s grant of summary judgment on its Indiana state law claims. It asserts that Indiana’s 1994 Right of Publicity Act, Ind. Code §§ 32-36-1-1 to -20, posthumously vested Monroe’s estate and, hence, Monroe LLC with Monroe’s right of publicity. Indiana choice-of-law rules dictate that in resolving these state law claims we must apply the law of Monroe’s domicile, New York, as controlling on all substantive matters related to the estate and disposition of property. See *Maurice F. Jones Trust v. Barnett Banks Trust Co.*, 637 N.E.2d 1301, 1304 (Ind. App. 1994) (citing *Lovett v. Lovett*, 155 N.E. 528, 530 (Ind. App. 1927)). In New York, a will can dispose only of property owned at the time of death. See *In re Van Winkle’s Will*, 86 N.Y.S. 2d 597, 600 (N.Y. Sur. 1949) (“Of course, under no circumstances, in the absence of a valid power, can any amount of testamentary intent produce the effect of subjecting property not owned by a testator at the date of his death to any disposition whatever.”). Because no descendible right of publicity existed in New York in 1962, Monroe’s right of publicity was extinguished at her death, and did not become a part of her estate. Therefore, the district court correctly granted summary judgment in favor of Milton Greene on the Indiana state law claims. Because we hold that Monroe LLC is judicially estopped from asserting that Monroe died a domiciliary of California, we need not, and do not, address the various other rulings sought by the parties on the validity, meaning, scope and constitutionality of California’s and Indiana’s right of publicity laws. Cf. *Ashwander v. Tenn. Valley Auth.*, 297 U.S. 288, 341-49 (1936) (Brandeis, J., concurring).

prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase.’ ” *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (quoting *Pegram v. Herdrich*, 530 U.S. 211, 227 n.8 (2000)). It is an equitable doctrine invoked “not only to prevent a party from gaining an advantage by taking inconsistent positions, but also because of ‘general considerations of the orderly administration of justice and regard for the dignity of judicial proceedings,’ and to ‘protect against a litigant playing fast and loose with the courts.’ ” *Hamilton v. State Farm Fire & Cas. Co.*, 270 F.3d 778, 782 (9th Cir. 2001) (quoting *Russell v. Rolfs*, 893 F.2d 1033, 1037 (9th Cir. 1990)) (alteration omitted). Some commentators have suggested, however, that judicial estoppel “is not so much a single doctrine as a set of doctrines that have not matured into a fully coherent theory.” 18B Wright & Miller, *Fed. Prac. & Proc. Juris.* § 4477 (2d ed. 2012).¹³

[2] The Supreme Court has provided little guidance on the contours of judicial estoppel. It has acknowledged that circumstances where the doctrine may apply “are probably not reducible to any general formulation.” *New Hampshire*, 532 U.S. at 750. In *New Hampshire*, however, the Court identified three factors that courts should consider in determining whether the doctrine is applicable in a given case:

First, a party’s later position must be clearly inconsistent with its earlier position. Second, courts regularly inquire whether the party has succeeded in persuading a court to accept that party’s earlier posi-

¹³A party can be estopped by statements successfully advanced in both judicial and administrative proceedings. *Rissetto v. Plumbers and Steamfitters Local 343*, 94 F.3d 597, 604 (9th Cir. 1996). California inheritance tax appraisers are appointed by the courts and act in a quasi-judicial capacity. See *Greenaway v. Workmen’s Comp. Appeals Bd.*, 269 Cal. App. 2d 49, 54 (1969). And the California State Board of Equalization “is a constitutional agency that exercises quasi-judicial powers.” *EHP Glendale v. Cnty. of Los Angeles*, 193 Cal. App. 4th 262, 274 (2011).

tion, so that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled. . . . A third consideration is whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped.

Id. at 750-51 (citations and quotations omitted). In precedent that predates *New Hampshire*, we have held that the doctrine of judicial estoppel applies “when a party’s position is tantamount to a knowing misrepresentation to or even fraud on the court.” *Wylar Summit P’ship v. Turner Broad. Sys., Inc.*, 235 F.3d 1184, 1190 (9th Cir. 2000) (quoting *Johnson*, 141 F.3d at 1369 (quoting *Ryan Operations G.P. v. Santiam-Midwest Lumber Co.*, 81 F.3d 355, 362-63 (3d Cir. 1996))).

A.

Relying on *Wylar Summit*, 235 F.3d at 1190, Monroe LLC contends that we must find “a knowing antecedent misrepresentation by the person or party alleged to be estopped,” and that the district court erred when it held that Frosch’s now-disavowed statements about Monroe’s domicile were knowing misrepresentations. It is unclear when Monroe LLC decided that Frosch’s position was so fraught with error, since the Monroe estate continued to make the same representations about Monroe’s domicile as Frosch did well past the latter’s demise.

In *Wylar Summit*, we explained that “[i]f a litigant’s current position is manifestly inconsistent with a prior position such as to amount to an affront to the court, judicial estoppel may apply.” *Id.* (quotation marks omitted). There, the plaintiff was owed \$1.5 million in profit participation payments under a 1958 contract for William Wyler to direct the film *Ben Hur*. *Id.* at 1188-89. The Wyler contract called for \$50,000 annual payments of profit participation proceeds, but in 1995,

Wyler's successor in interest sought to waive the annual payment term and collect the remaining funds in a lump sum. *Id.* at 1189. The district court held that "because Mr. Wyler claimed only \$50,000 per year in percentage compensation when declaring his taxable income to the I.R.S., he was judicially estopped from claiming the right to waive the provision" and collect the remaining balance due to him as a lump sum. *Id.* at 1190. We reversed the district court's ruling because Wyler's representations to the I.R.S. about the money he received each preceding year were accurate; there was no inconsistency in his positions with the I.R.S. and the district court, let alone a knowing misrepresentation. *Id.*

In *Johnson*, a case cited and relied upon by *Wyler Summit*, we explained that, "[i]f incompatible positions are based not on chicanery, but only on inadvertence or mistake, judicial estoppel does not apply." 141 F.3d at 1369. There, we reversed a magistrate judge's application of judicial estoppel against a plaintiff suing for disability discrimination. *Id.* at 1363-64. Before filing her disability suit, Johnson represented that she was disabled in applications for benefits from her insurance company and from the Social Security Administration. *Id.* at 1364-65. She also wrote a letter to the I.R.S. explaining her inability to work and that her disabilities caused her to file her 1992 tax return late. *Id.* at 1365. The magistrate judge held that, because of those statements, Johnson was estopped from asserting that she was "capable of performing the essential functions of her job" under the Americans with Disabilities Act. *Id.* at 1366. Johnson's representations to her insurance company and the Social Security Administration, however, were not actually inconsistent with the claims in her disability suit, and her statements to the I.R.S. were made only in the context of seeking leniency for a late return, and not in a proceeding adjudicating a claim of disability. *Id.* at 1370-71. We explained that her representations were evidence to be weighed in evaluating her discrimination claim, but that they were not "so inconsistent that they amount to an affront to the court." *Id.* at 1369.

The Supreme Court has instructed that there are no “inflexible prerequisites or an exhaustive formula for determining the applicability of judicial estoppel.” *New Hampshire*, 532 U.S. at 751. “[W]here the reasoning or theory of our prior circuit authority is clearly irreconcilable with the reasoning or theory of intervening higher authority, a three-judge panel should consider itself bound by the later and controlling authority, and should reject the prior circuit opinion as having been effectively overruled.” *Miller v. Gammie*, 335 F.3d 889, 893 (9th Cir. 2003) (en banc). Our decisions in *Wylar Summit* and *Johnson* are largely harmonizable with the Supreme Court’s in *New Hampshire*: In *Wylar Summit* we held that there was no judicial estoppel because there was no inconsistency at all in the positions asserted; and in *Johnson*, we held that a minor inconsistent statement in an ancillary matter was insufficient to justify application of judicial estoppel.

[3] However, to the extent that we have suggested, as in *Johnson*, that a showing of chicanery is an “inflexible prerequisite” to judicial estoppel, *Wylar Summit* and *Johnson* are inconsistent with *New Hampshire*. In the wake of *New Hampshire*, we have treated fraud on the court as a factor rather than as a requisite element of the judicial estoppel analysis. See *Samson v. NAMA Holdings, LLC*, 637 F.3d 915, 935 (9th Cir. 2011). We acknowledge that we have also continued to describe judicial estoppel as inapplicable “when a party’s prior position was based on inadvertence or mistake.” *United States v. Ibrahim*, 522 F.3d 1003, 1009 (9th Cir. 2008) (quoting *Helfand v. Gerson*, 105 F.3d 530, 536 (9th Cir. 1997)). However, in *Ibrahim*, despite discussing and relying in part on the lack of chicanery, we nonetheless applied the *New Hampshire* test to find against a party asserting judicial estoppel. *Id.* at 1009-10. We now clarify that chicanery or knowing misrepresentation by the party to be estopped is a factor to be considered in the judicial estoppel analysis and not an “inflexible prerequisite” to its application.

Although an antecedent knowing misrepresentation is not a prerequisite for judicial estoppel, we do not believe that the

district court erred in finding such a misrepresentation here. Monroe LLC itself makes the case that, at a minimum, Frosch, as the executor of the Monroe estate, made representations and submitted affidavits by others that were “patently inconsistent with the objective, contemporaneous evidence” and “riddled with blatant inaccuracies.” Monroe LLC also contends that the affidavits provided by Frosch were “prepared years after Marilyn’s death for the express purpose of trying to avoid tax liability at a time when the Monroe Estate was believed to be insolvent.” Monroe LLC has repeatedly insinuated that Frosch misrepresented Monroe’s true domicile to obtain favorable tax assessments, both as to inheritance and income.

When and why the fact of Monroe’s domicile at death changed is unclear. Monroe LLC also suggests that it has always believed that Monroe died domiciled in California, and that Frosch was simply mistaken in his belief and representations because he did not have access to some documents that allegedly contradict the materials and declarations he relied upon. This assertion by Monroe LLC is dubious, at best. Frosch had contemporaneous access to people knowledgeable about Monroe’s intentions, including Ralph L. Roberts, her close friend and confidant and reportedly the last person to see her alive. To the extent that there was any debate, Frosch represented, with significant evidentiary support, that Monroe’s intention was to remain domiciled in New York, though she temporarily relocated to California for a movie shoot. Another possibility, for which we have insufficient evidence, is that Monroe LLC’s present position on Monroe’s domicile is a knowing misrepresentation, or tantamount to a fraud on the court. In light of this irreconcilable conflict between diametrically opposed representations about Monroe’s intended domicile, the district court’s determination that Frosch intentionally misled the courts is supported by “inferences that may be drawn from the facts in the record” and is therefore not an abuse of discretion. *See Otter*, 682 F.3d at 824.

B.

[4] Turning to the *New Hampshire* factors, we must first determine whether Monroe LLC has taken clearly inconsistent positions in prior judicial proceedings. Monroe could not have been domiciled in both California and New York at the time of her death. *See Gaudin v. Remis*, 379 F.3d 631, 636 (9th Cir. 2004) (“[S]he may have only one domicile at a time.”). Until this litigation, in every prior judicial and quasi-judicial proceeding, the Monroe entities took the position that Monroe died domiciled in New York; Monroe LLC now asserts that Monroe died domiciled in California. These positions are plainly inconsistent. Because judicial estoppel bars only inconsistent positions taken by the same party in two different matters, the question thus becomes whether the successive executors’ representations on behalf of the estate that Monroe died a domiciliary of New York are attributable to Monroe LLC.

We apply other estoppel doctrines, like collateral estoppel, “not only against actual parties to prior litigation, but also against a party that is in privity to a party in a previous litigation.” *Wash. Mut. Inc. v. United States*, 636 F.3d 1207, 1216 (9th Cir. 2011). It is well-established that “a non-party may be bound by a judgment if one of the parties to the earlier suit is so closely aligned with the non-party’s interests as to be its virtual representative.” *Mother’s Rest., Inc. v. Mama’s Pizza, Inc.*, 723 F.2d 1566, 1572 (Fed. Cir. 1983) (collecting cases). Because the doctrine of judicial estoppel is intended to protect the courts, we are particularly mindful that the “[i]dentity of parties is not a mere matter of form, but of substance. Parties nominally the same may be, in legal effect, different; and parties nominally different may be, in legal effect, the same.” *Chicago, Rock Island & Pac. Ry. Co. v. Schendel*, 270 U.S. 611, 620 (1926) (citation omitted).

[5] We have not previously addressed the question of whether privity lies between an executor and the beneficiaries

of an estate. Supreme Court precedent, however, supports the district court's conclusion that, particularly under the circumstances presented here, Frosch is the privy of Monroe LLC. For example, in *Schendel*, the Supreme Court found privity, for the purposes of applying res judicata, between a special administrator for the deceased spouse's estate and the decedent's widow, whom the administrator represented in a lawsuit to recover benefits where the widow was not personally a party. 270 U.S. at 622. The widow was the sole beneficiary of the action filed by the special administrator, who had statutory authority to represent the estate. *Id.* at 620. Because the interests represented by the administrator were substantially identical to those of the widow, the Court concluded that the application of equitable principles deemed the administrator and the widow in privity for res judicata purposes. *See id.* at 620-22. The *Schendel* Court also cited with approval older precedent "that a judgment against a trustee for bondholders was conclusive in a suit involving the same subject-matter, brought by him in his individual character." *Id.* at 621 (citing *Corcoran v. Chesapeake & Ohio Canal Co.*, 94 U.S. 741, 745 (1876)).

[6] Other circuits have also concluded that privity lies between the administrator of an estate and the beneficiaries of that estate. The Second Circuit has held that "[t]he administrator of a decedent's estate is in privity both with the decedent and with the decedent's beneficiaries." *Bender v. City of Rochester*, 765 F.2d 7, 12 (2d Cir. 1985). Similarly, the Seventh Circuit has held that "a trust beneficiary is collaterally estopped by a previous adjudication for or against a trustee, so long as the trustee and beneficiary did not have adverse interests in the conduct of the prior litigation and the trustee was authorized to prosecute and defend litigation on behalf of the trust." *Pelfresne v. Vill. of Williams Bay*, 865 F.2d 877, 881 (7th Cir. 1989).

[7] Because tax and estate matters are generally governed by state law, the laws of California and New York are also

instructive, if not controlling, here. Courts in both California and New York have held that the administrator and the beneficiaries of an estate are in privity for estoppel purposes. In California, it has long been the law that:

A judgment entered in an action in which an administratrix of an estate of a deceased person is a party, is binding not only upon the administratrix but also upon the heirs of the deceased person, even though the heirs have not been made parties to the action. The rule in this state is that the judgment concludes not only the adverse party but also all those claiming under the title he represents.

Luckhardt v. Mooradian, 92 Cal. App. 2d 501, 519 (1949). See also *Spotts v. Hanley*, 85 Cal. 155, 167 (1890) (“The administrator is in privity with and represents both heirs and creditors, and a judgment in ejectment recovered by or against an administrator is an estoppel in favor or against the heir and those claiming under him.”). Similarly, under New York state law, the executor of a decedent’s estate is a fiduciary of the estate’s beneficiaries. See *Knox v. HSBC Bank, USA*, 791 N.Y.S.2d 101, 101 (App. Div. 2005) (“[A]n estate trustee’s fiduciary duties to estate beneficiaries persist until the affairs of the estate are finally wound up.”).

The Restatement of Judgments (Second) § 41 (1982), explains that “[a] person who is not a party to an action but who is represented by a party is bound by and entitled to the benefits of a judgment as though he were a party” if the person was represented by the “trustee of an estate or interest of which the person is a beneficiary.” Similarly “[a] person represented by a party to an action is bound by the judgment even though the person himself does not have notice of the action, is not served with process, or is not subject to service of process.” *Id.* The exception to the general rule against non-party preclusion was recently reaffirmed by the Supreme Court in *Taylor v. Sturgell*, 553 U.S. 880, 893-95 (2008)

(identifying six “established categories” where nonparties are subject to estoppel). The *Sturgell* Court expressly noted that nonparty “preclusion may be justified based on a variety of pre-existing substantive legal relationships between the person to be bound and a party to the judgment” and when the nonparty was adequately represented in a prior litigation by “trustees, guardians, and other fiduciaries.” *Id.* at 894 (quotations and alterations omitted).

[8] Here, Frosch and, later, Anna Strasberg represented the Monroe estate in their capacities as executor. Both Frosch and Strasberg consistently stated in judicial proceedings, from 1962 to at least 2002, that Monroe died domiciled in New York, and not California. There is no dispute that Frosch dealt in a representative and not a personal capacity in his representations to the courts. In the Affidavit Concerning Residence submitted to the Inheritance Tax Appraiser, Frosch stated that his “relationship or representative capacity” was as executor of the Monroe estate. And in the 1971 to 1975 proceedings before the California Franchise Tax Board and the State Board of Equalization, Frosch participated as the executor for the Monroe estate. In those proceedings, as executor, Frosch acted on behalf of the estate and its beneficiaries to minimize exposure to California taxes. Monroe LLC, as beneficiary of the estate, is thus in privity with Frosch. Therefore, the representations made over the years by Frosch are attributable to Monroe LLC for judicial estoppel purposes.

After she became executor, Strasberg continued to assert the position that Monroe died domiciled in New York. As a 75% beneficiary of the residual estate, Strasberg’s personal interests are arguably even more closely aligned with those of the estate than Frosch’s were. In 1992, Strasberg successfully defended the *Miracle* action filed in the District of Hawaii by representing that Monroe had died domiciled in New York. By asserting that position while representing the Monroe estate, she obtained the benefit of New York law to avoid *Miracle*’s claims under California law. When *Miracle* later

petitioned the New York Surrogate's Court to reopen and vacate its orders related to the Monroe estate, Strasberg moved to dismiss the petition, asserting that the Hawaii court's holding that New York law governed Monroe's estate because she died a domiciliary of New York was *res judicata* and barred Miracle's claims. In each of these judicial proceedings, Strasberg, as executor, acted on behalf of the Monroe estate. Moreover, Strasberg's status as a beneficiary of the will and as an owner of Monroe LLC further supports a finding of privity. Strasberg's representations about Monroe's domicile are thus also attributable to Monroe LLC.

Monroe LLC's new litigation position that Monroe died domiciled in California, asserted to obtain the benefit of California's posthumous right of publicity statute, is inconsistent with the preceding forty years of representations on behalf of the estate that Monroe died domiciled in New York.

C.

Although Monroe LLC acknowledges that Frosch and Strasberg represented that Monroe died a domiciliary of New York, they contend that the estate did not successfully advance these positions. However, the estate succeeded in persuading numerous judicial and quasi-judicial bodies to accept that Monroe died a domiciliary of New York. In the Los Angeles County Superior Court probate proceedings, the Inheritance Tax Appraiser reported, and the court agreed, that Monroe died domiciled in New York. And in the District of Hawaii, the court relied upon Strasberg's representations that Monroe died domiciled in New York to conclude that Miracle failed to state a claim against the estate. Although the New York Surrogate's Court did not accept the Hawaii decision as *res judicata*, it also applied New York law, and not California law, to dismiss Miracle's claims, based on its acceptance of the representation that Monroe died a domiciliary of New York. Indeed, the very fact that the New York Surrogate's Court exercised jurisdiction over Monroe's probate proceed-

ings demonstrates that it was persuaded by Frosch's representations that it had jurisdiction over Monroe's estate. See N.Y. Surr. Ct. Proc. Act § 205 ("The surrogate's court of any county has jurisdiction over the estate of a decedent who was a domiciliary of the state at the time of his death, disappearance or internment."). That Monroe died a domiciliary of New York was a predicate for the Surrogate Court's exercise of jurisdiction for almost forty years. Never did Frosch, Strasberg, or any party to the probate proceedings dispute the authority of the New York courts to probate Monroe's will. Judicial and quasi-judicial officers repeatedly accepted and relied upon the estate's representations about Monroe's New York domicile.

D.

The district court concluded that permitting Monroe LLC to assert that Monroe died a domiciliary of California in this litigation would unfairly allow it to obtain a "second advantage." *Milton H. Greene*, 568 F. Supp. 2d at 1197. We agree. Judicial estoppel is intended to protect the courts, and Milton Greene need not prove that it detrimentally relied on the prior representations about Monroe's domicile to justify our application of judicial estoppel. See *In re Coastal Plains, Inc.*, 179 F.3d 197, 205 (5th Cir. 1999). It is clear that Monroe LLC desires to prove that when Monroe died she was domiciled in California so that it can gain the significant advantage of California law, which, at its behest, now provides for a descendible, posthumous right of publicity that may pass through the residual clause of the decedent's will. If this position is accepted by the courts, this right would have passed through the residual clause of Monroe's will, as specifically provided in the amended California Civil Code § 3344.1. Monroe LLC would gain Monroe's right of publicity, which carries the "immeasurable value of the name, likeness, and persona of Marilyn Monroe."

We have no doubt that the only way that Monroe LLC would ever secure the right to assert Monroe's right of publicity is if we accept its current representation that Monroe died domiciled in California and allow Monroe LLC to attempt to prove up that fact at trial. Monroe LLC would reap tremendous financial benefits if it could lay claim to Monroe's right of publicity. *Forbes Magazine* identifies Monroe as the third-highest money-maker in its annual ranking of "The Top-Earning Dead Celebrities," with an income of \$27 million in 2011.¹⁴ Ownership of Monroe's right of publicity would allow Monroe LLC to control and profit from most, if not all, commercial exploitations of Monroe's name, likeness and persona. Monroe LLC would thus derive a substantial advantage—one which it contrived to create through the California legislature—were it not estopped from asserting its current position.

Conversely, Milton Greene has already suffered a detriment as a result of Monroe LLC's litigation of its asserted rights to Monroe's right of publicity. The Milton Greene cases and other attempted enforcement actions by Monroe LLC, like those that led to the *Shaw Family Archives* case, have forced Monroe photographers into lengthy litigation in order to simply defend their right to profit from their copyrighted photographs. If Monroe LLC were to succeed in establishing ownership of Monroe's right of publicity, Milton Greene's ability to commercially exploit the photographs that it created and in which it owns copyrights would be subject to Monroe LLC's control. Further, allowing Monroe LLC to now represent that Monroe died domiciled in California would create the perception that either prior courts or we have been misled by representations about her domicile. The need to preserve the dignity of judicial proceedings weighs heavily against

¹⁴See Dorothy Pomerantz, *The Top-Earning Dead Celebrities*, *Forbes Mag.* (Oct. 25, 2011), <http://www.forbes.com/sites/dorothypomerantz/2011/10/25/the-top-earning-dead-celebrities/>.

allowing Monroe LLC to proceed down its newly charted path.

[9] This is a textbook case for applying judicial estoppel. Monroe’s representatives took one position on Monroe’s domicile at death for forty years, and then changed their position when it was to their great financial advantage; an advantage they secured years after Monroe’s death by convincing the California legislature to create rights that did not exist when Monroe died. Marilyn Monroe is often quoted as saying, “If you’re going to be two-faced, at least make one of them pretty.”¹⁵ There is nothing pretty in Monroe LLC’s about-face on the issue of domicile. Monroe LLC is judicially estopped from taking the litigation position that Monroe died domiciled in California. Our conclusion in this regard is guided by the need to preserve the dignity of judicial proceedings that have taken place over the last forty years and to discourage litigants from “playing fast and loose with the courts.” *See Hamilton*, 270 F.3d at 782.

IV.

[10] Because Monroe died domiciled in New York, New York law applies to the question of whether Monroe LLC has the right to enforce Monroe’s posthumous right of publicity. Because no such right exists under New York law, Monroe LLC did not inherit it through the residual clause of Monroe’s will, and cannot enforce it against Milton Greene or others similarly situated. We observe that the lengthy dispute over the exploitation of Marilyn Monroe’s persona has ended in exactly the way that Monroe herself predicted more than fifty years ago: “I knew I belonged to the Public and to the world, not because I was talented or even beautiful but because I had never belonged to anything or anyone else.”¹⁶

We AFFIRM the district court’s judgment.

¹⁵Although numerous persons have attributed this quote to Monroe, we have been unable to locate a definitive source.

¹⁶Marilyn Monroe, *My Story* 123-24 (Cooper Square Press 2000).

Communication from Public

Name: Natalie Rogers

Date Submitted: 03/04/2024 04:00 PM

Council File No: 23-0953

Comments for Public Posting: The Bank Family, who own 12305 5th Helena Drive, oppose designation of the house as a Historic-Cultural Monument. The attached is Part 3 (of 3) of exhibits in support of the Bank Family's March 4, 2024, letter opposing HCM designation.

The following documents are exhibits in support of the Bank Family's March 4, 2024, letter to the PLUM Committee. The exhibits are being submitted under separate cover due to file size restrictions.

EXHIBIT 6

GANG, TYRE, RUDIN & BROWN
ATTORNEYS AT LAW

ROBERT E. KOPP (1912-1983)

MARTIN GANG
NORMAN R. TYRE
HEMIONE K. BROWN
MILTON A. RUDIN
PAYSON WOLFF
FRANK G. WELLS
BRUCE M. RAMER

8400 SUNSET BUILDING
HOLLYWOOD, CALIFORNIA 90028
463-4663
CABLE: GANKOT

March 4, 1966

Mr. James M. Hall
Inheritance Tax Appraiser
417 South Hill Street
Los Angeles, California 90013

Re: Estate of Marilyn Monroe
Date of Death: August 5, 1962

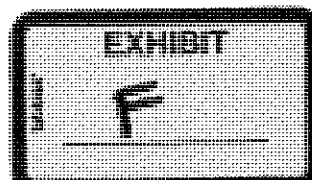
Dear Mr. Hall:

Enclosed herewith are original and copy of Inheritance Tax Affidavit in connection with the above estate. Since Miss Monroe was a non-resident of the State of California at the time of her death, enclosed also are original and copy of Affidavit Concerning Residence, together with supporting affidavits of Ralph L. Roberts, Mattie Stephenson Amos, May Reis and Patricia Newcomb attached.

Also enclosed herewith are copies of supplementary documents requested to be furnished in connection with the Inheritance Tax Affidavit, as follows:

- (1) Decedent's will.
- (2) Schedule and inventory with respect to furniture, furnishings and personal effects located in decedent's New York apartment.
- (3) Declaration of Trust for Gladys Baker.
- (4) Marilyn Monroe Productions, Inc. Employees' Profit-Sharing Retirement Plan.
- (5) Inventory and Appraisement filed in the California ancillary proceedings.

Since the estate in California is clearly insolvent and the estate in New York is probably insolvent also, we trust you will be in a position to furnish a no tax certificate so that a



GANG, TYRE, RUDIN & BROWN

-2-

petition may be filed for termination of the California proceedings in accordance with the requirements of law.

Very truly yours,

GANG, TYRE, RUDIN & BROWN

By

Hermione K. Brown

hkb/b
encs.

cc: Elliot J. Lefkowitz

Affidavit Concerning Residence

Marilyn Monroe
Name of decedent

August 5, 1962
Date of death

STATE OF New York
COUNTY OF New York } ss.

Aaron R. Frosch, being first duly sworn, says:

That your affiant is Executor

Give relationship or representative capacity

of the estate of Marilyn Monroe, who died testate on or about
the 5th day of August, 1962.

Decedent was a resident of the City of New York County of New York
State of New York, Country U.S.A., at the time of her death.

The last place the decedent voted prior to her death was unknown
on the day of , 19 .

Did decedent ever vote in California, and if so when and where? unknown

In what place did decedent file her last income tax return prior to death? New York City,
New York

When was the return filed? April, 1962

What address was given by decedent in the said return? % Gang, Tyre, Rudin, &
Brown, Attorneys at Law, 6400 Sunset Building, Hollywood, California.

Did decedent own a home, and if so in what place? Purchased house in Los Angeles
to live at while engaged in performing services in a motion picture film.

Where was decedent actually living at the time of death? Residing temporarily in
Los Angeles while performing as aforesaid. Decedent had fully furnished
apartment in New York City, which was her permanent residence.

Did decedent belong to a church or lodge in California, and if so give name and location?
unknown

How much time did decedent spend in California during the five year period immediately prior
to his death; where and for what purpose? Only for purpose of performing as an actress
in Motion Picture Films and not for purpose of residing therein.

What next of kin to decedent, if any, reside in California, and for how long?

Gladys Eley, also known as Gladys Baker, Mother - Approximately 10 years.
Institutionalized at Rockhaven Sanitarium, Verdugo City, Cal.

Was decedent engaged in business in California, and if so for how long a period prior to death? Yes
Decedent was temporarily in California performing services as a
motion picture actress. Performing such services for approximately
six months prior to death.
What was the name of the business? Motion Picture Actress

Was decedent engaged in business in any State other than California prior to death, and if so
give name of business and state whether decedent was active in the said business? Yes. Active as
principal, sole shareholder and officer and director in Marilyn Monroe
Productions, Inc., A New York Corporation, with offices in New York City.
Was decedent a director or officer in any California corporation, and if so give names and
principal places of business? No

Did decedent make any statements or declarations as to her... residence? If so, give time, place,
circumstances and persons present Yes. - On number of occasions during conversations
with Mr. Ralph Roberts and with Mae Reis.
See Affidavits of Ralph L. Roberts, Hattie Stephenson Amos, May Reis,
and Patricia Newcomb attached.

State the declaration That Decedent was returning to New York after
completing motion picture commitment - that she considered N.Y. her residence
Did decedent by any other acts indicate of what place she intended to be a resident up to the
time of her death? yes. If so, state time, place and circumstances and persons present.
Decedent in all respects retained her New York Residence. Said Residence
was not sublet. It remained fully furnished and contained Decedent's

~~Decedent's~~ personal effects, clothing, and substantially all
of its contents. Furthermore Decedent's maid continued to look after
and maintain said residence and its contents.

Use the following lines for any other information you desire to give bearing on the question
of residence Decedent filed New York State Residence Income Tax Returns for
and prior years.
1962. She filed her U.S. Income Tax in 1962 at the Internal Revenue Office,
Borough of Manhattan, City - State of New York.

Subscribed and sworn to before me this 3-EB

day of July, 1965.

Notary Public in and for the County of State of California

My commission expires ELLIOT J. LEFKOWITZ
Notary Public, State of New York
No. 03-7474775
Qualified in Bronx County
Certificate filed in New York County
Commission Expires March 30, 1968

STATE OF CALIFORNIA)
) SS.:
COUNTY OF)

RALPH L. ROBERTS, being duly sworn deposes
and says:

That I reside at 931 No. Palm, Los Angeles 69,
California.

That decedent and I were close personal friends
having known each other since 1955. That throughout the
period of time that I knew the decedent I had occasion to
frequently visit her in her permanent New York City residence
at 444 East 57th Street in New York City, and frequently
visited with her when she was in California and in her other
travels elsewhere.

During the period of April 1962 until her death
I spoke to the decedent on an average of at least once each
day and had personal meetings with her on an average of at
least three times a week.

Decedent frequently told me that she considered
her trips to California merely as visits for the purpose of
appearing in various motion picture films and for the conduct
of business interests in relation thereto. Decedent purchased
a house in California while she was in California for the
purpose of appearing in a motion picture film entitled
"SOMETHINGS GOT TO GIVE". She advise me that she purchased
said house primarily for the reason that she disliked living
in hotels and preferred both the comfort and privacy of a
private home. She indicated that her California house would

be used only on such occasions when she was in California performing in a motion picture film or otherwise engaged in similar activities.

On many frequent occasions, both in California and in New York, decedent advised me that she considered her New York apartment as her permanent home and permanent residence. I know that even after she departed from New York to appear in the aforementioned motion picture film, she continued to retain her permanent New York apartment on a full time basis. She retained her personal maid and housekeeper to look after and maintain said New York apartment. She left all of her furniture in the said apartment and substantially all of her valuables, personal furnishings and personal effects. She specifically advised me that she never intended to relinquish the said apartment and that the same was her permanent home.

Shortly prior to her death during several conversations, decedent specifically told me that she intended vacating her California house and was going to return to her New York apartment which she considered her permanent home and residence and to reside permanently thereat.

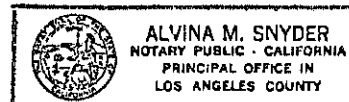
By understanding based on numerous discussions and conversations with the decedent was that the decedent always considered her New York apartment as her permanent and official residence.

Roger Roling

Sworn to before me this

31st day of January, 1966.

Alvina M. Snyder
NOTARY PUBLIC
in and for the County of Los Angeles, State of California



STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

HATTIE STEPHENSON AMOS being duly sworn deposes
and says:

I was decedent's personal housekeeper for
approximately four years prior to her death. Among my duties,
I was required to clean, maintain and take care of decedent's
New York residence at premises 444 East 57th Street, New York
City, New York.

In or about September 1961 Miss Monroe departed
from her said New York City apartment and went temporarily to
California to appear in a motion picture film. Prior to
leaving for California, she instructed me to be at her said
New York City apartment every day while she was temporarily
away, and to clean said apartment and perform all of the same
functions that I had been performing while she had been in
residence thereat. Pursuant to her said instructions, I was
at the apartment every working day and did, in fact, clean and
maintain the said apartment throughout the entire period of
time that she was in California up to the date of her death.
Throughout said period of time, I remained on her payroll and
received my regular weekly salary.

When decedent departed for California she left
at her said apartment all of her furniture and furnishings
and kept a substantial portion of her clothes, treasured
possessions and personal effects thereat. She never indicated
to me that she intended to move any of her said treasured
possessions, furnishings and furniture out of the said New York
residence to her California house.

Decedent had told me on several occasions that she considered her said New York apartment as her permanent residence and told me that her said New York apartment was her permanent home.

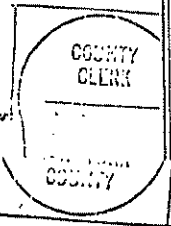
I know for a fact that decedent intended returning to her permanent residence in New York. Approximately two days prior to decedent's death, decedent requested that I proceed to her California house to stay with her for approximately one month and then that I return back to New York with decedent. I was then told that decedent intended to return to her permanent residence in New York City.

Based on all of the aforesaid and on my conversations with the decedent, I believe that decedent considered her New York apartment as her permanent home and residence.

Hattie Stephenson Amos
Hattie Stephenson Amos

Sworn to before me this

26th day of January, 1966.



State of New York, } ss.:
County of New York, }

No. 32394 Form 1

I, JAMES MCGURRIN, County Clerk and Clerk of the Supreme Court, New York County, a Court of Record having by law a seal, DO HEREBY CERTIFY that

James McGurrin
whose name is subscribed to the annexed affidavit, deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his official character, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proof of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and to take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this *JAN 27 1966*

FEE PAID \$04

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James McGurrin
County Clerk and Clerk of the Supreme Court, New York County

MM-0009355

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

MAY REIS being duly sworn deposes and says:

I was employed as decedent's private secretary from February 1958 to September 1961. During said period of employment I had occasion to be at decedent's New York residence at 444 East 57th Street, New York City on a daily basis, except for such periods when I was away from New York with decedent for business reasons.

I am therefore fully familiar with the facts and circumstances relating to the said residence.

Decedent and her husband Arthur Miller maintained the said apartment residence for approximately five years. They were divorced in or about January, 1961, at which time decedent's husband relinquished any and all interest in the said apartment, and decedent became the sole occupant thereof and retained her permanent residence therein.

Decedent maintained her permanent residence in her New York apartment except for such occasions when she was required to be away from New York for business purposes. When decedent was required to leave New York for the purpose of appearing in a motion picture film, it was generally her practice and custom to temporarily depart from her New York apartment approximately two to three weeks prior to the commencement of the motion picture film. Said period of time was generally utilized for various pre-production consultations, make-up tests, wardrobe preparations, etc. Generally she would remain away from her New York residence until after the completion of the film and any consultations thereafter required. She would

then return to her permanent residence in New York.

When she left for California in or about September, 1961 for the purposes of appearing in a film, she left all of her furnishings and furniture and a substantial amount of her personal effects and clothing in her New York apartment.

Furthermore, I understand, that throughout the entire period of time when the decedent was in California, she retained her maid Hattie Stephenson for the purpose of cleaning and maintaining her permanent New York apartment residence.

It was always my understanding that subsequent to decedent's divorce and while I was employed by decedent, she considered her said New York apartment as her official and permanent residence.

May Reis
May Reis

Sworn to before me this

11th day of January, 1966.

Bertha Riley
BERTHA RILEY
Notary Public, State of New York
Qual. in Kings Co. No. 24323467
Commission Expires March 30, 1967

State of New York } ss.
County of Kings

NO. 19598

Form 1

I, ROBERT J. CREWS, Clerk of the County of Kings, and also Clerk of the Supreme Court for the said County, the same being a Court of Record, having a seal, DO HEREBY CERTIFY, That

Bertha Riley
whose name is subscribed to the deposition, certificate of acknowledgment or proof of the annexed instrument, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York, duly commissioned and sworn and qualified to act as such throughout the State of New York; that pursuant to law a commission, or a certificate of his appointment and qualifications, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proof of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and to take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County this 27 day of January, 1966.

Robert J. Crews
Clerk

MM-0009357

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

PATRICIA NEWCOMB, being duly sworn, deposes and
says:

That I reside at 220 East 57th Street, New York
City.

I knew the decedent, MARILYN MONROE, for approxi-
mately seven years during which period of time I was associated
with her as her Public Relation Counsel and was her close
personal friend.

Decedent maintained her residence in the State
of New York at apartment premises 444 East 57th Street, New
York City. She always conveyed the impression to me that she
considered her said apartment premises in New York City as
her permanent residence. Despite the fact that she travelled
extensively and occasionally was away from said residence on
business matters for prolonged periods of time, she always
returned to her permanent New York City residence.

She frequently travelled to California, which
trips were primarily for the purpose of appearing in motion
picture films. When she was so engaged, she generally resided
at the Beverly Hills Hotel or other similar hotels in and
about Los Angeles, California, however, she always left
California to return to her New York apart^{ment} residence
shortly after the completion of her said business activities.
When she was not engaged in performing in motion picture films,
she resided and maintained her home in her aforesaid New York

City residence.

Shortly prior to her death, decedent went to California to appear in a motion picture film entitled "SOMETHINGS GOT TO GIVE". When she left for California to perform in said film, she took with her only those articles of clothing and personal effects that she required for her temporary stay in California. She left a substantial amount of clothing and personal effects, and all of her furniture and other personal property at her New York residence.

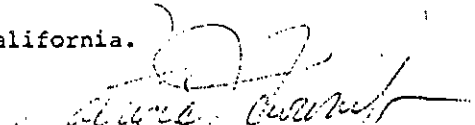
While she was in California for the purpose of performing in the aforesaid film, she purchased a house in West Los Angeles, California. Decedent advised me at the time she purchased the said premises, that she acquired same solely for the reason that she disliked living in hotels, and that she desired and preferred the privacy of living in a private home, even though it was a temporary residence. She specifically indicated to me that she had no intention of making her permanent residence in her said California house, but intended leaving California and returning to her New York residence upon the completion of her assignment in said motion picture film.

At the time of her death, she was still living in California because the said film had not as yet been completed, and she was awaiting resolution of certain controversies relating thereto.

Decedent further advised me that she intended to return to her New York residence for the reasons, among others, that her closest personal friends resided in New York, and that she wished to continue her permanent activities at the

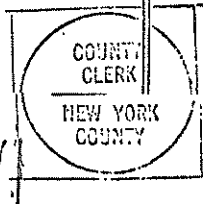
Actors Studio, which activities she considered most important to her, and with which project she was closely affiliated with her close personal friends, Mr. and Mrs. Lee Strasberg.

I know from my close association with the decedent that she considered New York as her permanent residence and that she intended to return to her permanent New York residence apartment after the completion of her business activities in California.


Patricia Newcomb

Sworn to before me this

24th day of January, 1966.





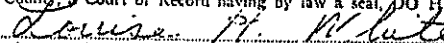
LOUISE H. WHITE

State of New York, }
County of New York, } ss.:

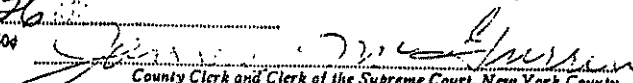
No. 32357

Form 1

I, JAMES MCGURRIN, County Clerk and Clerk of the Supreme Court, New York County, a Court of Record having by law a seal, DO HEREBY CERTIFY that


whose name is subscribed to the annexed affidavit, deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York; that pursuant to law a commission, or a certificate of his official character, and his autograph signature, have been filed in my office; that as such Notary Public he was duly authorized by the laws of the State of New York to administer oaths and affirmations, to receive and certify the acknowledgment or proof of deeds, mortgages, powers of attorney and other written instruments for lands, tenements and hereditaments to be read in evidence or recorded in this State, to protest notes and to take and certify affidavits and depositions; and that I am well acquainted with the handwriting of such Notary Public, or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and believe that the signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal

This 
JAN 26 1966
FEE PAID 50¢

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County Clerk and Clerk of the Supreme Court, New York County

EXHIBIT 7

539

RECORDED BY

NATIONAL BANK OF EVERETT HELLS

Marilyn Monroe
c/o Lang, Tyre, Rudin & Brown
6100 Sunset Boulevard
Los Angeles 28, California.

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CALIF.
FOR TITLE INSURANCE & TRUST CO.

FEB 8 1962 AT 8 A.M.

RAYNE LEE, County Recorder

FEB 8 1962

SPACE ABOVE THIS LINE FOR RECORDER'S USE

With L.R.S. 63.5 in This Space

Grant Deed

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged

WILLIAM R. PAGES and DORIS ALLEN PAGES, husband and wife.

hereby GRANT to

MARILYN MONROE, an unmarried woman

the following described real property in the

county of **Los Angeles** state of California:

"Lot 20 of Tract 544, Sheets 1 and 2, as per map recorded in
Book 58 Pages 71 and 72 of Maps, in the office of the county
recorder of said county."

(Date) January 22, 1962

STATE OF CALIFORNIA

COUNTY OF Los Angeles

On January 22, 1962 before me, the under-
signed Notary Public in and for said County and State, personally
appeared William R. Pages
and
Doris Allen Pages

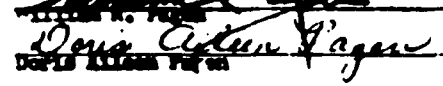
known to me
to be the persons who executed the foregoing instrument and who acknowledged the same.

WITNESSES my hand and official seal.

COSE R. HILLES

Notary Public in and for said County and State

If executed by a Corporation the Corporation Form of Acknowledgment must be used.


William R. Pages

Doris Allen Pages

Title Order No. _____

Excess No. 354

HIGHLY CONFIDENTIAL
280
MC007882

DOCUMENTS REGARDING THE PURCHASE
OF HER HOUSE. THE FIRST ONE
SHE EVER OWNED.

RECORD NO. REQUESTED BY

539

AND WHEN RECEIVED MAIL TO

NAME
STREET
ADDRESS NO.
CITY &
STATE

CITY NATIONAL BANK
400 North Roxbury Dr.
Beverly Hills, Calif.
RSC 4278

RECORDED IN OFFICIAL RECORDS
OF LOS ANGELES COUNTY, CALIF.
FOR TITLE INSURANCE & TRUST CO.
JUL 17 1963 AT 3 34 A.
RAY E. LEE, County Recorder

12

604597

E. Brouillette

SPACE ABOVE THIS LINE FOR RECORDER'S USE

R 0856

TITLE ORDER NO.

TITLE OFFICE

FULL RECONVEYANCE

TITLE INSURANCE AND TRUST COMPANY, a California corporation, as duly appointed Trustee under Deed of Trust hereinafter referred to, having received from holder of the obligations thereunder a written request to reconvey, reciting that all sums secured by said Deed of Trust have been fully paid, and said Deed of Trust and the note or notes secured thereby having been surrendered to said Trustee for cancellation, does hereby RECONVEY, without warranty, to the person or persons legally entitled thereto, the estate now held by it thereunder. Said Deed of Trust was executed by

MARILYN MONROE

Trustor,

and recorded in the official records of Los Angeles County, California, as follows:

REC. 2/8/62

AS INSTR. NO. 537

IN BOOK T2221 PAGE 296

DESC. Lt. 20 of Tr. 5462, Sheets 1 and 2, & 5, 71 and 12 of Mps.

In Witness Whereof, Title Insurance and Trust Company, as such Trustee, has caused its corporate name and seal to be hereto affixed by its Assistant Secretary, thereunto duly authorized on the date shown in the acknowledgment certificate shown below

TITLE INSURANCE AND TRUST COMPANY, as such Trustee

By _____

ASSISTANT SECRETARY

STATE OF CALIFORNIA,

COUNTY OF Los Angeles

this May 28, 1963

I, _____, being me, the undersigned, a Notary Public in and for said County and State, do hereby personally appear.

I, _____, being me, do hereby solemnly swear that I am the person who executed said instrument on behalf of the corporation therein named, and acknowledged to me that said person executed the same as such Trustee.

WITNESS my hand and official seal.

(Seal)

Signature

NAME, TYPED OR PRINTED: E. WALTER

Notary Public in and for said County and State

70-1149 C 10-60

EXHIBIT 8

1 Douglas E. Mirell (State Bar No. 094169)
dmirell@loeb.com
2 Laura A. Wytsma (State Bar No. 189527)
lwysma@loeb.com
3 Benjamin R. King (State Bar No. 205447)
bking@loeb.com
4 Aurele A. Danoff (State Bar No. 253043)
adanoff@loeb.com
5 LOEB & LOEB LLP
10100 Santa Monica Boulevard, Suite 2200
6 Los Angeles, California 90067-4120
Telephone: (310) 282-2000
7 Facsimile: (310) 282-2200

8 Attorneys for Anna Strasberg
and Marilyn Monroe LLC
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 THE MILTON H. GREENE
14 ARCHIVES, INC.,

15 Plaintiff,

16 v.

17 CMG WORLDWIDE, INC., an
Indiana Corporation, MARILYN
18 MONROE LLC, a Delaware Limited
Liability Company, and ANNA
19 STRASBERG, an individual,

20 Defendants.

21
22 AND CONSOLIDATED ACTIONS
23
24
25
26
27
28

Case No. CV 05-02200 MMM (Ex)

Hon. Margaret M. Morrow

DECLARATION OF LAURA A.
WYTSMA IN OPPOSITION TO
MOTION FOR RECONSIDERATION
OF ORDER FINDING NO JUDICIAL
AND COLLATERAL ESTOPPEL AS
TO DOMICILE OF MARILYN
MONROE

Date: March 10, 2008

Time: 10:00 a.m.

Ctrm: 780 (Roybal Federal Bldg.)

1 I, Laura A. Wytsma, declare:

2 1. I am an attorney at law licensed to practice before the Courts of the
3 State of California, and the United States District Court for the Central District of
4 California. I am a partner with the law firm of Loeb & Loeb LLP ("Loeb"), counsel
5 of record for Anna Strasberg and Marilyn Monroe LLC. Except as the context
6 otherwise indicates, I have personal knowledge of the following facts and, if called
7 and sworn as a witness, could and would competently testify thereto.

8 **"MC" Documents Attached To This Declaration**

9 2. Certain of the documents referenced below and attached to this
10 document bear the Bates prefix "MC." That designation refers to "Millington
11 Conroy." Mr. Conroy is the nephew of Inez Melson – Marilyn Monroe's former
12 business manager. In September 2007, Marilyn Monroe LLC and Anna Strasberg
13 learned that Mr. Conroy had in his possession thousands of documents which
14 formerly belonged to Marilyn Monroe. Soon after that discovery, Ms. Strasberg
15 obtained a Temporary Restraining Order from the Los Angeles Superior Court to
16 secure those documents. Subsequently, with Mr. Conroy's cooperation, I visited his
17 home (where the Monroe documents had been stored for many years), and
18 supervised the inventorying and removal of the documents to a secure location. The
19 documents have since been held under lock and key and, under my supervision,
20 have been reviewed, scanned, and produced to the other parties in this litigation.
21 The aged originals of any of the documents with the "MC" designation will be made
22 available for the Court's inspection at any time should it so request.

23 **Marilyn Monroe's Domicile Was California At The Time Of Her Death**

24 3. On June 1, 1926, Marilyn Monroe was born Norma Jeane Mortensen at
25 Los Angeles General Hospital, in Los Angeles, California. Attached as **Exhibit 1** is
26 a true and correct copy of Marilyn Monroe's Birth Certificate (MC008619-21).

27 4. From 1926 to 1942, Marilyn Monroe grew up in various foster homes
28 and an orphanage in or near Los Angeles, California. Attached as **Exhibit 2** is a

1 true and correct copy of correspondence from Ida Bolender to Bernice Miracle
2 concerning Marilyn Monroe's childhood (MC000965).

3 5. On June 19, 1942, Marilyn Monroe married James Edward Dougherty
4 in Los Angeles, California. Attached as **Exhibit 3** is a true and correct copy of a
5 document entitled "Application for Lump-Sum Death Payment" prepared by Inez
6 Melson, the second page of which indicates Marilyn Monroe's marital history
7 (MM-0036196-99).

8 6. On August 24, 1946, Marilyn Monroe signed her first contract with
9 Twentieth Century Fox ("Fox") in Los Angeles, California. Attached as **Exhibit 4**
10 is a true and correct copy of the August 24, 1946 Agreement and September 17,
11 1946 Order Approving Minor's Services as Actress and Twentieth Century-Fox
12 Agreement regarding that first contract (MM-0059074-92).

13 7. On September 13, 1946, Marilyn Monroe divorced James Dougherty in
14 Clark County, Nevada. Attached as **Exhibit 5** is a true and correct copy of the
15 Divorce Decree ending that marriage (MM-0000036-39).

16 8. By December 1946, Norma Jeane Dougherty adopted the name
17 Marilyn Monroe in Los Angeles, California. Attached as **Exhibit 6** is a true and
18 correct copy of a December 3, 1946 letter from Fox Executive Management to
19 Norma Jeane Dougherty confirming a verbal agreement to change her name
20 (MM-0059093).

21 9. From 1946 to 1952, Marilyn Monroe lived in apartments and hotels in
22 Hollywood, Burbank, Beverly Hills, and Los Angeles, California. Attached as
23 **Exhibit 7** are true and correct copies of relevant excerpts from Randall Riese and
24 Neal Hitchens, *The Unabridged Marilyn Her Life from A to Z* (Congdon & Weed,
25 Inc. 1987) (MM-0060268-69; MM-0060281-82). From 1952 to 1954, Marilyn
26 Monroe moved into an apartment at 882 North Doheny Drive in Beverly Hills,
27 California. *Id.* Attached as **Exhibit 8** is a true and correct copy of various receipts
28

1 and disbursements from 1954 for Marilyn Monroe's North Doheny Drive apartment
2 (MC012646-55).

3 10. On March 2, 1949, Marilyn Monroe executed a contract with the
4 William Morris Agency in Beverly Hills, California. Attached as **Exhibit 9** is a true
5 and correct copy of that contract, entitled "Artists' Manager and Agency Contract"
6 (MC001808-09). On December 5, 1950, Marilyn Monroe executed a second
7 contract with the William Morris Agency in Beverly Hills, California. Attached as
8 **Exhibit 10** is a true and correct copy of that second contract with the same title
9 (MC006988-93).

10 11. While residing at her North Doheny Drive apartment, Marilyn Monroe
11 hired Inez Melson as her business manager. Inez Melson operated out of 9110
12 Sunset Boulevard in Los Angeles, California. Attached as **Exhibit 11** is a true and
13 correct copy of a "Hollywood Greats" Interview with Inez Melson (MC004043-64).
14 Ms. Melson served as Marilyn's business manager at the time of her death.
15 Attached as **Exhibit 12** is a true and correct copy of a September 11, 1962 letter
16 from Inez Melson to Aaron Frosch which indicates her early efforts to preserve
17 Marilyn's property following her death (MC004342-50).

18 12. In 1953, Marilyn Monroe's mother, Gladys Baker (Gladys Eley),
19 entered the Rockhaven Sanitarium in Verdugo City, California, where she remained
20 until 1967. *See* Ex. 8. Attached as **Exhibit 13** are true and correct copies of
21 Rockhaven Sanitarium statements (selected from MC008636-8777).

22 13. On January 14, 1954, Marilyn Monroe married Joseph Paul DiMaggio
23 ("Joe DiMaggio"), a native Californian, at City Hall in San Francisco, California.
24 Attached as **Exhibit 14** is a true and correct copy of "Storybook Romance," *Time*,
25 January 25, 1954 (MM-0036244-45). Attached as **Exhibit 15** is a true and correct
26 copy of "DiMaggio's Last Call: It's About Famiglia," *New York Times*, March 12,
27 1999 (MM-0062363-64).

1 14. During their marriage, Marilyn Monroe and Joe DiMaggio lived in an
2 apartment located at 508 North Palm Drive in Beverly Hills, California. Attached as
3 **Exhibit 16** is a true and correct copy of the Lease Agreement dated May 1, 1954
4 concerning that residence (MC005818-20).

5 15. Effective October 31, 1955, in Los Angeles, California, Marilyn
6 Monroe and Joe DiMaggio were divorced. *See* Ex. 3.

7 16. After she divorced Joe DiMaggio in 1954, Marilyn Monroe lived for a
8 period at 8338 DeLongpre Avenue in Hollywood, California, and reported to Fox
9 Studios in Los Angeles, California to star in the film entitled, "The Seven Year
10 Itch." Attached as **Exhibit 17** is a true and correct copy of a Western Union wire
11 from Fox to Marilyn Monroe at that address (MC006962).

12 17. On January 2, 1956, Marilyn Monroe formed her own production
13 company, Marilyn Monroe Productions, Inc., with Milton H. Greene. Attached as
14 **Exhibit 18** is a true and correct copy of the Agreement between Marilyn Monroe
15 Productions, Inc. and Milton H. Greene (MM-0000068-81).

16 18. On June 29, 1956, Marilyn Monroe married Arthur Miller. *See* Ex. 3.
17 Three days later, on July 1, 1956, they were married in an orthodox Jewish
18 ceremony. Marilyn Monroe converted to Judaism, Arthur Miller's religion, in
19 connection with her marriage to him. Attached as **Exhibit 19** is a true and correct
20 copy of "Marilyn Married to Miller Second Time in Jewish Rites," *The Post*
21 *Standard, Syracuse, New York*, July 3, 1956, at p. 2 (MM-0062087-88).

22 19. From 1956 to 1960, Marilyn Monroe and Arthur Miller lived in
23 Roxbury, Connecticut. Attached as **Exhibit 20** are true and correct copies of
24 receipts for their Roxbury, Connecticut home (MC000827; MC004795-96). They
25 also rented an apartment at 444 East 57th Street in New York, New York. Attached
26 as **Exhibit 21** is a true and correct copy of a February 24, 1958 letter from
27 444 Management Company to Sol Klerman concerning a remodel of that apartment
28 (MC006217).

1 20. In February 1958, Marilyn Monroe bought out Milton H. Greene's
2 interest in Marilyn Monroe Productions, Inc. Attached as **Exhibit 22** is a true and
3 correct copy of the Buy-Back Agreement dated February 26, 1958 reflecting this
4 transaction (MM-0035828-30).

5 21. During the period of 1957 to 1960, Marilyn Monroe and Arthur Miller
6 filed taxes as residents of Connecticut. They did not file taxes as residents of New
7 York. Attached as **Exhibit 23** is a true and correct copy of a November 30, 1961
8 letter from Julius Winokur to the State of New York Department of Taxation and
9 Finance, concerning Marilyn Monroe's residence in 1957 (MM-0011806). Attached
10 as **Exhibit 24** is a true and correct copy of an April 3, 1963 letter from Howard
11 LeShaw to the State of New York Department of Taxation and Finance, concerning
12 Marilyn Monroe's residence in 1959 and 1960 (MM-0056963).

13 22. On October 26, 1959, Marilyn Monroe Miller identified herself as
14 being "of Roxbury, Connecticut." Attached as **Exhibit 25** is a true and correct copy
15 of a Declaration of Trust wherein this statement was made (at p. 1) (MM-0011942-
16 51).

17 23. Marilyn Monroe attended psychotherapy sessions with Dr. Ralph
18 Greenson continuously throughout 1961 and 1962 in Los Angeles, California.
19 Attached as **Exhibit 26** are true and correct copies of 1961 disbursements reflecting
20 payments to Dr. Greenson during this time (MC012188-91). Attached collectively
21 as **Exhibit 27** are true and correct copies of 1962 disbursements also showing
22 similar payments (MC012580-87; MC012588-97; MC012564-71; MC012598-611;
23 MC012612-23; MC012624-33; MC012634-44; MC003707-11). From July 1, 1962
24 to August 4, 1962, Marilyn Monroe visited Dr. Ralph Greenson for psychiatric
25 treatment 28 times. Attached as **Exhibit 28** is a true and correct copy of an July 15,
26 1963 letter from Dr. Ralph Greenson to Miss Wolf indicating those visits (6378-79).

27 24. From July to November 1960, Marilyn Monroe filmed *The Misfits*, in
28 Reno, Nevada. Attached as **Exhibit 29** is a true and correct copy of an August 3,

1 1960 letter from Rupert Allen to James Roosevelt referencing that filming
2 (MC004528).

3 25. On January 14, 1961, Marilyn Monroe executed a will in New York at
4 the same time as her divorce from Arthur Miller. The will named Aaron Frosch,
5 Marilyn Monroe's New York-based attorney, as the executor. Attached as
6 **Exhibit 30** is a true and correct copy of Marilyn Monroe's Last Will and Testament
7 (MM-0000010-12).

8 26. On January 24, 1961, Marilyn Monroe divorced Arthur Miller in
9 Juarez, Mexico. Attached as **Exhibit 31** is a true and correct copy of the Divorce
10 Decree (MM-0011889-95).

11 27. In April 1961, Marilyn Monroe returned to California, temporarily
12 checking into the Beverly Hills Hotel. Attached as **Exhibit 32** is a true and correct
13 copy of a June 4, 1962 letter from Cherie Redmond to Jack Ostrow indicating her
14 relocation from New York to California (MC012165-66).

15 28. In August 1961, Marilyn Monroe moved back to the North Doheny
16 Drive Apartment in Beverly Hills, California. Attached as **Exhibit 33** is a true and
17 correct copy of a summary of rental payments made by Marilyn Monroe with
18 respect to that property (MC005713).

19 29. By November 1961, Eunice Murray served as Marilyn Monroe's
20 personal assistant in Los Angeles, California. Attached as **Exhibit 34** are true and
21 correct copies of relevant excerpts from Eunice Murray with Rose Shade, *Marilyn:*
22 *The Last Months* (Pyramid Books 1974) ("Murray") (MM-0060220-21;
23 MM-0060222-25). *See also* Ex. 27.

24 30. By this same time, May Reis ceased serving as Marilyn Monroe's
25 secretary in New York when Marilyn Monroe "left for California." Attached as
26 **Exhibit 35** is a true and correct copy of a April 22, 1966 letter from Controller of
27 the State of California to Gang, Tyre, Rudin & Brown, indicating the same
28 (MM-0012365).

1 31. On December 23, 1961, Joe DiMaggio visited Marilyn Monroe at her
2 North Doheny Drive Apartment. He spent Christmas afternoon with her at
3 Dr. Ralph Greenson's home, and they spent New Years together in Los Angeles,
4 California at her North Doheny Drive Apartment. See Ex. 34.

5 32. In January 1962, Marilyn Monroe hired Cherie Redmond to serve as
6 her secretary in Los Angeles, California. Cherie Redmond began working in the
7 North Doheny Drive Apartment. See Ex. 27.

8 33. On January 22, 1962, Marilyn Monroe purchased her first home,
9 located at 12305 Fifth Helena Drive, Brentwood, California ("Brentwood home").
10 Marilyn Monroe paid \$77,500 with a down payment of \$42,500 and committed to a
11 15-year mortgage from City National Bank in Beverly Hills, California. Attached as
12 **Exhibit 36** is a true and correct copy of the Grant Deed for that home (MC007882-
13 83). Attached as **Exhibit 37** is a true and correct copy of Long Form Deed of Trust
14 and Assignment of Rents (MM-0062343-44). Attached as **Exhibit 38** is a true and
15 correct copy of the Payment of Principal and Interest spreadsheet indicating Marilyn
16 Monroe's mortgage payments for the home (MC010082).

17 34. After Marilyn Monroe's death, Eunice Murray, Ms. Monroe's
18 housekeeper, stated that "Marilyn . . . loved her home. It was the only home she
19 ever owned." Attached as **Exhibit 39** is a true and correct copy of "Mystery Phone
20 Call Received by Marilyn," *Los Angeles Times*, August 7, 1962, containing that
21 statement (MM-0059364-69).

22 35. In February 1962, Marilyn Monroe traveled to Mexico for the purpose
23 of purchasing authentic furnishings for her Spanish-style Brentwood home,
24 including: oil paintings and other artwork; special fabrics; mahogany and leather
25 chairs; wood chests; benches; sofas; tables; Mexican tin products; and an enamel
26 set. She also purchased tiles from Mexico to decorate the house, and had a custom-
27 sized carpet woven in Mexico for the Brentwood home. Eunice Murray stated,
28 "[t]he development of her house was so important to her." Attached as **Exhibit 40**

1 is a true and correct copy of Marilyn Monroe's travel itinerary for 1962
2 (MC001672). Attached as **Exhibit 41** is a true and correct copy of the hotel bill for
3 Continental Hilton of Mexico, dated March 5, 1962 (MC000273-74). Attached as
4 **Exhibit 42** is a true and correct copy of an April 3, 1962 letter to Eunice Murray
5 regarding delayed delivery of various items purchased in Mexico by Marilyn
6 Monroe (MC012437). Attached as **Exhibit 43** are true and correct copies of
7 additional receipts and correspondence from that Mexico trip (MC000016-17;
8 MC012449-57; MC012476-85). Attached as **Exhibit 44** is a true and correct copy
9 of "Hunt Mystery Friend in Last Marilyn Phone Call," *Los Angeles Evening and*
10 *Sunday Herald Examiner*, August 7, 1962 (MM0059937-42). See Ex. 27.

11 36. Marilyn Monroe ordered a carpet, woven to size, in Mexico, and a
12 "specifically constructed chest" for which Marilyn Monroe paid \$360. Attached as
13 **Exhibit 45** is a true and correct copy of Renovations and Additions to Brentwood
14 home (MC012370). See also Surjit Soni Declaration, Ex. W, at MM-0062335.

15 37. From February to August 1962, Marilyn spent almost \$51,000 in
16 renovating and furnishing her home. See Ex. 27.

17 38. From February to August 1962, Marilyn Monroe renovated her
18 Brentwood home and purchased and/or installed, in addition to the items referenced
19 above: hardware for gates; windows; a mailbox; a designer fire screen; major
20 kitchen appliances; wall light fixtures; kitchen cabinets; tiles; and a mural in her
21 home office. She also renovated the plumbing, electrical and heating systems in her
22 home, including the installation of a new pool boiler. Attached as **Exhibit 46** are
23 true and correct copies of hardware and miscellaneous 1962 Brentwood home
24 Receipts (MC011657-703; 6354). See also Ex. 27.

25 39. After Marilyn Monroe's death, Eunice Murray wrote that from
26 February to August 1962, Marilyn Monroe, who had a passion for gardening,
27 researched plants indigenous to the Mexican climate to cultivate the land
28 surrounding her home. Murray stated that Marilyn spent hours at Frank's Nursery

1 on Wilshire Boulevard in Brentwood, selecting plants and trees. According to Ms.
2 Murray, Marilyn hoped to plant a shade tree, and hired Mexican brick masons to
3 build a wall around it. *See* Ex. 34.

4 40. Marilyn Monroe incurred gardening and pool upkeep expenses for her
5 home. Attached as **Exhibit 47** is a true and correct copy of a Pool Service Invoice
6 (6346-47). *See also* Exs. 12 and 27.

7 41. On February 2, 1962, Marilyn Monroe wrote to Arthur Miller's father,
8 whom she called "Dad," expressing pride in her new home. She hoped that he
9 would come visit, confirming that he would really like her home. She closed the
10 letter by stating "My new address is 12305 Fifth Helena Drive, Los Angeles 49,
11 California." Attached as **Exhibit 48** is a true and correct copy of that February 2,
12 1962 letter from Marilyn Monroe to Arthur Miller's father (MC005788-89).

13 42. On February 8, 1962, Marilyn Monroe wrote to Arthur Miller's son,
14 Bobby Miller, sharing "the best news: I have just completely bought my new
15 house." In her letter, Marilyn described her "new home" and the "gigantic
16 swimming pool" and invited him and sister Janie to come visit. She closed the letter
17 by stating "My new address is 12305 Fifth Helena Drive, Los Angeles 49,
18 California." Attached as **Exhibit 49** is a true and correct copy of that February 8,
19 1962 letter from Marilyn Monroe to Bobby Miller (MC012122-25).

20 43. By February 1962, Marilyn Monroe's Los Angeles attorney, Milton
21 "Mickey" Rudin served as her primary attorney and agent. Attached as **Exhibit 50**
22 is a true and correct copy of a February 9, 1962 letter from Cherie Redmond to
23 Mickey Rudin reflecting that he is "now acting as Miss Monroe's attorney"
24 (MC000264-66). Attached as **Exhibit 51** is a true and correct copy of an April 3,
25 1962 letter from Mickey Rudin to Marilyn Monroe reflecting Mr. Rudin's activities
26 on Ms. Monroe's behalf as her agent (MC012757-58).

27 44. In March 1962, Marilyn Monroe moved into her Brentwood home.
28 *See* Ex. 11.

1 45. By March 1962, per the initiative of Marilyn Monroe's New York
2 attorney, Aaron Frosch, Ms. Monroe's business papers and filing cabinet were
3 shipped to Los Angeles, California. *See* Ex. 50. Attached as **Exhibit 52** is a true
4 and correct copy of a March 7, 1962 letter from Cherie Redmond to Martin Gang
5 reflecting the transfer of Ms. Monroe's filing cabinet from New York to Los
6 Angeles. (MC004358). Attached as **Exhibit 53** is a true and correct copy of an
7 undated letter from Hedda Rosten to Cherie Redmond reflecting that "all [Marilyn
8 Monroe's] business papers and receipts had been moved out to California"
9 (MC002751).

10 46. On March 8, 1962, Marilyn Monroe changed her business address from
11 New York to P.O. Box 64721, Los Angeles, California and personal address to
12 12305 Fifth Helena Drive, Los Angeles 49, California. Attached as **Exhibit 54** is a
13 true and correct copy of a March 8, 1962 letter from Cherie Redmond to Hedda
14 Rosten reflecting these changes (MC003985). Attached as **Exhibit 55** is a true and
15 correct copy of a March 26, 1962 letter from Marilyn Monroe's secretary to The
16 Actors Studio in New York, informing the Studio to "change [its] records to indicate
17 the correct mailing address for Miss Marilyn Monroe" to her Brentwood home
18 (MC012459). Attached as **Exhibit 56** is a true and correct copy of an April 5, 1962
19 letter from Marilyn Monroe's secretary to the Screen Actors Guild reflecting the
20 address change (MC002840). Attached as **Exhibit 57** is a true and correct copy of a
21 May 21, 1962 letter from Marilyn Monroe's secretary to Rovins & West, Inc.,
22 reflecting the change in Marilyn Monroe's business address to California
23 (MC006056).

24 47. On March 9, 1962, Marilyn Monroe remained uncertain whether she
25 wanted to star in Fox's upcoming picture, "Something's Got to Give." Attached as
26 **Exhibit 58** is a true and correct copy of "Jackie's Director Will Do First Film," *Los*
27 *Angeles Times*, March 9, 1962 (*see* below title "Hard to Get Star") (MM-0062347).
28

1 48. By March 1962, Marilyn Monroe's Los Angeles attorney, Martin
2 Gang, noted that Marilyn Monroe and Marilyn Monroe Productions, Inc.
3 "headquarters" had moved from New York to Los Angeles, California. Attached as
4 **Exhibit 59** is a true and correct copy of a March 12, 1962 letter from Martin Gang
5 to Julius Winokur stating that "Miss Monroe and Marilyn Monroe Productions, Inc.
6 now have their headquarters in Los Angeles" (MC001868).

7 49. In April 1962, Marilyn Monroe purchased a 10-year Warranty for Day
8 & Night Armored Jetglas water heater and additional warranty for Hotpoint
9 Combination Refrigerator-Freezer for her Brentwood home. Attached as **Exhibit 60**
10 are true and correct copies of these warranties (MC005741; MC005745-48).

11 50. On April 9, 1962, Marilyn Monroe agreed to be a Founder Member of
12 the Hollywood Museum Associates in Los Angeles, California. Attached as
13 **Exhibit 61** is a true and correct copy of a April 9, 1962 letter from Harry Brand to
14 Marilyn Monroe, including note from Cherie Redmond to Marilyn Monroe and
15 Marilyn Monroe's written response concerning the Museum (MC007885-86).

16 51. On April 16, 1962, Marilyn Monroe obtained Employers Non-
17 Ownership Auto Liability for Los Angeles, California. Attached as **Exhibit 62** is a
18 true and correct copy of an April 16, 1962 letter from Ebenstein and Company to
19 Marilyn Monroe concerning such policies (MC006054).

20 52. Marilyn Monroe finally approved the script of "Something's Got to
21 Give" and reports for her first scenes on April 30, 1962 in Los Angeles, California.
22 Attached as **Exhibit 63** is a true and correct copy of an April 27 letter from Cherie
23 Redmond to Hattie Stephenson reflecting Marilyn Monroe's starting that picture
24 (MC001604). Attached as **Exhibit 64** is a true and correct copy of "Ginger Rogers
25 Cast in Housewife Role," *Los Angeles Times*, March 30, 1962, referencing the same
26 (MM-0062349).

1 53. On May 6, 1962, Marilyn Monroe licensed and vaccinated her dog in
2 Los Angeles, California. Attached as **Exhibit 65** is a true and correct copy of Dog
3 License and Certificate of Rabies Vaccination (MM-0009174-76).

4 54. On May 9, 1962, Marilyn Monroe invested in fine art purchases for her
5 Brentwood home, including a Rodin bronze sculpture and Poucette oil painting.
6 Attached as **Exhibit 66** is a true and correct copy of the receipt for both works
7 (MC005883). *See also* Ex. 27.

8 55. By May 11, 1962, Cherie Redmond noted that Marilyn Monroe's
9 "lawyer and agent" were "one and the same man – Mickey Rudin." Attached as
10 **Exhibit 67** is a true and correct copy of a May 11, 1962 letter from Cherie Redmond
11 to Hedda Rosten (MC001627-28).

12 56. In May of 1962, Marilyn Monroe's secretary recognized that Aaron
13 Frosch in New York office was a "needless expense." Attached as **Exhibit 68** is a
14 true and correct copy of a May 14, 1962 letter from Cherie Redmond to Mickey
15 Rudin containing that statement (MC010874).

16 57. On May 17, 1962, Marilyn Monroe made her last visit to New York, to
17 sing "Happy Birthday" to President John F. Kennedy. *See* Ex. 40. Attached as
18 **Exhibit 69** is a true and correct copy of "Crowd Hails Kennedy at N.Y. Rally," *Los*
19 *Angeles Times*, May 20, 1962 (MM-0062005-06).

20 58. On June 8, 1962, angered by her multiple absences and May trip to
21 New York, Fox filed suit against Marilyn Monroe Productions, Inc. and Marilyn
22 Monroe, and fired her from "Something's Got to Give." Attached as **Exhibit 70** is a
23 true and correct copy of "Monroe Fired From Picture; Remick Hired," *El Paso*
24 *Herald-Post*, June 9, 1962, at p. 2.

25 59. In July 1962, Marilyn Monroe spent the last weekend of July as a guest
26 of her close friend Peter Lawford, at the new Cal-Neva Lodge in Lake Tahoe,
27 California. Joe DiMaggio accompanied her on this trip. Attached as **Exhibit 71** is a
28

1 true and correct copy of "Marilyn Monroe Mystery Persists," *Los Angeles Times*,
2 September 29, 1985, at p. 2, reflecting that trip (MM-0036250-55).

3 60. On July 11, 1962, Marilyn Monroe's Connecticut Drivers License
4 identified 12305 Fifth Helena Drive, Los Angeles 49, California as her address.
5 Attached as **Exhibit 72** is a true and correct copy of Ms. Monroe's Motor Vehicle
6 Operator's License (MM-0010378).

7 61. By July 31, 1962, Marilyn Monroe's New York mail had "dribbled off"
8 considerably." Hedda Rosten suspected that most people wrote directly to
9 California. Attached as **Exhibit 73** is a true and correct copy of a July 31, 1962
10 letter from Hedda Rosten to Cherie Redmond reflecting these facts (MC001629).

11 62. In late July/early August of 1962, Joe DiMaggio quit his \$100,000-a-
12 year job to set up a home near Marilyn Monroe's four days before her death.
13 Attached as **Exhibit 74** is a true and correct copy of "Joe's Plan to be Near
14 Marilyn," *San Francisco Chronicle*, August 14, 1962, at p. 2 (MM-0036208-11).

15 63. On August 3, 1962, in Marilyn Monroe's last interview before she died,
16 she stated: "And Los Angeles was my home, too, so when they said, 'Go home!' I
17 said, 'I am home.'" Attached as **Exhibit 75** are true and correct copies of the
18 original *Life* article entitled, "Marilyn Monroe Pours Her Heart Out," *Life*, August 3,
19 1962; a companion piece entitled, "A Last Long Talk With a Lonely Girl," *Life*,
20 August 17, 1962; and a republished original article "Marilyn Monroe: The Last
21 Interview," *Life*, August 1992 (MM-0036212-17; MM-0062365-71; MM0036218-
22 24).

23 64. On August 5, 1962, Marilyn Monroe died in her Brentwood home.
24 Attached as **Exhibit 76** is a true and correct copy of County of Los Angeles,
25 California Certificate of Death (00017038).

26 65. Joe DiMaggio helped arrange Marilyn Monroe's burial on August 8,
27 1962, at Westwood Memorial Park and Mortuary in Los Angeles, California.
28

1 Attached as **Exhibit 77** is a true and correct copy of a document entitled “Services
2 for Marilyn Monroe” (MC004207-08, MC004210).

3 66. An August 17, 1962 appraisal by John J. Donahue & Associates of
4 Marilyn Monroe’s personal property in her Brentwood home at the time of her death
5 indicated a fully furnished home, including 47 items in the living room; 179 items in
6 the hall; 15 items in the front bedroom; 29 items in the middle bedroom; 57 items in
7 the study; 15 items in the dining room; 19 items in the sun room; 59 items in the
8 kitchen; 16 items in the playroom; 11 items in the exterior and garage; 199 items of
9 clothing; as well as miscellaneous items on inventory for the dining room, kitchen
10 and playroom. The appraisal also showed that, at the time of her death, Ms. Monroe
11 had 60 dresses, 10 coats, 45 blouses, 44 pairs of shoes, among numerous other
12 personal property items in her Brentwood home. Attached as **Exhibit 78** is a true
13 and correct copy of that Appraisal Document (MC012077-93).

14 67. In 1962, Marilyn Monroe spent a total of only 19 days in New York in
15 all of 1962. *See* Ex. 40.

16 **Marilyn Monroe LLC and Anna Strasberg Are Not Judicially Estopped**

17 68. On August 10, 1962, Inez Melson was appointed as Special
18 Administratrix of the Estate of Marilyn Monroe. Attached as **Exhibit 79** is a true
19 and correct copy of Inez Melson’s Petition for Special Letters of Administration
20 (MM-0059066-69). Attached as **Exhibit 80** is a true and correct copy of the Order
21 Appointing Special Administratrix (MM-0059072).

22 69. On October 26, 1962, Frosch filed a notice of probate in the
23 Surrogate’s Court of New York. Attached as **Exhibit 81** is a true and correct copy
24 of the Notice of Probate. On October 30, 1962, Monroe’s Last Will and Testament
25 was admitted to probate in the Surrogate’s Court of New York. *See* Surjit Soni
26 Decl., Ex. A. Aaron R. Frosch was appointed as Executor of the Monroe Estate.
27 *See* Ex. 30. Mr. Frosch served as Executor of the Monroe Estate until his death on
28 April 29, 1989. Attached as **Exhibit 82** is a true and correct copy of the May 7,

1 1990 Petition of Marjorie Frosch for an Intermediate Voluntary Accounting
2 (MM-0000118-126).

3 70. Attached as **Exhibit 83** is a true and correct copy of an April 24, 1964
4 letter from Hermione K. Brown to Aaron Frosch produced in the matter of *Shaw*
5 *Family Archives, Ltd. v. CMG Worldwide, Inc. and Marilyn Monroe, LLC* (Case No.
6 05 Civ. 3939 (CM)).

7 71. Attached as **Exhibit 84** is a true and correct copy of a January 27, 1966
8 letter from Elliot Lefkowitz to Ralph Roberts produced in the matter of *Shaw*
9 *Family Archives, Ltd. v. CMG Worldwide, Inc. and Marilyn Monroe, LLC* (Case
10 No. 05 Civ. 3939 (CM)).

11 72. Attached as **Exhibit 85** is a true and correct copy of a March 4, 1966
12 letter from Hermione K. Brown to Elliot Lefkowitz (MM-0063418-19).

13 73. Attached as **Exhibit 86** is a true and correct copy of a November 9,
14 1966 Office Memorandum from Elliot Lefkowitz to Aaron Frosch (MM-0057015).

15 74. Attached as **Exhibit 87** is a true and correct copy of a September 21,
16 1966 letter from Hermione K. Brown to Inez Melson (MC012217).

17 75. Attached as **Exhibit 88** is a true and correct copy of a Verified Second
18 Complaint filed on behalf of Anna Strasberg on October 6, 1994.

19 76. Attached as **Exhibit 89** is a true and correct copy of the May 12, 1994
20 Declaration of Anna Strasberg (MM-0059277-280), which she submitted in
21 connection with the matter of *Srasberg v. Odyssey Group, Inc. et al.*, Los Angeles
22 Superior Court Case No. BC104651.

23 77. On July 5, 2001, Marilyn Monroe LLC was formed.

24 78. On December 14, 2006, Marilyn Monroe LLC produced over 5,600
25 pages of documents. Attached as **Exhibit 90** is a true and correct copy of a
26 December 14, 2006 letter from Gibson, Dunn & Crutcher LLP to Surjit P. Soni, Esq.
27 and R. Lawrence Bragg enclosing those documents. In the five months between this
28

1 production and the Court's May 14 ruling granting summary judgment, Greene and
2 Kelley never sought to bring the documents to the Court's attention.

3 79. On May 14, 2007, the Court granted summary judgment in favor of
4 Greene and Kelley on the right of publicity claims. Following a legislative
5 clarification of California's right of publicity statute, Marilyn Monroe moved for
6 reconsideration of the decision on November 21, 2007.

7 80. Attached as **Exhibit 91** are true and correct copies of relevant excerpts
8 from the transcript of a January 4, 2008 deposition of Anna Strasberg in the matter
9 of *Shaw Family Archives, Ltd. v. CMG Worldwide, Inc. and Marilyn Monroe, LLC*
10 (Case No. 05 Civ. 3939 (CM)).

11 81. Attached as **Exhibit 92** is a true and correct copy of a relevant excerpt
12 of the Court's May 14, 2007 "Order Granting Defendants' Motion for Summary
13 Judgment."

14 82. Attached as **Exhibit 93** are true and correct copies of relevant excerpts
15 from the transcript of a July 17, 1989 hearing before the Surrogate's Court of New
16 York (MM-0013220; MM-0013224-25).

17 83. Attached as **Exhibit 94** are true and correct copy of the Surrogate's
18 Court's February 5, 2003 Order granting summary judgment on Nancy Miracle's
19 petition.

20 84. Attached as **Exhibit 95** are true and correct copy of the District Court
21 of Hawaii's December 23, 1992 order granting Anna Strasberg's motion to dismiss.

22 I declare under penalty of perjury under the laws of the United States that the
23 foregoing is true and correct. Executed this 15th day of February, 2008, at Los
24 Angeles, California.

25 /s/ Laura A. Wytsma
26 Laura A. Wytsma
27
28

EXHIBIT 9

Marilyn Monroe - 1962

February 2 to New York
17 from New York to Florida
20 from Florida to Mexico
March 2 from Mexico to LA
April 13 to New York
16 from New York to LA
May 17 to New York
20 or
21 from ~~LA~~ New York to LA

Handwritten note:
{ 7th ... }
[Illegible handwritten text]

EXHIBIT 10

**INTIMATE FACTS NEVER BEFORE REVEALED
FABULOUS PHOTOS NEVER BEFORE PUBLISHED**

**TOLD BY MARILYN'S COMPANION AND CONFIDANTE
EUNICE MURRAY WITH ROSE SHADE**



MARILYN: THE LAST MONTHS

A PYRAMID BOOK

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of her personal life—someone completely trustworthy and devoted to her interests. Marilyn did not trust people easily, and for very good reasons.

Eunice had worked with other psychiatrists before, but knew Dr. Greenson only through his purchase of the home she and her husband had built in Santa Monica in 1946. The Greensons, knowing how much the magnificent two-story Spanish home had meant to Eunice, invited her back occasionally, especially after she was alone.

Then in November 1961, Dr. Greenson had telephoned to ask if Eunice was available for a special assignment with one of his patients.

At that time, Eunice had begun taking care of her young grandchildren, whose mother had recently gone to work. But she told the doctor she could spare three days a week between eleven and two. To her surprise, he said, "That's great."

The following week he gave her an address on Doheny Drive. There she was to find Marilyn Monroe and drive her to his home in Santa Monica. Chauffeur, companion, housekeeper, friend—whatever Marilyn might need—Eunice was to be.

Finally Marilyn was ready and invited Eunice into the living room of her apartment. The room had the impersonal look of a luxurious hotel suite. A queen-size bed, freshly slept in, dominated the room, making sleep seem the all-important function there.

Heavy blue draperies with triple lining were drawn back now, letting light stream in from the wide-windowed wall across the back of the room. Beyond the glass was a narrow garden with vines and potted plants and a fountain.

Eunice saw dining room furniture near the kitchen and near the fireplace a silky green velvet settee and matching chair. On a table were hypodermic needles, reminders of the recent drug withdrawal.

It was a most unattractive room—overdone in decoration, yet unfinished. Massive carving covered cabinet doors on either side of the fireplace. The

bedspread was a dull blue with funereal tassels at each corner and so heavy that Eunice could barely lift it when she later made the bed. It was a depressing room and anything but feminine.

Marilyn caught her glance. "I made the decorator stop when I saw what he was doing," she confided, inviting Eunice to sit at the dining table with her.

Marilyn gestured at the room. "This isn't what I expected at all. Then I got sick and the work couldn't go on. Now he's suing me for thousands of dollars he says I owe him."

It was significant that Marilyn's first conversation with Eunice concerned mistreatment by someone who took advantage of her. It was to be a familiar pattern. The trusting waif taken by a greedy world. Marilyn, so involved with the ideals of social justice, so ready to spring to the defense of friends, seemed pathetically helpless in protecting her own financial interests.

"I wanted something simple and colorful," she said, glancing around the room. "But what can I do? I guess I'll have to pay him for the whole job."

There seemed no bitterness in her at that time, but instead a need for sympathy that Eunice sensed could cause her to embellish the crises of her life as an actress enlarges her gestures when playing to the galleries.

Marilyn showed Eunice the rest of the apartment—a compact but adequate kitchen on the left, and off the front entrance hall, another bedroom with huge floor-to-ceiling mirrors. This was the room indispensable to her trade, the dressing room where she groomed herself for special appearances.

Eunice soaked up the atmosphere and aura of Marilyn's apartment, feeling for ways she might fit in and be useful. She found some dishes to wash while Marilyn dressed, then asked her what she ate for breakfast.

"Egg whites poached in safflower oil. I know it sounds terrible, but it's pretty good."

Getting out a pan, she showed Eunice how she prepared them, explaining the special diet she must follow

now that her gall bladder was gone. Eunice found her to be very capable in the kitchen.

While Marilyn breakfasted, Eunice busied herself around the place, tidying up, watering plants, throwing out wilted flowers, and making the bed with its heavy spread—tasks one might do while visiting a friend who had been sick, that after many years of domestic life seemed second nature.

Dr. Greenson had told her only, "Marilyn needs someone entirely devoted to her interests." How does one title such a role?

Soon she would find what her real work was to be.

II

I don't look at myself as a commodity, but I'm sure a lot of people have.

——— Marilyn Monroe,
quoted in *Life Magazine*
August 3, 1962



When they met that November day in 1961, Marilyn seemed on the road to a new life style with fresh goals and plans. And Eunice, although she did not know it then, had been in training for years for the precise help that would be needed.

During the first weeks, however, the most important task was getting to know Marilyn and the details of her everyday life. There were no instructions from Dr. Greenson. And, especially at first, there were very few instructions from Marilyn herself.

Eunice became involved as best she could in the apartment on Doheny, carrying out such tasks as answering the door or phone, cleaning and dusting, and driving Marilyn to her psychiatric appointments. Eunice rarely knew what was going to happen next.

A man would suddenly appear at the door to pick up cleaning. Nothing was ever ready for him, but he was used to that.

III

Fame to me certainly is only a temporary and a partial happiness—even for a waif and I was brought up a waif. But fame is not really for a daily diet, that's not what fulfills you. It warms you a bit but the warming is temporary.

——Marilyn Monroe
quoted in
Life Magazine
August 3, 1962.



For Marilyn, Christmas was a difficult time. Memories of years past seemed to rise like hobgoblins to remind her of the unloved seasons. She had told and retold her childhood stories so many times, Eunice sensed, that by now she no longer bothered with details.

"That was the Christmas all the kids in the house got presents but me," she might say. Then pausing for the poignant effect: "One of the other kids gave me an orange."

The lack of family had brought many deprivations.

"I wanted the pretty white shoes, but the social worker said they cost too much. She bought me black ones that I hated."

Now family ties at Christmas seemed especially important, when everyone she knew was gathering in the warmth of homes with their own close kin. Christmas 1961 was for Marilyn the loneliest one of all. In spite of her success, she had only the grotesque unfinished apartment for home. And no family. But her slugger had come through once more, arriving during the holidays to help make believe she still had someone close.

Joe would usually come through when she was scraping bottom, just as he would be on hand after her death to handle the funeral arrangements.

Some have suggested that DiMaggio failed her, that weekly red roses would have been better when she was still alive. Where was he then when he was really needed?

The answer is that Joe did come through more often than most people knew. He was there that Christmas.

The morning that Eunice met him at Marilyn's apartment, she found him very friendly, very nice, but far from verbose. The conversation lagged unless Marilyn picked it up.

The two still seemed to be the best of friends. They visited Olvera Street together, the little block of Mexican shops in downtown Los Angeles. There they bought Christmas tree ornaments from south of the border and decorated a small green tree in Marilyn's apartment. They did some quick gift shopping, visited friends together on Christmas Day, and on New Year's Eve drank champagne and roasted chestnuts in front of Marilyn's fire.

Joe was a handsome man, powerfully built, who could come crashing through with the grand gesture, the

heroic deed. Or, as one of Marilyn's friends observed, you could give him a cup of tea and turn on the TV set and he'd be happy. It seemed obvious to Marilyn's friend why the relationship did not work full time.

Marilyn, despite her lack of education, was an extremely bright girl with an intuitive intelligence that was most unusual. She had a real feeling for people and what was going on. Joe was just not interested in those things. He enjoyed sports. And that just wasn't Marilyn at all.

On Christmas Day, she and Joe were invited to the Greenson home in Santa Monica along with other friends of the doctor and his family.

All afternoon the men clustered around Joe, asking questions about past glories:

"Do you remember in nineteen-such-and-such when you were playing Cincinnati and it was a three-and-two count and they threw a ball to you?"

And Joe would always come through with the minutiae of baseball lore.

"Yes, I remember. That was a high inside fast ball and . . ."

And so it went all afternoon, the men avid for Joe's stories, ignoring Marilyn sitting beside him on the couch. Finally, bored by the pitch-by-pitch, score-by-score accounts, the women, including Marilyn, got up and gathered in the kitchen to chat. Joanie Greenson, the doctor's young daughter, remarked incredulously, "Who would believe that here were four or five men sitting next to Marilyn Monroe, and they didn't give a darn." Marilyn laughed along with the rest, but it was not her favorite kind of day.

Marilyn had grown increasingly close to the Greenson family that fall. After her psychiatric sessions with the doctor, she was often invited to stay for dinner at the two-story Monterey home in Santa Monica. Later one of the family would drive her back to the apartment. Eunice heard a lot about those evenings.

Marilyn said she felt at ease there, at home. She could dress casually and be completely herself, laughing, talk-

ing, listening to music intensely, and debating religion fiercely across the kitchen table. At that time she was telling everyone she was "an atheist Jew."

Protectively, she took Joanie Greenson, a twenty-year-old art student, under her wing like a younger sister, becoming involved in her art school gossip, feuds and friendships. She taught Joanie how to dance the twist a la Monroe, how to walk like a sensuous cat to the striptease record from *Pal Joey*, and how to apply make-up so artfully it looked like no makeup at all. She even tried to get Marlon Brando as an escort for Joanie at a local party. When that fell through, Marilyn arrived at the party herself with chauffeur and her best Hollywood manner to mince and coo and stun the local gentry before driving Joanie home.

With the Greenson son, Dan, Marilyn liked to discuss politics and social issues, for he shared her liberal views. Once he helped her write political questions to ask Bobby Kennedy at a dinner party at the Lawfords. Marilyn carried them in her handbag, opening it each time she asked a question, until Kennedy caught on, and said he would send Dan the answers.

Eunice could easily envision the setting for Marilyn's evenings at the Greenson's, for she knew every tile and shelf and stair of the house that she had helped build with her husband John in 1946. The warm, inviting atmosphere of the Greenson family dinners was also familiar to Eunice from her own visits there.

There was an all-white formal dining room with glass walls seaward, showing a blue fringe of ocean in the distance, but dining seemed more casual and cozy in the gaily decorated Mexican kitchen. It was a large room that served as a family room as well, where serving was easy and informal.

Curiously, Marilyn had not discussed the house with Eunice, had not mentioned that she found it attractive. Eunice had no idea she was developing a preference for Mexican architecture.

Whether or not Marilyn had told anyone about her growing admiration for the Greenson house, it must have seemed to her a warmer home than any she had known. The dwellings of her life had not been beautiful for the most part. Too often they had been meager or impersonal, unfinished or inartistic—unfortunate in some way. A real home had been one of the great unfilled needs of her life.

The Greenson home and the warmth of family members there must surely have helped make Christmas easier for her in 1961.

During the holidays, Eunice filled in for family as well, going Christmas shopping with Marilyn in Beverly Hills. They made several trips down Doheny to the crowded streets around Wilshire Boulevard, with Eunice always doing the driving.

In New York, Marilyn had driven a Thunderbird, but had to give it up, she said. People were always running into her. Deliberately, she said. Just to meet her. When she moved to California in the last year of her life, she did not own a car. She talked sometimes to Eunice of buying a white Jaguar, but never did.

Before Eunice entered her life to drive her to appointments in a modest green Dodge, Marilyn frequently rented a \$75-a-day limousine and chauffeur. The long black hearselike vehicle, parked in front of some friend's home, could draw more than a little attention from the neighborhood. Soon half the people on the block might be out taking constitutionals, wondering who sat behind the cardboard-covered rear windows.

"The studio does that only for Tony Curtis and myself," Marilyn told a friend about the windows, as if unconscious of the fact such secrecy could only make people more curious.

The urge for privacy seemed to battle with the desire to be noticed. If one really wanted to go incognito, would one drive an attention-getting Thunderbird, white Jaguar, or limousine with blocked-out windows? Would one sometimes alight from the limousine to walk up and

XVI

Nieves is going to call them up and I have asked her to use her most violent Spanish.

——— Fred Field in a letter from Mexico City
July 20, 1962



The house was far from completed, but during early August most of the long-delayed furniture was due to arrive. There were many things to keep Marilyn busy. All was not introspection, Eunice recalls:

In Marilyn's home during the summer of '62, time passed quickly. There was so much to do of a creative nature. We spent hours, for instance, with ideas for an apartment over the two-car garage. An architect was preparing his sketch. It was to be for Hattie, Marilyn's cook in New York, or any one or two people whom it would please Marilyn to have near her.

The apartment would repeat the Spanish theme with balcony, outside stairway, dark beams and colorful flower pots.

Marilyn carried out ambitious plans for her garden as well. In the walled space between kitchen and detached guest house, she wanted a shade tree, Eunice recalls:

It must be a big tree and right now. So we went together to see trees in boxes, asked many questions, and the day came when a huge crane arrived with the tree on a truck and after much maneuvering, and with the added help of many watchers, the tree became firmly rooted in Marilyn's garden. Some Mexican brick masons paved the paths and built a low wall around the tree. Tataishi, the gardener, planted white azaleas under it. Nearby there were herbs in clay pots.

By late July Eunice had accumulated reams of correspondence with Fred Field and with the shops in Mexico regarding the many reasons for late deliveries.

Furniture makers and tinsmiths had been slow in filling orders, items had been lost, shipments had gone astray, incorrect bills were sent, details of sizes and materials had to be confirmed. The frustrations were enormous.

By July 20 Fred Field wrote to Eunice:

The failure of the Borda people to finish and ship the furniture is inexcusable. Nieves is going to call them up and I have asked her to use her most violent Spanish.

It was almost six months since February 28, when a lighthearted Marilyn had chosen wood and leather armchairs in Talleres Borda. She was never to see the furniture.

An authentic Mexican colonial wardrobe that Marilyn had purchased at Versailles, S. A., in Mexico City, presented problems from the beginning. At first there was difficulty in getting it out of the country since the Mexican government frowned on the loss of antiques.

Then the wardrobe went astray at Customs and ended up at Cheli Air Force Base where it was almost sold for storage charges. By March 1964 the chest reposed in the Brentwood garage of William Pagen, the man who had arranged the shipment and finally tracked it down. He

had paid \$340.64 from his own pocket in storage, brokerage, and additional transportation charges, and was attempting to collect from the estate.

That incident was typical. But much of the furniture had been either finished, tracked down, or shipped and was expected in the week after Marilyn's death.

That included the handsome red Spanish sofa that Norman Norell had arranged to have made for Marilyn. It was just like one she had seen in his New York studio and admired.

Red carpeting, being hand-woven by Mexican artisans was also finished the week Marilyn died. Eunice had arranged for the work through a friend:

Mura Bright was one of my contacts with Mexico, an artist and decorator who had lived there for years. She was able to find what we needed among the artisans in Mexico. We needed a red carpet for the guest house—not run-of-the-mill carpet, but truly Mexican hand-crafted. So Mura took the room measurements in centimeters (so there would be no mistake) and the carpet was woven in a little town by natives. It was ready for shipment around the beginning of August.

Mura Bright was left with the bills for the carpeting. Marilyn's estate did not want it.

The last week of Marilyn's life was a busy one. Marilyn and Eunice made several shopping expeditions to select items still needed for the house. At a furniture store on Wilshire Boulevard, they purchased a bedside table for Marilyn's room.

It was to replace the small one cluttered with medicine bottles that would show up in the death scene photographs. It was delivered on the last day of her life, but never got beyond the living room.

On one day that week Marilyn and Eunice spent four hours at Frank's Nursery on Wilshire Boulevard in Brentwood, selecting trees and plants. Marilyn ordered citrus trees and had with her the names of flowering plants she had found in the Mexican book. Ironically,

Communication from Public

Name: South Brentwood Residents Association
Date Submitted: 03/04/2024 05:29 PM
Council File No: 23-0953
Comments for Public Posting: Please submit the attached letter from the South Brentwood Residents Association to the file on this project for the PLUM Committee hearing tomorrow. Thank you.



South Brentwood Residents Association

149 South Barrington Ave. #194

Los Angeles, California 90049

www.southbrentwood.org

March 4, 2024

VIA EMAIL

Planning and Land Use Management Committee

Via email to: clerk.plumcommittee@lacity.org

Re: CF 23-0953; 12305 West 5th Helena Drive / Marilyn Monroe Residence / Historic-Cultural Monument / Special Motion 1

RE: South Brentwood Residents Association Opposition to Designating the Above Property as a Historic Cultural Monument

Dear Councilmembers,

I am writing on behalf of the Board and members of the South Brentwood Residents Association (“SBRA”), which represents approximately 18,000 homeowners and renters who reside in the area south of San Vicente Blvd., north of Wilshire Blvd., east of Centinela Ave. and west of Federal Ave., including all residents living in multi-family dwellings throughout the entire Brentwood community.

The SBRA Board agrees with the positions of the Brentwood Community Council, Brentwood Homeowners Association, Mandeville Canyon Association, Brentwood Park Property Association, and other Brentwood groups that this property should not be designated a Historic Cultural Monument.

We have seen no reason provided that this property is culturally significant other than a famous entertainer died there. This seems like an extremely low bar for the City of Los Angeles that is home to such a large portion of the entertainment industry. If this were the sole reason to designate an entire property as a Historic Cultural monument, thousands if not tens of thousands of properties around the city would likely fall under this designation, making the designation less significant. The sheer number of qualifying properties would be burdensome for communities, property owners, and the City.

Letter re: Proposal to Make 12305 West Helena Street a Historic Cultural Monument

March 4, 2024

Page 2

This designation seems particularly unnecessary in the case of Marilyn Monroe. As others have pointed out, this was not even Marilyn Monroe's primary residence so not a natural location for fans to pay their respects to her memory.

Furthermore, fans who want to honor and remember her have done so for decades only a short distance away at her crypt at the Westwood Village Memorial Park Cemetery. This cemetery is accessible to the public, very close to public transportation (one block away from the Westwood D Line station), and is the resting place of many other celebrities. Encouraging people to pay their respects in a commercial area with lots of amenities like restaurants, theaters, museums, and a major university is far better than pushing them to drive or Uber to a narrow cul-de-sac in a residential neighborhood, disrupting local neighbors who are unfortunate enough to have someone famous die next door.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren", followed by a stylized flourish.

Lauren
President
South Brentwood Residents Association

cc: Marian Ensley, West Area Representative, City of Los Angeles
Carolyn Jordan, Chair, Brentwood Community Council
Jeff Khau, Council District 11
Traci Park, Councilwoman, Council District 11
Thelma Waxman, President, Brentwood Homeowners Association

Communication from Public

Name: Amy Minter

Date Submitted: 03/04/2024 09:21 AM

Council File No: 23-0953

Comments for Public Posting: Support of CMC Designation for 12305 Fifth Helena -PART
THREE



Part Three

Main Office Phone:
310-798-2400
Direct Dial:
310-798-2409

Carstens, Black & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbcearthlaw.com

Amy C. Minter
Email Address:
acm@cbcearthlaw.com

February 29, 2024

Via Email and Public Comment Portal

Los Angeles City Council and Planning & Land Use Management Committee
c/o Holly L. Wolcott, City Clerk
City Hall, Room 395
200 N. Spring Street
Los Angeles, CA 90012

Re: Support for Designation of 12305 Fifth Helena Drive as Historic-Cultural
Monument; Council File 23-0953

Honorable Commissioners:

On behalf of the Monroe Preservation Group, LLC, we provide the enclosed documentation in support of the designation of 12305 Fifth Helena Drive as an Historic-Cultural Monument. This documentation includes the Report we submitted to the Cultural Heritage Commission on October 16, 2023 and an Addendum to that report, submitted January 4, 2024, which is intended to be considered in conjunction with the previously submitted documentation. This Report and Addendum provide information in support of the designation regarding the site's connection to influential Los Angeles architect, Harbin Hunter.

Thank you for your time and consideration in this matter.

Sincerely,

Amy Minter

Enclosures:

Report in Support of Hunter-Monroe Residence
Addendum to Report

Section 5

Harbin Hunter

The Architect & Mexican Architecture Focus

Harbin Hunter

Born to Richard and Martha Hunter, Harbin Hunter grew up on the farm established by Asa Hunter. In 1914, Harbin experienced a life-altering accident when he hammered a nail into a firework, resulting in the loss of three fingers on his left hand (incorrectly reported at the time as losing his entire left hand, Fig. 21). This disfigurement was noted on his draft card (Fig. 22). Despite this loss, Hunter entered into the architectural profession (Fig. 23), becoming one of Los Angeles' premiere architects.

Hunter embarked on a trip to Mexico in 1921 to study Mexican architecture with Eugene Weston and Joseph L. Feil (Figs. 24-25). This trip would eventually result in a three-volume set of books of photographs that were showcased to architects in Los Angeles, essentially kicking off the Spanish Colonial Revival style unique to Los Angeles in the 1920s as discussed in our original submission (Period of Significance, para. 4). Although the photos in the book are not labeled, we believe several photographs show Hunter, including the man seen in Figures 26 & 27 of this addendum.

STORM PLAYS AWFUL PRANK.

Deposits Bomb From Fireworks Plant Within Reach of Small Boy, Who Is Seriously Injured.

A prank of the recent storms, in washing away eight boxes of bombs from a fireworks plant in a canyon of the upper San Fernando Valley, is responsible—at least as an accessory—for an accident yesterday on the famous Hunter ranch, about two miles above the Pigeon Farm, on the Los Feliz road, which cost the young Hunter heir, Harbin, 14 years old, his left hand, and caused painful injuries. The lad was rushed into the city and taken to the Sisters' Hospital, where he was operated upon early last night.

The bombs, which are about six inches in diameter, and used generally in motion picture battles, were washed by the heavy floods down the Los Angeles River, three or four of the boxes reaching the Hunter ranch, where they were found by young Harbin Hunter and his neighbor playmates.

The boy got hold of a big nail and started hammering it through the heart of one of the bombs, when the thing exploded, blowing the boy's hand off and cutting his body superficially with the hard material of which the bomb was made.

The boy was taken to the ranch home and later rushed to the Sisters' Hospital. Harbin Hunter is a grandson of the late Asa Hunter, early pioneer and original owner of the famous Hunter ranch. He is son of Richard Hunter, present owner of the place.

Figure 21 - Harbin Hunter's accident on "the famous Hunter Ranch," March 10, 1914, *Los Angeles Times*.

Form I **280** REGISTRATION CARD No. **271**

1 Name in full **HARBIN FRANCIS HUNTER** Age in yrs. **21**

2 Home address **1655 Los Feliz Blvd, L.A., Cal.**

3 Date of birth **September 30 1896**

4 Are you (1) a natural-born citizen, (2) a naturalized citizen, (3) an alien, (4) or have you declared your intention (specify which)? **a natural born citizen**

5 Where were you born? **Los Angeles, Cal. U.S.A.**

6 If not a citizen, of what country are you a citizen or subject?

7 What is your present trade, occupation, or office? **father brick place Los Angeles, Cal.**

8 By whom employed? **F. Weber**

Where employed? **36 South Los Angeles**

9 Have you a father, mother, wife, child under 12, or a sister or brother under 18, solely dependent on you for support (specify which)? **mother, Martha Hunter, 1655 Los Feliz Blvd**

10 Married or single (which)? **single** Race (specify which)? **white**

11 What military service have you had? Rank **_____**; branch **_____**; years **_____**; Nation or State **_____**

12 Do you claim exemption from draft (specify grounds): **_____**

I affirm that I have verified above answers and that they are true.

V **Harbin Francis Hunter**
H. F. Hunter
(Signature of owner)

11 person is of Alien Service, card

REGISTRAR'S REPORT **44-15. B**

1 Tall, medium, or short (specify which)? **med** Slender, medium, or stout (which)? **stout**

2 Color of eyes? **blue** Color of hair? **blond** Bald? **no**

3 Has person lost arm, leg, hand, foot, or both eyes, or is he otherwise disabled (specify)? **three fingers of left arm missing**

I certify that my answers are true, that the person registered has read his own answers, that I have witnessed his signature, and that all of his answers of which I have knowledge are true, except as follows:

Frank Gardner
(Signature of registrar)

Precinct **_____**

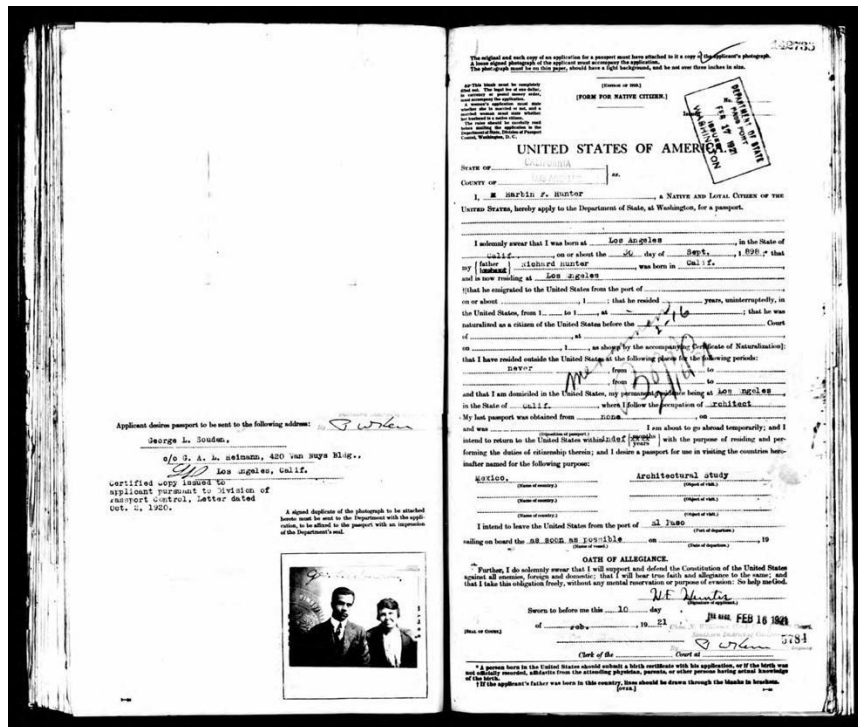
City or County **_____**

State **Div. 15, Los Angeles, Cal.** **6 5 '18**
(Date of registration)

Figure 22 - Harbin Hunter Draft Registration Card, June 5, 1918, United States Government.

1 United States of America {
2 STATE OF CALIFORNIA { ss
3 COUNTY OF LOS ANGELES {
4 The undersigned, H. F. Hunter, being at this date
5 a resident of the City of Los Angeles, State of California, over
6 the age of twenty-one years, being first duly sworn, deposes and
7 says:
8 That he is a citizen of the United States of America;
9 That he wishes to make application herewith for a
10 passport to entitle him to travel in Mexico for the purpose of
11 study; and,
12 That this trip is made necessary because of his
13 work in an architectural way in this city; and,
14 That information derived from this trip is
15 necessary in order to complete certain architectural work under-
16 taken in the City of Los Angeles at the present time;
17 IN WITNESS WHEREOF, the affiant has hereunto set
18 his hand in the City of Los Angeles, State of California, this
19 ninth day of February, 1921.
20
21 H. F. Hunter
22 AFFIANT
23
24 SUBSCRIBED AND SWORN TO BEFORE ME THIS 9th day of February, 1921.
25 Richard E. Leland
26 NOTARY PUBLIC
27 IN AND FOR THE COUNTY OF LOS ANGELES
28 STATE OF CALIFORNIA
29
30 MY COMMISSION EXPIRES: 12-28-1922.
31

Figure 24 - Harbin Hunter's passport is evidence of his intent to study more about Mexican Architecture in Mexico, February 9, 1921, United States Government.



and that I am domiciled in the United States, my permanent residence being at LOS ANGELES in the State of Calif., where I follow the occupation of architect. My last passport was obtained from none, on _____, and was _____.

(Disposition of passport.) I am about to go abroad temporarily; and I intend to return to the United States within 10 months with the purpose of residing and performing the duties of citizenship therein; and I desire a passport for use in visiting the countries hereinafter named for the following purpose:

Mexico,

(Name of country.)

Architectural Study

(Object of visit.)

I intend to leave the United States from the port of El Paso

(Port of departure.)

sailing on board the AS SOON AS POSSIBLE

(Name of vessel.)

on _____, 19

(Date of departure.)

OATH OF ALLEGIANCE.

Further, I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely, without any mental reservation or purpose of evasion. So help me God.

HF Hunter

(Signature of applicant.)

Sworn to before me this 10 day

of Feb., 19 21

[SEAL OF COURT.]

FEB 16 1921

Charles N. Williams

Southern District of California

5784

Clerk of the _____ Court at _____

* A person born in the United States should submit a birth certificate with his application, or if the birth was not officially recorded, affidavits from the attending physician, parents, or other persons having actual knowledge of the birth.

† If the applicant's father was born in this country, lines should be drawn through the blanks in brackets.

[OVER.]

Figure 25 - Harbin Hunter's Passport is evidence of his intent to study more about Mexican Architecture in Mexico, February 10, 1921, United States Government.



Figure 26 - Harbin Hunter's Passport photo compared to a photo of a man in the "Mexican Architectural Details" book co-written by Hunter.

- Left - February 10, 1921, United States Government
- Right - Likely 1921, Eugene Weston, Harbin Hunter, *Mexican Architectural Details*.



Figure 27 - A man resembling Harbin Hunter studying Mexican Architecture, "Mexican Architectural Details", likely 1921, Eugene Weston, Harbin Hunter, *Mexican Architectural Details*.

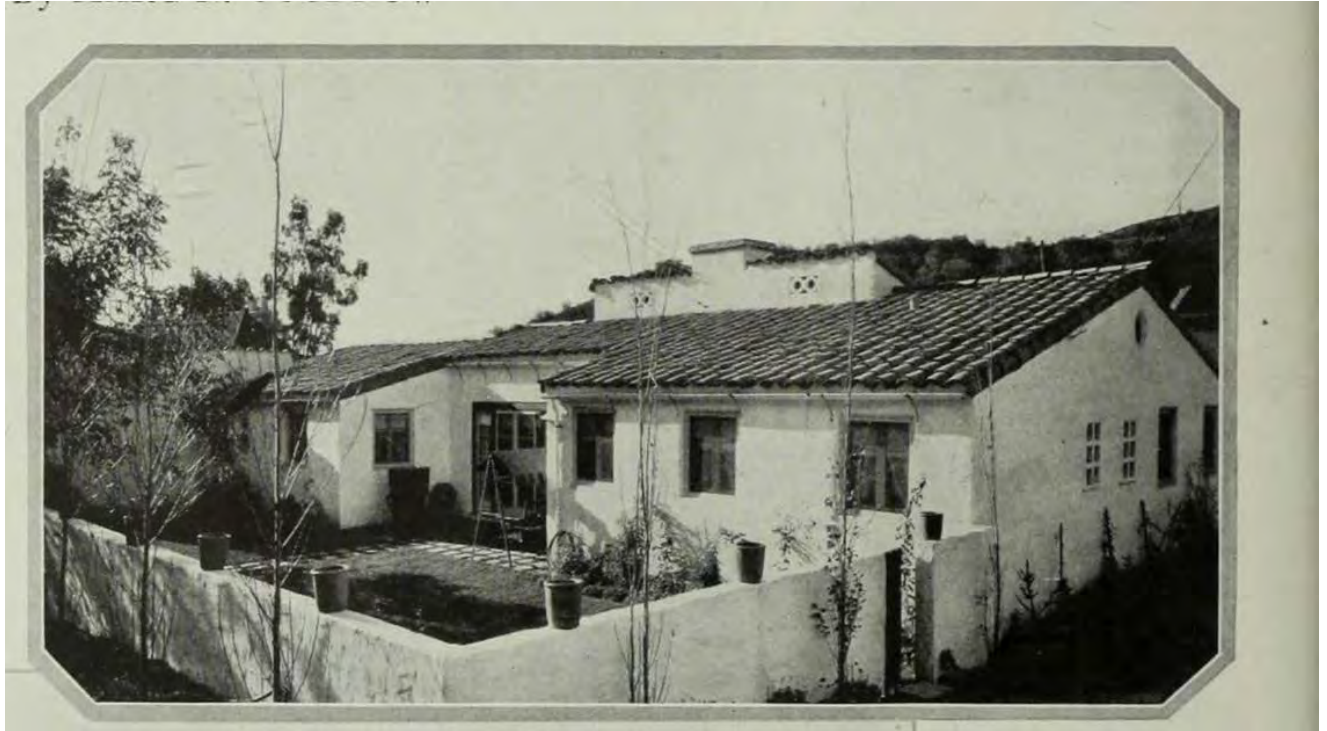
Section 6

Harbin Hunter, John DeLario,
Relevant Works, and 12305 Fifth Helena

Hunter Elements

Although we previously referenced the Harbin-DeLario partnership in our original submission (Period of Significance, para. 4), we find it necessary to showcase how both men influenced one another as well as similarities with their work. Figures 28-30 show DeLario's work compared to Fifth Helena. Similar design elements can easily be seen, including the use of terracotta tiles on the roof, adobe walls, rounded archways, mason pathway to the front door, and rectangular, paned windows.

We have also chosen to include several elements from a confirmed Harbin Hunter designed building, the City Bank Building in Huntington Beach, to 12305 Fifth Helena in an effort to show how Hunter's design trademarks were included in the home. Although no direct documentation survives showing the architect of Fifth Helena, we believe enough evidence exists to overwhelmingly support the idea Hunter designed the home for his parents (Figures 34-39).



*The walled garden
in California has a
rare charm. The en-
closure in the home
of Mr. J. B. Smith
is paved in the man-
ner of a Spanish
courtyard. John L.
DeLario, Architect*

Figure 28 - A Spanish colonial work by John L. DeLario, building partner to Harbin F. Hunter. The home looks very similar to 12305 Fifth Helena, June 1928, *Arts & Decoration*, pg. 48.



Figure 29 - Rear of 12305 Fifth Helena, 2012, % TheMLS.com

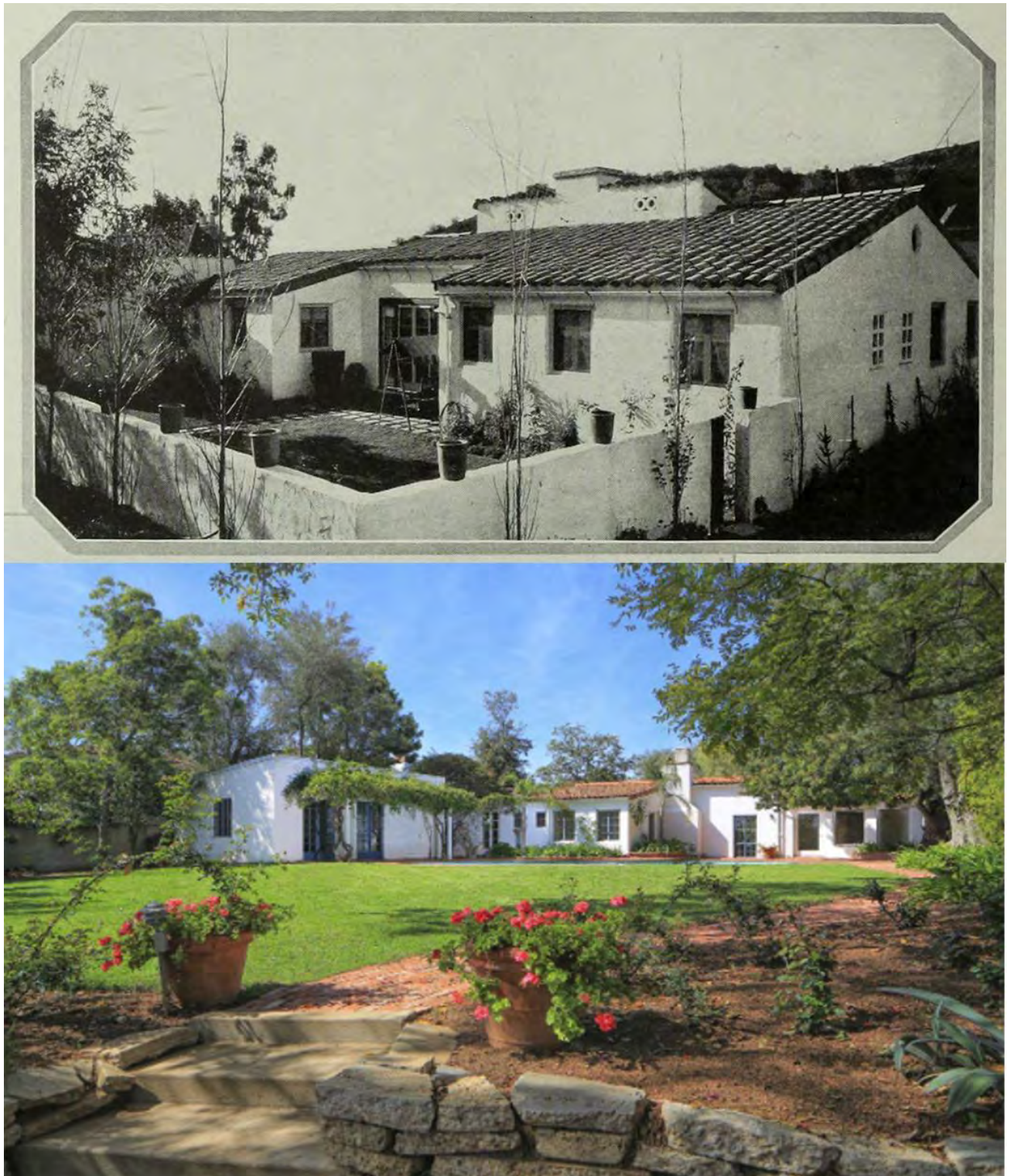


Figure 30 - A composition of Figures 28 and 29 to highlight the similarities in work done by John DeLario & Harbin Hunter, Remi Gangarossa, 2023.



Figure 31 - An early Brentwood developer, possibly Harbin Hunter, holding a set of blueprints next to a pile of bricks in Brentwood, 1926, Dick Whittington, USC Digital Library.



Figure 32 - Entryway and courtyard, 2012, % TheMLS.com



Figure 33 - A composition of Figures 27, 31, and 32 showcasing who we believe to be Hunter in Mexico and several years later in Brentwood as well as the intricate brickwork at Fifth Helena.



Figure 34 - City National Bank Lobby, Mott Studios, 1929, California State Library, California History Section Picture Catalog.



Figure 35 - Entryway and living room of Fifth Helena, 2017, TheMLS.com



Figure 36 - Composition of Figures 34 & 35 between the City National Bank building built by Hunter in Huntington Park and Fifth Helena. Notice the beamed wooden ceilings, arched doorways, light fixtures, and porcelain tiles are all similar elements between the two structures.



Figure 37 - Tiles from City National Bank designed by Hunter which are similar in appearance to those appearing around Fifth Helena fireplace, Mott Studios, 1929, California State Library, California History Section Picture Catalog.



Figure 38 - Fireplace tiles first installed by Hunter and restored by Monroe, 2017, % Phillip Treacy



Figure 39 - Composition of Figures 37-38 between the tilework at the base of the wall in the City National Bank building lobby and the tile surrounding the fireplace at Fifth Helena.

Section 7

Harbin Hunter

Other Architectural Works & References
that Shaped Los Angeles

Harbin Hunter - Other Architectural Works & References

Although we summed up Hunter's architectural achievements in our original submission, we elected to include items on that list (Period of Significance, para. 5) as well as other confirmable projects to illustrate Hunter's work. One of the strongest testaments to Hunter's work as an architect was the hiring of his services by notable Angelenos, including famed restaurateur Mike Lyman. We believe ending the addendum with Hunter's work allows readers to better understand his significance in Los Angeles as well as appreciate the work we've lost over the years due to zealous developers.



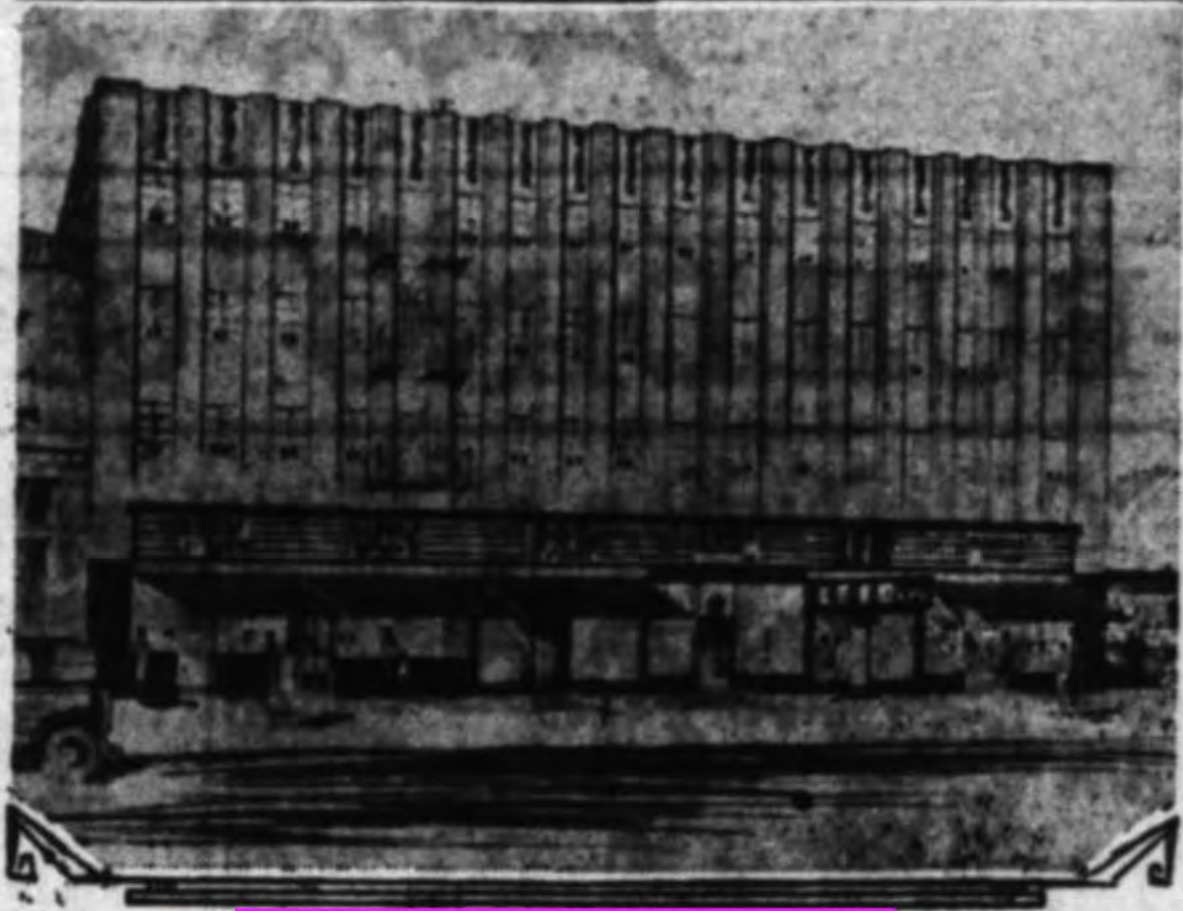
Figures 40 - 42 – Chapeau De Mode, Hollywood Boulevard, Los Angeles, designed by Harbin Hunter, 1920, Mott Studios, California State Library, California History Section Picture Catalog.



Santa Monica Public Library Image Archives

Figure 43 - Lido Hotel, 1447-1457 Fourth Street, Santa Monica, California by architect Harbin Hunter, Santa Monica Public Library.

Store, Apartment Building to Rise



Santa Monica Structure Pictured

Above is shown a four-story Class C store and apartment building to be erected at 1449 Fourth street, near Broadway, Santa Monica, for and by D. S. McEwan, 318 Marine street, Ocean Park. It will be of modern design, 100x100 feet in area and will contain thirty-four apartments and five storerooms. The cost will be \$135,000. Architect Harbin F. Hunter, Los Angeles, prepared the plans and specifications.

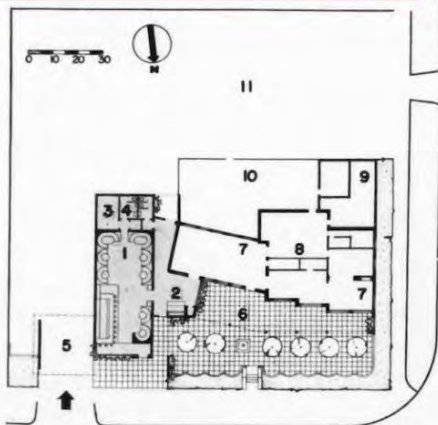
Figure 44 - Harbin Hunter prepares for plans and specifications of a store and apartment building in Santa Monica, March 1, 1931, *Los Angeles Times*.



Street Front; recessed entrance at left

LINDY'S REMODELED CAFÉ SHIFTS TO "AL FRESCO" DINING

HARBIN F. HUNTER
Architect



Plan

- | | | |
|--------------------|-------------------|------------------|
| 1. Cocktail Lounge | 4. Toilet Rooms | 8. Kitchen |
| 2. Entry | 5. Porte-cochere | 9. Storage |
| 3. Office | 6. Dining Terrace | 10. Service Yard |
| | 7. Dining Rooms | 11. Parking |

DESPITE OCCASIONAL spells of "unusual" weather to which even Los Angeles is subject, outdoor dining there is increasingly popular. Thus when an addition to the existing Spanish-type building which housed Lindy's Restaurant was decided upon, arrangements for a large dining terrace were an important part of the plan. This partly covered terrace is sheltered from direct sun by its location on the north side, and protected from the streets by retaining and wing walls. Also included in the new structure are cocktail lounge, entry, office and toilet rooms. (New structural work is shaded in accompanying plan.) In adding the new portion, the entire establishment went through a metamorphosis—the architectural character being changed from neo-Spanish to modern. Circulation in the finished building now pivots around the entry and cashier's booth (2 on plan). Evidence of the automobile's increasing supremacy is the fact that the main entrance to the restaurant is from the porte-cochere. A large lot at the rear provides parking space.

BUILDING
NEWS

APRIL 1938

51

Figure 45 - Harbin Hunter remodels "Lindy's Café" in Los Angeles, April 1938, *Architectural Record*, pg. 51.



The glamour that goes with Grey English Harewood is typified by this installation at Brock & Co., Jewelers, Wilshire Blvd., Beverly Hills, Cal. Design by Harbin F. Hunter, Architect, Joseph L. Feil, associate. Installed by Petersen Showcase & Fixture Co., Los Angeles.

GREY ENGLISH HAREWOOD

ONE of the richest and, incidentally, one of the most expensive of the cabinet woods. Harewood (imported England Sycamore), is really a species of Maple. Its natural color is white, but an intricate process developed abroad adds color to the wood and gives pronounced distinction to the figure. The most popular shade developed is silver gray—a delicate tint which affords a rich, aristocratic finish. Our stocks are

fabricated from imported veneers, carefully selected for grain and length. We have on hand a great number of selected veneer flitches of both the grey and the natural. Among these is one of the most unusual flitches ever imported. It is grey, the veneers running from 18" to 30" wide and from 7' to 8' long, with a heavily marked figure throughout the entire veneer. Samples of this or other flitches are available for inspection, on request.

GRAY ENGLISH HAREWOOD

SIZES	Good ONE Side
-------	---------------

13/16"—5 ply	
36 x 72....	\$1.50
36 x 84....	1.50

Stock at New York.

NARRA

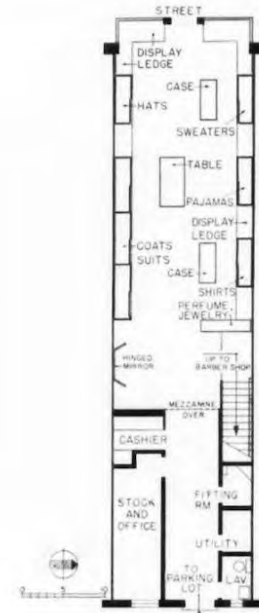
SIZES	Good ONE Side
-------	---------------

1/4"—3 ply	
36 x 72....	\$.42
36 x 84....	.45
36 x 96....	.48

13/16"—5 ply	
(Lumber Core)	
36 x 72....	.72
36 x 84....	.75
36 x 96....	.78

ORIENTALWOOD

Figure 46 - Harbin Hunter Design for Brock & Co., Jewelers, 1938, *The Plywood Catalog*.



ROTHSCHILD'S MEN'S STORE, Beverly Hills, California: Harbin F. Hunter, AIA, architect. Fixture design and layout is intended to simulate the casual grouping of furniture in a home. The display ledge, continuous along the two side walls, contains stock drawers at intervals. Most stock is kept in opaque cases or a separate stock room. Show windows are open-backed; stock displayed here is also available from within the shop. Below, at right, men's shaving, perfumery, and jewelry display case.



Figure 47 - Rothschild's Men's Store with Harbin Hunter as the architect, April 1939, *Architectural Record*, pg. 112.



STORE FOR Brock and Company, Los Angeles. Harbin F. Hunter, AIA. architect; walls are panelled in figured woods, and the floor is heavily carpeted. Interior layout is planned to provide for personal contacts between salespeople and customers, with little or no mer-

chandise available for the customers to handle. The semi-private salesroom is, in this case, intended for showing expensive silver services rather than sale of precious stones. Space beneath stairs is used for stock storage; mezzanine contains offices.



Above, plan of ground floor, showing connection with adjacent hotel lobby. Show windows, on both the lobby and the street sides, are subdivided into small display spaces, comparable in scale to objects displayed.

Column display case



Entrance to Silver Room

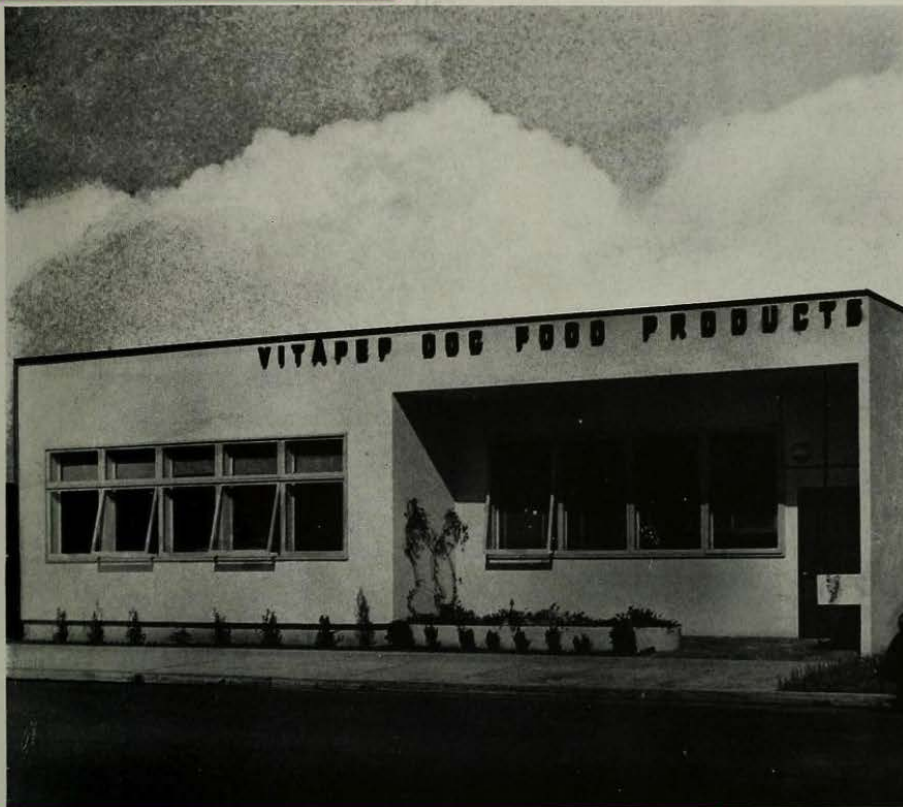


Interior, Silver Room



Figure 48 - Rothschild's Men's Store, April 1939, *Architectural Record*, pg. 118.

HARBIN F. HUNTER, ARCHITECT



BUILDING FOR VITA-PEP DOG FOOD PRODUCTS, LOS ANGELES, CALIFORNIA



DETAIL

OCTOBER, 1939



ENTRANCE

29

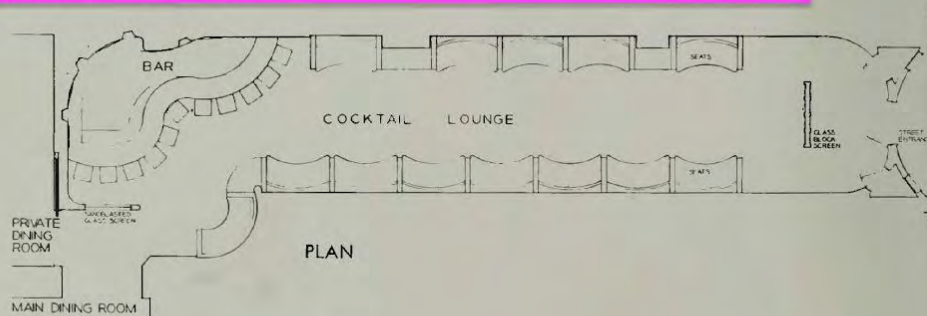
Figure 49 - Vita-Pep Dog Food Products, October 1939, *Architect and Engineer*, pg. 29.



Figure 50 - Mimi's Dress Shop, Los Angeles, California, October 1939, *Architect and Engineer*, pgs. 30-31.



STREET ENTRANCE TO MIKE LYMAN'S RUMPUS ROOM, LOS ANGELES, CALIFORNIA
Harbin F. Hunter, A.I.A., Architect



28

ARCHITECT AND ENGINEER

Figure 51 - Mike Lyman's Rumpus Room, December 1940, *Architect and Engineer*, pg. 28.

RUMPUS ROOM A COCKTAIL LOUNGE

Harbin F. Hunter,
Architect

A UNIQUE cocktail lounge, styled by the owner, Mike Lyman, as a "Rumpus Room," has recently been completed in Los Angeles, from plans by Harbin F. Hunter, architect, who has supplied the following descriptive matter: Located to one side of the main dining room of the hotel, the lounge is directly in front of the private dining room. It is so situated that it may be operated with or independent of the main restaurant.

The entrance is enriched with a sandblasted glass screen, illuminated by concealed colored fluorescent lights. The bar is also illuminated by fluorescent lights back of sandblasted glass panels as shown in the photographs. The entire lounge is illuminated by fluorescent troughs extending across the room. Face of the bar and adjoining wall paneling are Zebra hardwood of a warm red finish. Side walls are lined with seats upholstered in coral color leather. Storage cases for linens, etc., built of Primavera hardwood, connect the seats at columns.

The floor is covered with a velvety carpet of a warm brown pattern to match the general color scheme of the room. The exterior of the place is faced with Roman travertine marble and bronze trim in the entrance floor of Realwood Formica.



DETAIL OF BAR



GENERAL VIEW OF INTERIOR

DECEMBER, 1940

29

Figure 52 - Mike Lyman's Rumpus Room, December 1940, *Architect and Engineer*, pg. 29.



AFTER



BEFORE

STORE

PARMELEE-DOHRMANN STORE, LOS ANGELES, CALIF. HARBIN F. HUNTER, ARCHITECT. Although the new store occupies the upper floors and basement of this 4-story building, skillful planning called for only two bays plus a rear entrance corridor on the first floor. By this device, a minimum of expensive ground floor space was required; yet the building elevators are part of the store, and there is valuable direct access from the large parking lot at the rear. The new store front is faced in ceramic veneer and glass block. Trim and letters are of nickel silver. The general contractor was C. W. Driver, Inc.

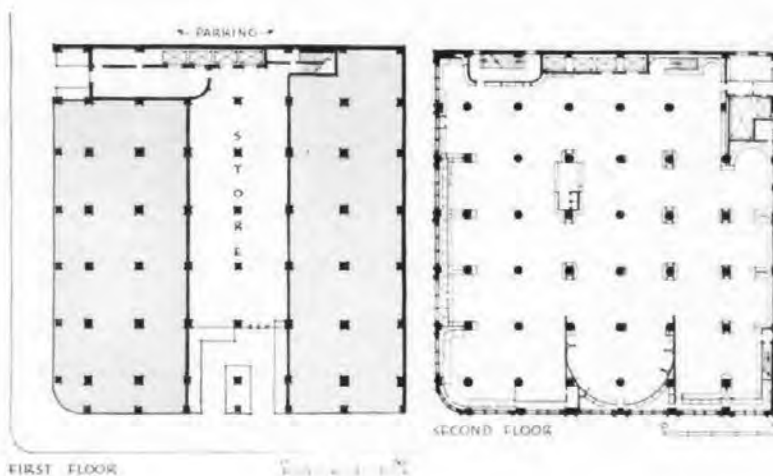


Figure 54 - Parmelee-Dohrmann Store. February 1942, *Architectural Record*.

Communication from Public

Name: Natalie Rogers
Date Submitted: 03/04/2024 03:26 PM
Council File No: 23-0953
Comments for Public Posting: The Bank Family, who own 12305 5th Helena Drive, oppose designation of the house as a Historic-Cultural Monument. Please see the attached letter for documentation of this opposition to the HCM designation.

FIRM / AFFILIATE OFFICES

Austin	Milan
Beijing	Munich
Boston	New York
Brussels	Orange County
Century City	Paris
Chicago	Riyadh
Dubai	San Diego
Düsseldorf	San Francisco
Frankfurt	Seoul
Hamburg	Silicon Valley
Hong Kong	Singapore
Houston	Tel Aviv
London	Tokyo
Los Angeles	Washington, D.C.
Madrid	

March 4, 2024

VIA EMAIL

Planning and Land Use Management Committee
Los Angeles City Council
City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012

Re: PLUM Committee Meeting, Agenda Item No. 4: Nomination of 12305 5th
Helena Drive as a Historic Cultural Monument (Council File No. 23-0953)

Dear Chair Harris-Dawson and Honorable Committee Members:

On behalf of the Bank family, Roy and Brinah Bank, owners of the private home located at 12305 5th Helena Drive (the “Helena House”), ***we strongly oppose the City’s designation of Helena House*** as a Historic Cultural Monument. ***Joining us in opposition to the designation are the Brentwood Community Council***—which represents approximately 36,000 stakeholders in the Brentwood community, including 13 homeowners’ associations, multi-family residential dwellers, business organizations, schools, religious groups, volunteer service groups, and public safety and environmental organizations.

In addition, the ***Brentwood Homeowners Association, the Brentwood Park Property Owners Association, and the Mandeville Canyon Homeowners Association***, which individually represent thousands of residents in the area, ***strongly oppose designation***.

Further, the ***owners of the Estate of Marilyn Monroe*** have requested that the Helena House ***not be designated***, but rather that the Helena House be relocated to a site that is publicly accessible.

Marilyn Monroe owned the Helena House for less than six months before her tragic death in 1962. The mere fact she purchased the Helena House as a place to stay while working on a film in Los Angeles and died there less than six months later does not make it eligible for Historic Cultural Monument designation. The Helena House has been substantially altered in the intervening 60 years since Ms. Monroe’s death, and there is not a single aspect of the House that reflects Ms. Monroe’s brief tenure there. As several courts have determined, Ms. Monroe’s apartment in New York City was her actual residence.

Importantly, the Helena House is not visible from the small dead-end street where it is located, as shown below. The Helena House is not—and will not be—accessible to the public.



Designating the Helena House as a Historic Cultural Monument will result in the area becoming a tourist attraction and will endanger the safety and peace and quiet of the Banks and the neighboring community. Designation will put the Bank family at risk to intruders and others seeking to access and see the Helena House. People have already tried to enter the property without permission and have flown drones over the property. The City will bear this potential liability.

The owners of the Marilyn Monroe estate support relocating the Helena House to a publicly accessible site *before* it is considered for Historic Cultural Monument designation. Ongoing discussions between the City, the Bank family, the estate, and other community organizations and stakeholders are already working toward a relocation plan. Historic Cultural Monument designation, on the other hand, would render relocation infeasible and ensure that the house is completely inaccessible to the public—for years to come.

Designation should be denied based on the following reasons:

- (1) The designation will have potentially significant traffic, noise, and air quality impacts on the environment and the City cannot rely on a Categorical Exemption pursuant to the California Environmental Quality Act.
- (2) The Helena House does not satisfy the City's Historic Cultural Monument designation criteria.
- (3) The Planning Department inappropriately delegated investigation of the Helena House as a potential Historic Cultural Monument to a third party actively advocating for the designation in violation of the City Code.

LATHAM & WATKINS LLP

(4) Because the City failed to follow proper procedure in investigating the eligibility of the Helena House, designation would violate the Bank family's due process rights.

(5) Designation amounts to an unconstitutional taking of the Bank family's property.

Accordingly, and as further described in Attachment A, we respectfully request that the Committee decline to recommend designation of the Helena House as a Historic Cultural Monument meeting.

Very truly yours,

A handwritten signature in black ink, appearing to read 'G. Mhlsten', with a stylized flourish extending to the right.

George J. Mhlsten
of LATHAM & WATKINS LLP

Attachment

cc: Mr. Ken Bernstein, City Planning
Mr. Lambert Giessinger, City Planning
Ms. Melissa Jones, City Planning
Honorable Councilmember Traci Park, District 11
Honorable Hydee Feldstein Soto, City Attorney
Mr. Roy Bank
Ms. Brinah Bank
Benjamin J. Hanelin, Latham & Watkins LLP

ATTACHMENT A

A. The City's CEQA Determination is Flawed

Staff has determined that the decision to designate the Helena House a HCM is categorically exempt from the California Environmental Quality Act ("CEQA") under the Class 8 and Class 31 categorical exemptions. (See 14 C.C.R. (the "CEQA Guidelines"), §§ 15308, 15331.) Staff has failed to consider, however, that CEQA Guidelines Section 15300.2(c)'s 'unusual circumstances' exception precludes the application of a categorical exemption to the Helena House's HCM designation. The City must perform environmental review before acting on the HCM designation.

The unusual circumstances exception prohibits the application of any categorical exemption "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines, § 15300.2(c).) Unusual circumstances include a "feature that distinguishes" the designation from "others in the exempt class, such as its size *or location*." (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105 [emphasis added].)

Here, the Helena House's location is in the middle of a residential neighborhood and is at the end of a very short and narrow cul-de-sac street. The street is barely 20 feet wide and only 200 feet long. Four houses have access onto 5th Helena Street. There is virtually no street parking available on the narrow street. Two cars can barely pass on the street, and because of the cul-de-sac, it is difficult for cars to turn around on the street. The street cannot accommodate tour buses and other guided tours. Given that the designation will attract tour buses and vehicles following self-guided tours to the property, the impact on the community will be significant.

Moreover, there is a reasonable possibility of potential environmental impacts due to this unusual circumstance. (*Ibid.*) As stated succinctly by the Brentwood Homeowners Association, "[d]esignating the Helena [House] as a [HCM] would have adverse impacts on the safety and peace and quiet of the current residents of the neighborhood due to the traffic on very narrow residential streets from sightseeing and celebrity home tour buses and self-guided celebrity tours." (See Brentwood Homeowners Association, Letter to Cultural Heritage Commission (Jan. 16, 2024).) Heightened traffic and congestion may also result in significant noise and air quality impacts to the surrounding community.

To comply with its obligations under CEQA, the City must consider evidence that the Helena House's location constitutes an unusual circumstance that has a reasonable possibility of causing significant traffic, noise, public safety, and air quality impacts on the environment. Because such unusual circumstances exist, the City cannot rely on a categorical exemption in approving the HCM designation.

B. HCM Designation Would Impede Relocation Efforts

The Bank family has been collaborating with the City and other interested stakeholders regarding the relocation of the Helena House to another site where members of the public can

access it. The Helena House is currently located on private property, in a cul-de-sac at the end of a narrow residential street, and behind a fence and landscaping. (See Fig. 1 below.) These stakeholders support the relocation and are in ongoing discussions with the Bank family to secure relocation and enhance public access to the home.

Figure 1



HCM designation, however, would frustrate this cooperative community effort to expand public access to the Helena House. Projects that could cause a “substantial adverse change in the significance” of a “historical resource” are considered to potentially have a significant effect on the environment under CEQA, possibly requiring the preparation of an environmental impact report or mitigated negative declaration before the project is undertaken. (Pub. Res. Code § 21084.1.) Following HCM designation, the Helena House would be considered a “historical resource” under CEQA. Compliance with CEQA may cause any future relocation to become so cumbersome and expensive that it never occurs. In that scenario, Helena House will remain completely inaccessible to the public despite its HCM designation.

C. The Cultural Heritage Commission Failed to Establish that the Helena House Meets the Criteria for Designation

The Cultural Heritage Commission (“CHC”) recommended that the Helena House be designated as an HCM because it is affiliated with Marilyn Monroe. As discussed in detail below, the Helena House does not meet the standards for HCM designation.

“In her brief thirty-six years, *Marilyn Monroe lived in fifty-seven different residences.*”¹ During her years as an actor before her death, Ms. Monroe lived at more than seventeen places—over a dozen residences alone during Ms. Monroe’s productive life in film from 1950 to 1961. (See chronology attached as Attachment A-1.) Her time at the Helena House was one of the

¹ Gary Vitacco-Robles, *Cursum Perficio*, p. xi (emphasis added), attached as **Exhibit 1**.

briefest—occupying the House for at most 157 days, and some of that time she was not even in Los Angeles. While she owned the Helena House, Ms. Monroe spent time in New York, Mexico, Palm Springs, and Lake Tahoe. As the CHC Staff Report acknowledged, Ms. Monroe “moved frequently between east and west coasts of the United States, and abroad, depending on filming locales.” (CHC Staff Report, p. 6.)

Moreover, although she owned the Helena House, it was clear that her actual residence was 444 East 57th Street in New York. The *LIFE* magazine reporter who interviewed her two days before her death at the Helena House was stunned to find the house “bare and makeshift as though someone lived there only temporarily.”² That *LIFE* article did not reveal Ms. Monroe’s ownership of the Helena House, its address, or that it was located in Los Angeles.³ Ms. Monroe even refused *LIFE* any interior pictures as part of the interview.⁴ The Helena House was simply a place Ms. Monroe intended to use when she was in Los Angeles filming a movie. Sworn legal affidavits and court determinations have made this fact beyond question. Multiple state and federal courts in New York and California have all concurred that her residence was 444 East 57th Street in New York.

The Helena House is associated with Ms. Monroe because she died there—not because she lived there during her productive life in film. In fact, the association of Helena House with Ms. Monroe largely occurred after her death, and because of her death. That is not an appropriate basis for HCM designation. Accordingly, the Helena House does not meet the required criteria for HCM designation.

1. Legal Standard for HCM Designation under Criterion 2 – Association with Lives of Significant Persons

Properties may be eligible for HCM designation if they are “associated with” the lives of significant persons. (See Admin. Code § 22.171.7.2.)

However, “[t]here are many hundreds of residential properties in Los Angeles associated with persons in the entertainment industry.” (City of Los Angeles, Los Angeles Citywide Historic Context Statement (Oct. 2017), p. 27 (“City of LA Guidance”).) The City acknowledges that “[*n*]ot all of these resources are significant under this theme.” (*Ibid.* [emphasis added].) Therefore, for properties associated with those in the entertainment industry, the City has provided guidance to inform which properties may actually be eligible for HCM designation, drawing from the National Park Service’s guidelines and bulletins. (See *ibid.*)

First, an individual’s association with the property “***must be connected to the specific period when he or she made his or her contributions.***” (NPS, *National Historic Landmarks*

² Meryman, “A Last Long Talk with A Lonely Girl,” *LIFE* (Aug. 17, 1962), p. 32, attached as **Exhibit 2**.

³ Meryman, “Marilyn Lets Her Hair Down About Being Famous,” *LIFE* (Aug. 3, 1962), pp. 31-38, attached as **Exhibit 3**.

⁴ See **Exhibit 2**, Meryman, “A Last Long Talk with A Lonely Girl,” p. 32.

*Eligibility*⁵ [emphasis added]; see also NPS, *Bulletin 32: Guidelines for Evaluating and Documenting Properties Associated with Significant Persons* (“NPS Bulletin 32”), p. 16 [“Eligible properties generally are those associated with the productive life of the individual in the field in which (s)he achieved significance”]; City of LA Guidance, p. 28.) Thus, Criterion 2 “is generally restricted to those properties that illustrate (rather than commemorate) a person’s important achievements.” (NPS, *How to Apply the National Register Criteria for Evaluation*, p. 14.) “*Associations that, by themselves, would generally not be sufficient to qualify a property as an important representation of a person’s historic significance include ownership . . . or other types of brief or tangential relationships.*” (NPS Bulletin 32, p. 15.)

Second, nominations for properties relying on Criterion 2 “must be compared to other similar properties to *identify the one that possesses the strongest association with a person’s contributions.*” (NPS, *National Historic Landmarks Eligibility*; see also NPS Bulletin 32, p. 20.) “The length of residency is often an important factor when assessing similar properties.” (NPS, *National Historic Landmarks Eligibility*.) Under the City of LA Guidance, an eligible residential property must be “[t]he long-term residence, estate, or multi-family property of a significant person in the entertainment industry.” (City of LA Guidance, p. 28 [emphasis added].)

The Helena House meets none of these requirements.

2. The Helena House Is Not Directly Connected to Ms. Monroe’s Productive Life

The HCM nomination (“Nomination”) on which the CHC relied asserts that the period of significance for the Helena House is 1962, as “the year in which Marilyn Monroe purchased the property and resided there until her untimely death later that same year.” (Nomination, p. 9.) According to the Nomination, although Ms. Monroe did not appear in any movies released that year, she “nevertheless spent her year offscreen working toward furthering her career” by appearing in photoshoots and interviews. (*Id.* at pp. 11, 15; see also CHC Staff Report, p. 6.)

To the contrary, Ms. Monroe’s productive life within the film industry spans from 1950 to 1960 at the latest—*before* she purchased the Helena House. Thus, the Helena House is not directly connected to the specific period representing Ms. Monroe’s productive life as an actor. At most, the Helena House is associated with Ms. Monroe’s death, which is not a sufficient or adequate basis for designation.

a. Ms. Monroe’s Productive Life in Film Is 1950-1960

As shown in Attachment A-1, Ms. Monroe’s career as an actor began in the late 1940s, with the release of *Dangerous Years* in 1947. Ms. Monroe’s breakout performances did not occur until 1950, after signing with 20th Century Fox and starring in *The Asphalt Jungle* and *All About Eve*. Ms. Monroe then starred in multiple films each year from 1951 to 1954. Thereafter, the pace at which Ms. Monroe starred in movies slowed to about a single film released each year. Some of her most notable films include *Gentlemen Prefer Blondes* (1953), *How to Marry a*

⁵ Available at: <https://www.nps.gov/subjects/nationalhistoriclandmarks/eligibility.htm>.

Millionaire (1953), *The Seven Year Itch* (1955), and *Some Like It Hot* (1959). Ms. Monroe completed filming her final film, *The Misfits*, in 1960, which was released early in the following year. Therefore, Ms. Monroe's productive life in film is from about 1950 to 1960. Throughout 1961 and into 1962, Ms. Monroe experienced a series of health and personal issues that led to the decline in her productive life in film.⁶ For instance, she traveled frequently between New York and Los Angeles to spend time with Arthur Miller, her husband, until their divorce in 1961.⁷ Although Ms. Monroe began filming *Something's Got to Give* in April 1962, the studio fired her in June for repeated absences.⁸ Thus, Ms. Monroe owned the Helena House for only six months, after her productive life in film had declined.

b. Ms. Monroe Owned the Helena House After Her Productive Life in Film

The Nomination and CHC Staff Report asserted that, although Ms. Monroe did not star in any films released after 1961, she nonetheless worked to advance her career by participating in magazine interviews and photoshoots and singing Happy Birthday to President Kennedy in New York. (See Nomination, pp. 11, 15; CHC Staff Report, p. 6.) These activities, however, are not related to her productive life *in film*. In fact, interviews and photoshoots are not work product that Ms. Monroe produced herself. Thus, the only significant work Ms. Monroe performed was her iconic rendition of Happy Birthday, which she performed in New York and for which she listed her New York apartment as her contact information, as discussed in Section C.3 below.

Given the status Ms. Monroe had achieved through her film career, Ms. Monroe would always be a sought-after celebrity. The relevant inquiry, in part, is whether the Helena House is directly associated with her productive life *in film*—not as a celebrity generally. (See, e.g., City of LA Guidance, p. 28; NPS, Bulletin 32, p. 16.)

CHC staff took this very approach in 2015, when one of Ms. Monroe's other residences in Los Angeles (Hermitage Avenue) was nominated for HCM designation. (See Case No. CHC-2015-2179-HCM [5258 N. Hermitage, Dougherty House].) Ms. Monroe lived at Hermitage Avenue from April 1944 to the summer of 1945. "Though [Ms. Monroe] did reside at the subject property when she was first discovered in December of 1944, ***she only resided at the property for one year and did not live in the unit during the productive period of her career.***" (*Id.* at p. 3 [emphasis added].) "It was not until a few years later in 1948 when she would successfully break through into the film industry." (*Ibid.*) Ms. Monroe "did not achieve success in the film industry until several years after living at the Hermitage Avenue property." (*Ibid.*)

CHC staff recommended denial of HCM designation in part because there was a disconnect between Ms. Monroe's productive life *in film* and her year at Hermitage Avenue. It is the same here. There is a disconnect between Ms. Monroe's productive life in film – the last

⁶ Donald Spoto, *Marilyn Monroe*, pp. 483-593, attached as **Exhibit 4**.

⁷ *Ibid.*

⁸ See *Greene Archives v. Marilyn Monroe LLC* (9th Cir. 2012), p. 10212, attached hereto as **Exhibit 5**.

of which was released in February of 1961 – and Ms. Monroe’s six months at the Helena House in 1962. Ms. Monroe did not live at the Helena House during her productive life in film.

Moreover, the Nomination for the Helena House suffers from similar flaws highlighted in NPS guidance for two prime examples of residential nominations that are “not acceptable” for HCM designation. (See, e.g., NPS, Bulletin 32, pp. 16, 20.) For example, NPS declined to accept the nomination of one of scientist Curtis Marbut’s residences under Criterion 2. (*Id.*, p. 16.) NPS explained “[d]ue to the unfortunate circumstances of Marbut’s death the same year [that the house was built], . . . he never actually resided in the house.” (*Ibid.*) “This nomination stresses commemorative and symbolic values, which are not acceptable substitutes for direct associations with Marbut and his life’s work.” (*Ibid.*) Similarly, NPS rejected the nomination of a house built by James Bean Decker. (*Id.*, p. 20.) “The years of Decker’s significant activities are not specified, but appear to have occurred primarily before the construction of this house, since Decker died two years after its completion.” (*Ibid.*) Further, NPS emphasized that “[t]here is also no information on Decker’s residences prior to the construction of this house, or whether he divided his time among more than one residence.” (*Ibid.*)

The Nomination on which the CHC relied lacks concrete documentation demonstrating that the Helena House represents or is directly associated with Ms. Monroe’s significant contributions to the film industry. Therefore, like the unacceptable Marbut and Decker nominations, the Helena House does not satisfy Criterion 2 for HCM designation.

3. Ms. Monroe’s New York Apartment Demonstrates a Stronger Association to Ms. Monroe and Her Productive Life in Film

Conspicuously absent from the Nomination and the CHC Staff Report is any discussion of Ms. Monroe’s New York apartment, her actual residence where she lived. Instead, the Nomination and Staff Report focus on the Helena House as the only real property that Ms. Monroe ever “owned.” (See, e.g., CHC Staff Report, p. 6.) As NPS guidance provides, ownership alone is not sufficient to qualify a property as a historic landmark. (NPS Bulletin 32, p. 15.) Rather, the relevant inquiries are whether the Helena House is “directly associated” with Ms. Monroe’s productive life, and whether other properties demonstrate a stronger, more direct association.

Here, Ms. Monroe’s New York apartment demonstrates a significant association to her productive life and her achievements, as she lived there for six years during the peak of her film career. It is immaterial for designation purposes that she rented the apartment with her then-husband. Millions of people in New York, Los Angeles, and other places rent their homes.

Further, evidence presented in judicial proceedings and accepted by multiple courts shows that Ms. Monroe considered her New York apartment to be her actual residence—not the Helena House. Multiple parties testified Ms. Monroe had no intention of living at the Helena House, other than as a temporary place to stay while Ms. Monroe was filming a movie. In fact, Ms. Monroe was photographed and filmed hundreds, if not thousands, of times coming in and out of 444 East 57th Street. Because Ms. Monroe’s New York apartment is most strongly associated to her productive life than is the Helena House, the House fails to satisfy Criterion 2.

a. Ms. Monroe Maintained Her Primary Residence in New York During and After Her Productive Life in Film

In 1956, Ms. Monroe moved into 444 East 57th Street #13-E, New York, with then-husband Arthur Miller. Ms. Monroe maintained that residence even after the couple divorced in 1961 and until her death in 1962. Newspapers reported at the time that “Marilyn found the apartment she wanted (nine rooms) at 444 E. 57th [Street].”⁹ During her six years there, “the New York apartment would be known as Marilyn’s apartment.”¹⁰

As described in a book on Ms. Monroe’s life:

*At the height of her success, Marilyn maintained a Manhattan apartment on the thirteenth floor of 444 East Fifty-Seventh Street, near Sutton Place, with her third husband, playwright Arthur Miller. The Millers spent weekends and holidays at their restored Nineteenth Century farmhouse in Roxbury, Connecticut. **The apartment, however, remained Marilyn’s primary residence until her death.***¹¹

Ms. Monroe took great pride in her New York apartment, furnishing it elegantly with “her most personal possessions.”¹² For instance, “[d]ominating the living room was a white lacquered baby grand piano given to Marilyn in childhood by her mother. When Marilyn’s mother was institutionalized, the piano was sold. As a starlet, Marilyn diligently searched for the instrument and recovered it from an auction house. She carried the piano to each new address, providing continuity to her roving lifestyle.”¹³

While residing in New York, Ms. Monroe experienced the peak of her film career and starred in five movies, including *Some Like It Hot* (1959). By the early 1960s, Ms. Monroe’s New York apartment had “become an almost historic point of interest for New Yorkers and tourists alike. They mill about the building at all hours of the day, hoping to get a peek at Marilyn.”¹⁴

Although her film career had declined by 1962, Ms. Monroe performed with other entertainers at the Democratic Party fundraiser: New York’s Birthday Salute to President John F. Kennedy at Madison Square Garden. For this event, Ms. Monroe listed her address as 444 East

⁹ Winchell, Walter, “Walter Winchell writes...Of New York,” *Buffalo Courier Express*, December 17, 1956, p. 16.

¹⁰ **Exhibit 1**, *Cursum Perficio*, p. 224.

¹¹ *Id.*, p. 6 (emphasis added).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Kilgallen, Dorothy, “Voice of Broadway,” *Shamokin News-Dispatch*, March 10, 1961: 4.

57th Street, New York.¹⁵ Even after her death, the apartment was still referred to as “the Marilyn Monroe apartment”¹⁶ and “Marilyn Monroe’s former Manhattan residence.”¹⁷

In addition, statements from those closest to Ms. Monroe demonstrate her strong ties to her New York apartment and how she considered New York as her home.

- **Executor of Ms. Monroe’s Estate:** Ms. Monroe was “[r]esiding temporarily in Los Angeles while performing. [Ms. Monroe] had [a] fully furnished apartment in New York City, which was her permanent residence. . . . [Ms. Monroe] was returning to New York after completing motion picture commitment – that she considered N.Y. her residence.”¹⁸
- **Friend:** Ms. Monroe “indicated that her California house would be used only on such occasions when she was in California performing in a motion picture film or otherwise engaged in similar activities. . . . Shortly prior to her death during several conversations, [Ms. Monroe] specifically told me that she intended vacating her California house and was going to return to her New York apartment which she considered her permanent home and residence.”¹⁹
- **Housekeeper in New York:** Ms. Monroe “never indicated to me that she intended to move any of her said treasured possessions, furnishing and furniture out of the said New York residence to her California house. . . . Approximately two days prior to [her] death, [Ms. Monroe] requested that I proceed to her California house to stay with her for approximately one month and then that I return back to New York with [Ms. Monroe]. I was then told that [she] intended to return to her permanent residence in New York City.”²⁰
- **Private Secretary:** “When she left for California in or about September, 1961 for the purposes of appearing in a film, she left all of her furnishings and furniture and a substantial amount of her personal effects and clothing in her New York apartment. . . . It was always my understanding that . . . she considered her said New York apartment as her official and permanent residence.”²¹

¹⁵ Maryrose Lane Grossman, “Happy Birthday, Mr. President,” *National Archives*, May 21, 2020, <https://jfk.blogs.archives.gov/2020/05/21/happy-birthday-mr-president/>.

¹⁶ Wilson, Earl, “It Happened Last Night,” *Camden Courier-Post*, November 2, 1962: 23.

¹⁷ “Residential Notes,” *Newsday (Nassau Edition)*, February 9, 1996: 192.

¹⁸ See *Greene* Dkt. 397, Exh. F (affidavit of Aaron Frosch), attached as **Exhibit 6**.

¹⁹ *Ibid.* (affidavit of Ralph Roberts).

²⁰ *Ibid.* (affidavit of Hattie Stephenson Amos).

²¹ *Ibid.* (affidavit of May Reis).

- **Close Friend:** “While she was in California for the purpose of performing in the aforesaid film, she purchased a house in West Los Angeles, California. [Ms. Monroe] advised me at the time she purchased the [Helena House], that she acquired same solely for the reason that she disliked living in hotels, and that she desired and preferred the privacy of living in a private home, even though it was a temporary residence. She specifically indicated to me that she had no intention of making her permanent residence in her said California house, but intended leaving California and returning to her New York residence upon the completion of her assignment in said motion picture film.”²²

Following Ms. Monroe’s death, her estate was probated in New York. Her estate asserted that her domicile and residence was New York, specifically 444 East 57th Street. The New York court agreed. The Superior Court of Los Angeles, State of California, concurred. As did the State of California Franchise Tax Board and Ninth Circuit Court of Appeal. Rulings in these litigations confirm that 444 East 57th Street, New York was Ms. Monroe’s permanent residence.²³ It is where Ms. Monroe was most identified during the peak of her career.

Thus, concrete evidence demonstrates that Ms. Monroe considered her New York apartment, which she had lived in for six years by the time of her death, as her true home.

b. Ms. Monroe Owned the Helena House for Only Six Months

In stark contrast to her New York apartment, Ms. Monroe owned the Helena House for only six months and was physically present at the House for even less time. Although Ms. Monroe purchased the Helena House on February 8, 1962,²⁴ she did not move in until sometime in March.²⁵ Moreover, until her death in early August 1962, Ms. Monroe repeatedly traveled back to New York, as well as to other locations.²⁶

- February 17 – Ms. Monroe travelled from New York to Florida²⁷
- February 20 – Ms. Monroe travelled from Florida to Mexico²⁸
- March 2 – Ms. Monroe travelled from Mexico to Los Angeles²⁹

²² *Ibid.* (affidavit of Patricia Newcomb).

²³ See **Exhibit 5**, *Greene Archives v. Marilyn Monroe LLC*, p. 10212-10220.

²⁴ Grant Deed, attached hereto as **Exhibit 7**.

²⁵ Declaration of Laura A. Wytsma, *Greene* Dkt. 416, ¶ 44, attached hereto as **Exhibit 8**.

²⁶ Travel Itinerary, *Greene* Dkt 416, Exh. 40, attached hereto as **Exhibit 9**.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

- March 24 – Ms. Monroe visited Palm Springs³⁰
- April 13 – Ms. Monroe returned to New York³¹
- April 16 – Ms. Monroe travelled from New York to Los Angeles³²
- May 17 – Ms. Monroe returned to New York³³
- May 20 – Ms. Monroe travelled from New York to Los Angeles³⁴
- July 28-29 – Ms. Monroe visited Lake Tahoe³⁵

Moreover, as the Nomination acknowledges, Ms. Monroe’s psychiatrist, Dr. Ralph Greenson, urged Ms. Monroe to purchase the Helena House.³⁶ The Helena House was less than a mile from Dr. Greenson’s house. Ms. Monroe met Dr. Greenson in 1960, while Ms. Monroe was filming in Los Angeles.³⁷ Dr. Greenson persuaded Ms. Monroe to work on her last film, *Something’s Got to Give*, and tried to intervene when the studio suspended her from the film.³⁸ In fall 1961, Dr. Greenson called upon one of his staff, Eunice Murray, and installed her as Ms. Monroe’s housekeeper, companion, driver, and nurse in Los Angeles.³⁹ In 1962, Mrs. Murray found the Helena House, which resembled Dr. Greenson’s Spanish-style house.⁴⁰ Ms. Monroe stayed at Dr. Greenson’s house before moving into the Helena House.⁴¹

Interestingly, in 1966, Dr. Greenson recalled:

I encouraged her to buy the house. *She had said she had no interest in remaining in California or making it her residence. She said*

³⁰ **Exhibit 4**, Donald Spoto, *Marilyn Monroe*, p. 487.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ **Exhibit 8**, Wytsma Decl., *Greene* Dkt. 416, ¶ 59

³⁶ See Nomination, p. 10; see also **Exhibit 1**, *Cursum Perficio*, p. 11.

³⁷ <http://www.cursumperficio.net/FicheAG22.html>

³⁸ <http://www.cursumperficio.net/FicheAG22.html>

³⁹ See *Greene* Dkt. 416, Exh. 34 (excerpt of *Marilyn: The Last Months* by Mrs. Murray (1974)), attached hereto as **Exhibit 10**.

⁴⁰ <http://www.cursumperficio.net/FicheAM47.html>

⁴¹ *Ibid.*

*that after her next picture she would go back to New York, which she considered her permanent home.*⁴²

However, eventually, Ms. Monroe “was talked into this house . . . by Mrs. Murray and by Dr. Greenson,”⁴³ in part because she was tired of living in hotels and wanted more privacy.⁴⁴ As the Nomination explains, Ms. Monroe moved into the Helena House “with only a bed, a few pieces of occasional furniture,” and some personal belongings.⁴⁵

Further, Ms. Monroe’s ownership of the Helena House was not widely known at the time. *LIFE* magazine interviewed and photographed Ms. Monroe at the Helena House, but the article focused on Ms. Monroe’s career and her thoughts on being famous. The article did not reveal her ownership of the Helena House, its address, or even that it was located in Los Angeles.⁴⁶ The Helena House is not even visible from the street,⁴⁷ and Ms. Monroe refused *LIFE* any interior pictures as part of the interview.⁴⁸ The *LIFE* magazine interviewer remarked that the rooms were “bare and makeshift as though someone lived there only temporarily.”⁴⁹ In comparison, Ms. Monroe expressly refers to her New York apartment during the interview when speaking about the impact fame had on her life.⁵⁰

Given that Ms. Monroe only owned the Helena House for approximately six months (and actually lived there for less time), Ms. Monroe did not have a lasting impact on the House as it stands today. As listed in the Nomination and on Image 1 below, the Helena House has undergone significant renovation since it was constructed in 1929.⁵¹ These alterations include new additions, reroofing, fenestration, and interior remodeling. Several additional buildings and

⁴² **Exhibit 1**, *Cursum Perficio*, p. 11 (emphasis added).

⁴³ *Ibid.*

⁴⁴ See **Exhibit 6**, *Greene* Dkt. 397, Exh. F (affidavit of Patricia Newcomb).

⁴⁵ Nomination, p. 11.

⁴⁶ **Exhibit 3**, Meryman, “Marilyn Lets Her Hair Down About Being Famous,” *LIFE* (Aug. 3, 1962), pp. 31-38.

⁴⁷ Although not relevant to the City’s consideration of the Helena House’s direct association with Ms. Monroe, properties that “may be difficult to observe from the public right-of-way due to privacy walls and landscaping” may lack the requisite integrity for HCM designation. (City of LA Guidance, p. 29.)

⁴⁸ **Exhibit 2**, Meryman, “A Last Long Talk with A Lonely Girl,” p. 32.

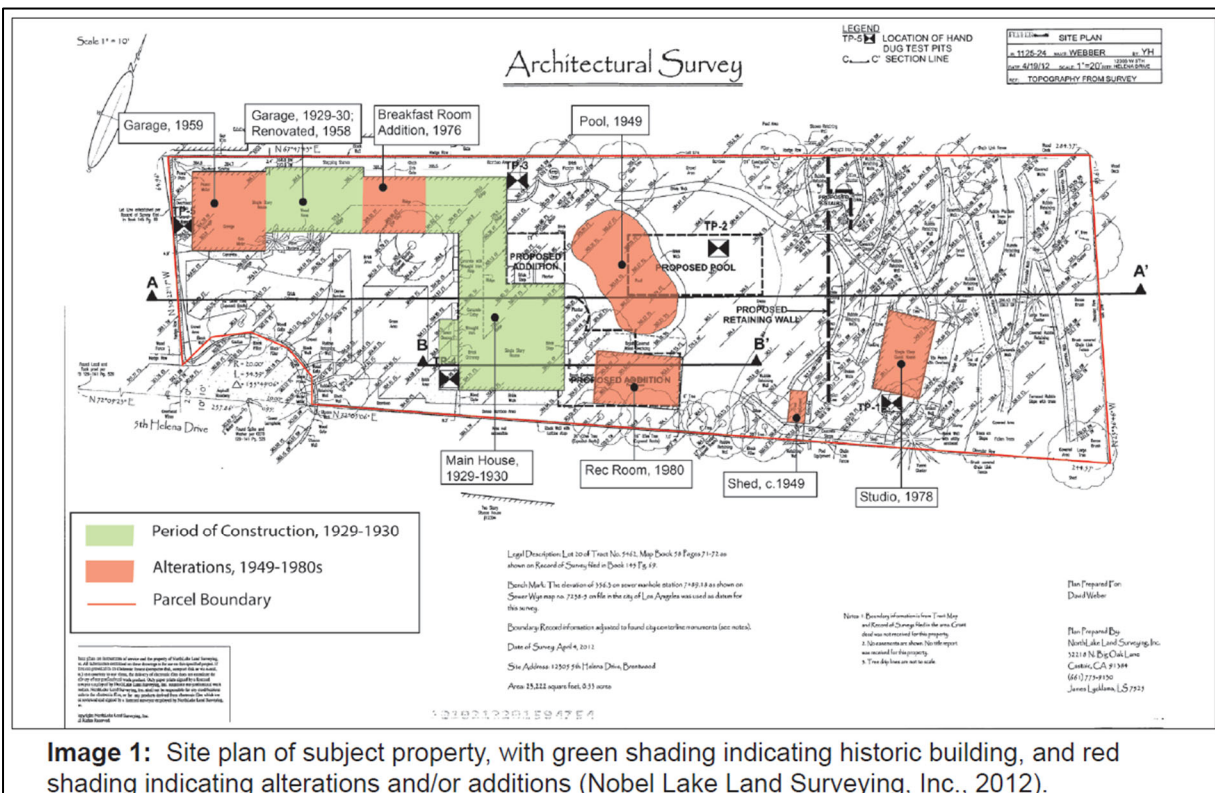
⁴⁹ *Ibid.*

⁵⁰ **Exhibit 3**, Meryman, “Marilyn Lets Her Hair Down About Being Famous,” p. 32 (“In the morning the garbage men that go by 57th Street [in New York] say, ‘Marilyn, hi! How do you feel this morning?’ To me it’s an honor, and I love them for it.”).

⁵¹ See Nomination, pp. 4-5.

structures were constructed, including a recreation room, pool, pool equipment shed, and studio.⁵² None of these occurred during Ms. Monroe’s brief period of ownership.⁵³

In fact, because Ms. Monroe owned the Helena House for such a short time, there is no evidence in the Nomination, Staff Report, or elsewhere that she made any lasting changes.⁵⁴ “All the remaining Mexican tiles [Ms. Monroe added to the House] have been removed, and the interior walls have been stripped to the studs and rebuilt.”⁵⁵ “Tile floors replace the white wool carpeting. . . . [T]he original scalloped wooden fence purchased by Marilyn . . . is replaced with an electronic steel barrier.”⁵⁶ Finally, in 1984, “the [then] owner removed the original gates to make the house less recognizable.”⁵⁷



There is not a single element of the Helena House as it exists today that reflects any change that Ms. Monroe may have made to the Helena House, if any. And the House has been substantially changed from the time Ms. Monroe lived there for a brief period before her death.

4. The Commissioners' Comments Confirm the Helena House Does Not Satisfy the Eligibility Standards

During the CHC's January 18, 2024, hearing, the CHC ignored the fact that the Helena House does not satisfy the legal standards for HCM designation.

One Commissioner stated that he would vote in favor of designation because Ms. Monroe is "a little bit different" from other famous people. (CHC Hearing (Jan. 18, 2024), 1:09:23.⁵⁸) The same Commissioner justified designation because he felt "moved" when the CHC conducted a site visit at the Helena House. (*Id.*, at 1:09:40).

Another Commissioner stated that she could not vote against the Helena House's designation because such a vote would be equivalent to voting against designating Walt Disney's home – a comparison that finds no basis in the applicable legal standards for HCM designations. (See *id.*, at 1:11:40.)

A third Commissioner emphasized that she believed Ms. Monroe would recognize the Helena House as it exists today – which is not a factor that is relevant to HCM eligibility. (See *id.*, at 1:12:35; City of LA, "Guidelines for Evaluating Resources Associated with Significant Persons in Los Angeles (Nov. 2018), p. 7; NPS Bulletin 32, pp. 22-23.)

Thus, the Commissioners' deliberations demonstrate that the CHC's recommendation was not based upon the Helena House's satisfaction of the applicable legal standards for HCM designation.

D. The Nomination Violates the City Codes

The Planning Department and CHC have violated the Municipal Code and the rights of the Bank family by inappropriately delegating the inspection and investigation of the Helena House to a biased third-party advocate, whose position in support of the designation is known and documented as discussed in Section E below.

City Council initiated the proposed designation on September 8, 2023.

FURTHER MOVE that the Council initiate consideration of the property located at 12305 5th. Helena Drive, Los Angeles, CA 90049, as a City Historic-Cultural Monument *under the procedures set forth in Section 22.170 .10 of the Administrative Code*, and *instruct the Planning Department to prepare the Historic Cultural*

⁵⁸ https://planning.lacity.gov/plndoc/Audio/CHC/2024/01-18-2024/4_CHC_2023_6134_HCM_Marilyn_Monroe_Residence.mp3

***Monument application for review and consideration by the
Cultural Heritage Commission.***

(Emphasis added.)

With respect to a Council-initiated Nomination, the Code clearly require the investigation to be done by the Cultural Heritage Commission. Code Section 22.170.10 requires “Upon receipt of any proposed designation initiated by the Council, the ***Commission shall*** . . . inspect and investigate the proposed Council-initiated designation.” (Admin. Code § 22.171.10(c)(2) [emphasis added].) The Code further provides “The ***Commission, its sub-committee or the staff of the Department acting on behalf of the Commission shall inspect and investigate*** any site, building or structure . . . in the City of Los Angeles which it has reason to believe is or will in the future be a Historic-Cultural Monument.” (Admin. Code § 22.171.8 [emphasis added].)

Here, after the City Council initiated the HCM process, however, neither the CHC, a CHC sub-committee, nor Planning staff conducted the inspection and investigation. Nor did the Planning Department prepare the Nomination application as instructed by the Council Motion.

Instead, the Planning Department engaged in a process not authorized by the Code, the City Council Motion, or due process. In complete violation of the Code, the Motion, and the law, the Planning Department coordinated with a biased third-party advocate to prepare the Nomination for review and consideration by the Commission. Further, the Director’s report based the entirety of its report and recommendation on this biased Nomination.

Rather than conducting an independent non-biased review of Helena House and its association with Ms. Monroe as required by Code, the City Council Motion, and the law, the Planning Department and CHC had a Nomination prepared by a biased third party who was not a City employee and who was not under contract to the Planning Department as an unbiased investigator. The City has acted ultra vires by having a Nomination prepared by someone (i) not affiliated with the City and (ii) with a known bias on the issue of designation of the Helena House, instead of conducting an independent review. That is not what the law requires.

E. The Preparation and Adoption of the Nomination Would Violate the Bank Family’s Due Process Rights

The Nomination was prepared by a third party who is a member of the board of Hollywood Heritage and has done extensive work on behalf of the LA Conservancy, which were both actively advocating to preserve the Helena House as a historic landmark *before* the City

Council initiated a nomination.⁵⁹ This is far from the neutral and objective investigation to which the Bank family is entitled and the law requires.⁶⁰

The City has effectively delegated the investigation of Helena House to a third party with a stated bias in a specific outcome—HCM designation. As a result, the City has violated the Bank family’s due process rights and the Bank family has suffered substantial damage.

If the Committee accepts the CHC Staff Report based on a Nomination prepared by a biased third party in clear violation of the Council Motion and the Code, the minimum standards of due process will have been violated. The Committee does not have before it any objective evidence to support a designation of the Helena House as an HCM.

F. HCM Designation Constitutes a Taking

Designating the Helena House as an HCM amounts to an unconstitutional regulatory taking under the U.S. and California Constitutions. A court determines whether a partial regulatory taking has occurred by considering (1) the economic impact of the regulation; (2) its interference with the owner’s reasonable investment-backed expectations; and (3) the character of the governmental action.⁶¹

HCM designation would result in a severe economic impact on the value and use of the Helena House, which will be subject to strict use restrictions that do not apply to the property today. That diminution in economic value would interfere directly with the Bank family’s reasonable expectations when they first purchased the Helena House: that they would be able to use the home and property like every other property owner. Finally, the character of the HCM designation action is manifestly unreasonable because the entire burden of maintenance and use restrictions will fall on the Bank family – even though no members of the public will be able to access the Helena House in its current location.

⁵⁹ Hollywood Heritage submitted a letter to Councilmember Park on behalf “urg[ing Councilmember Park] to take action to prevent the demolition of 12305 5th Helena Drive.” (Hollywood Heritage, “New Preservation”, Letter from Brian Curran to Councilmember Traci Park (September 6, 2023); available at: <https://www.hollywoodheritage.org/new-preservation>.) Similarly, the LA Conservancy “thanks Councilmember Park for initiating the Historic-Cultural Monument (HCM) process. We will continue working with Park’s office to ensure the Cultural Heritage Commission and City Council take this important house under consideration for historic protections.” (See LA Conservancy, Marilyn Monroe’s House, available at: <https://www.laconservancy.org/learn/historic-places/marilyn-monroes-house/>)

⁶⁰ The combination of investigative and adjudicatory functions within a single agency can give rise to a due process violation where there is a showing of a probability of bias. (See, e.g., *Cal. DUI Lawyers Assn. v. DMV* (2022) 77 Cal.App.5th 517, 532; *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 92.) Further, evidence demonstrates that the Commission has a substantial relationship with the LA Conservancy that supports an unacceptable probability of actual bias. (See *Woody’s Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1021.)

⁶¹ See *Penn Cent. Transp. Co. v. City of New York* (1978) 438 U.S. 104; *640 Tenth, LP v. Newsom* (2022) 78 Cal.App.5th 840, 860.

ATTACHMENT A-1

CHRONOLOGY

Attachment A-1: Marilyn Monroe – Known Residences During Film Releases

