The Coogan Law

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I. Introduction to the Coogan Law

On October 26, 1914, a child was born that would eventually become the most famous child actor of the 1920s—his name was John Leslie Coogan, Jr., or 'Jackie' Coogan. His rise to stardom came as no surprise, as both his mother and father were well-known vaudeville performers. During one of their performances, the Coogans brought young Jackie out onto the stage to perform a small dance number. The audience instantly fell in love with this child, particularly the famous comedian and actor, Charlie Chaplin. Chaplin immediately signed the child on for his film *The Kid*, in which Coogan played Chaplin's son. The film had major success and was followed by several other projects, making nine-year-old Jackie Coogan "one of the biggest stars in Hollywood" (Grauer, 2000, p. 50). As his career continued to grow, his paychecks started to grow as well, and by 1924, Coogan's wealth had accrued to almost $2 million from his film career alone (Goldman, 2001, p. 27). By the time his childhood fame started to decline, Jackie Coogan had made about $4 million; however, upon reaching adulthood, he would learn that his mother had squandered almost his entire fortune.

After unsuccessfully fighting for his earnings, Coogan filed a lawsuit against his mother and new stepfather, Arthur Bernstein, to recoup his lost earnings in 1938. Unfortunately, Coogan's fortune had shrunken to a mere $250,000 at the time of the lawsuit, and when the case was finally settled, he received less than half of that amount (Grauer, 2000, p. 50). It was during this lawsuit that Hollywood recognized the financial trouble it was putting its child stars into, which prompted the California legislature to pass a law that would protect a child performer's earnings in 1939. This law was named the Coogan Law, after the case of

Jackie Coogan. The Coogan Law required that up to fifty percent of a child's earnings were to be set aside in a trust fund that was approved and regulated by a judge. The judge had the power to cancel or alter the terms of this trust, which gave he or she great power over the child. These conditions placed the child's financial fate "at the mercy of both the judge that reviewed his contract, and his parents who controlled whatever moneys were not set aside" (Staenberg & Stuart, History of California's *Coogan Law*). The original Coogan Law would eventually be altered in an effort to put the child's best interests first. Since its creation in 1939, the Coogan Law, which protects the earnings of child performers, has been amended twice to meet current standards in entertainment contracts; however, it still lacks in its ability to influence parents to create Coogan trusts for their children's earnings in a timely manner.

II. Cases of Coogan Law Violations

a. Macaulay Culkin

Macaulay Culkin, the child actor most famous for his role in the *Home Alone* franchise, was born on August 26, 1980 in New York City. He started acting for New York's Ensemble Studio Theater at the age of six ("Macaulay Culkin," 2009). As the years progressed, he played roles in films such as *Rocket Gibraltar* and *Uncle Buck*; however, he finally achieved monstrous fame with the release of *Home Alone*. His fame continued to grow at a fast rate; at age eleven he was a guest host on Saturday Night Live, and at age twelve he won "MTV's award for Best Kiss of the Year, for [his] smooch in *My Girl*" ("Macaulay Culkin," 2009). Culkin became close friends with Michael Jackson, with whom he had a strong relationship, both having experienced child stardom. According to Culkin, the reason they became so close was because of their similar lack of a childhood—"We're both going to be about [eight] years old forever in some place because we never had a chance to be [eight] when we actually were" ("Macaulay Culkin," 2009). The two stars also connected through the relationships they each had with their extremely overbearing fathers. In fact, it was Culkin's father, Kit, who was also his manager and whose lust for power and control ultimately left his son's acting career in shambles.

Kit Culkin started managing his son, Macaulay, after the release of *Uncle Buck*. While he may have been the reason why Macaulay had such a successful career in his early years, he eventually caused his own son's demise. In one particular instance, during Michael Jackson's 1993 child molestation scandal, Macaulay wanted to speak in his defense, but Kit would not allow it. This is one small example of the power Kit exerted over his son. Eventually he would start making bizarre demands about his son's career, such as letting him star in one movie as long as he starred in another movie as well. This behavior made it seem as though "Kit Culkin wanted power over his son's movies, and seemed to want power over his son" ("Macaulay Culkin," 2009). Macaulay was truly affected by this behavior, which, in turn, affected his acting. As a result, his popularity began to wane; yet, that would only be the start of his misfortune.

While his career was slowing down, Culkin faced greater hardship as his parents went through an arduous separation. This ensued in a custody battle over Macaulay and his other siblings, which was a costly procedure. An even more upsetting fact was that the source of the funds used to pay for the court proceedings came from Macaulay's earnings. Both his mother and father had been living off of management fees that they earned from Macaulay, which was rather alarming. In light of this issue, Culkin took his parents to court to gain control of his assets. As a result, the control of Culkin's earnings was taken from his parents and placed into the hands of his accountant by Manhattan Supreme Court Justice David Saxe in 1997 (Staenberg & Stuart, Introduction). While this victory was important for setting an example and giving hope to other child performers, it was bittersweet under the circumstances that transpired. Unfortunately, Macaulay Culkin would not be the only major child performer to face his parents in a court of law; that fate would fall upon others in the future.

b. Gary Coleman

Perhaps the most recent case resulting from a violation of the Coogan Law is that of Gary Coleman. Gary Coleman was born on February 8, 1968 in Zion, Illinois, yet he lived with adoptive parents, who both worked in the medical field. Coleman suffered from a congenital defect called nephritis, which stunted his growth at four feet, eight inches (“Gary Coleman,” 2009). However, the small stature worked to his advantage in commercials, as he could play a five-year-old at the age of nine. He eventually achieved childhood fame when he was cast as Arnold Jackson on NBC’s “Diff’rent Strokes” in 1978. During the six-season run of the series, he starred in three television movies that “helped solidify the wholesome, chipmunk-cheeked kiddie image that would dog Coleman for the rest of his life” (“Gary Coleman,” 2009). After “Diff’rent Strokes” went off the air in 1986, Coleman had trouble getting work—he was no longer the adorable child people loved to watch. As if his life could not be any harder, Coleman eventually entered into a lawsuit against his adoptive parents for the control of his earnings.

Over the six seasons of “Diff’rent Strokes” Coleman earned close to $18 million, and in an effort to protect those earnings, his parents created a Coogan trust in his name. Unfortunately, his parents structured the trust by naming themselves as paid employees of his production company. When it came time for a judge to dissolve the trust, it revealed that the "parents' share was worth $770,000, while Coleman himself had only $220,000" (Staenberg & Stuart, Introduction). Coleman proved that such an act of embezzlement would not be tolerated by taking his parents and managers to court. He was able to sue them for an additional $3.8 million, which helped recoup some of his losses. Cases like those of Gary Coleman, and even Macaulay Culkin, showed just how insufficient the Coogan Law was for its time. It would not be long before this law would be drastically amended to better protect the interests of child performers.

III. Amendments to the Coogan Law

a. 1999 amendment (Senate Bill 1162)

In 1999, the Coogan Law underwent a drastic overhaul, which resulted in Senate Bill 1162. The new amendments to the Coogan Law would further protect the earnings of child performers by instituting more rigorous regulations. According to "The New Coogan Law, SB 1162," all contracts, whether they be court-approved or not, would be covered under the new law, as opposed to the previous version, which only covered "5% of contracts that are court-approved" (2009). This amendment would allow for greater coverage and protection of child performers who did not have court-approved contracts. The new law also stipulated that fifteen percent of a child performer's earnings were to be placed in a Coogan trust, although those with a court-approved contract could petition for more than fifteen percent. Senate Bill 1162 also required the child's employer to deposit the actor's funds into the Coogan trust within fifteen business days of receiving notice of the creation of the trust by the child's parents ("The New Coogan Law," 2009). This provision would make it mandatory for employers to deposit the child's funds into the account in a timely manner, as long as there was proof provided by the parents of the creation of the account. While the 1999 amendment to the Coogan Law did provide new regulations to protect child performers, there were still some grey areas that were not addressed.

Senate Bill 1162 was, for its time, a well thought out law, designed to protect child performers to the best of its ability. Unfortunately, this law contained several loopholes and harmful provisions that put a child performer's earnings in jeopardy. A particular example of a loophole found in the law pertained to where the actual Coogan account, or trust, was supposed to be established. Nowhere in the law did it explicitly state that the trust must be established at an insured financial institution within the state of California. Theoretically, parents could establish an account outside of California, in another location, such as Kansas or the Cayman Islands, and then empty all of the money saved in the account (Din, 2004, "State Law"). While this would be an extreme example of this type of situation, there was no provision in the 1999 Coogan Law to prevent such a thing from happening in reality.

Aside from loopholes, there were blatant lapses of judgment in adding provisions to the Coogan Law to protect a child's earnings if the parents did not provide evidence of a Coogan trust to the employer. Under Senate Bill 1162, if a parent failed to notify the child's employer of the Coogan account and all related information, the employer would hold the child's earnings until the parents gave said notification ("The New Coogan Law," 2009). In essence, this provision seemed like a reasonable solution of what to do in a case where no trust had been established, yet a certain California statute made the provision weak. According to California's Unclaimed Property Law, "if earnings remain unclaimed by the minor or the minor's parent or guardian after three years, the money may be forwarded by the employer to the State Controller" (Din, 2004, "State Law"). If parents did not take any action to secure their child's earnings, they would lose them to the state. Whether such an act would be intentional or not would depend upon the parents' demeanor, yet a problem of this caliber would require an additional amendment to the Coogan Law, which would occur in 2003.

b. 2003 Amendment (Family Codes 6752/6753)

The Coogan Law was amended once again in 2003 in an effort to fix those loopholes and harmful provisions present in the 1999 version. It also gives further instructions to the parents of child performers on how and when to set up a Coogan trust for their children. According to the new law, parents must notify their child's employer of the creation of the Coogan trust within ten days of signing the contract to work with the employer (California Family Code § 6753, 2009). This notification will then put the responsibility into the hands of the employer to swiftly place the child's earnings into the trust within fifteen business days. After the funds are deposited, the employer has no further obligation to manage the funds (Cal Family Code § 6752, 2009). Relieving the employer of this responsibility shows how the new Coogan Law provides not only for child performers, but for the employers of those children as well.

In terms of addressing the loopholes found in the 1999 Coogan Law, the 2003 amendment specifies that all Coogan accounts must be established at "a financial institution that is and remains insured at all times" within the state of California (Cal Family Code § 6753, 2009). By specifying that the trust must be created in California, those problems addressed in the previous version of the law are solved; there is no fear of a parent establishing an out-of-state account for their own benefit. Also, the new amendment prevents a child performer's funds from being sent to the state controller by overriding California's

Unclaimed Property Law. If a parent fails to inform their child's employer of the creation of a Coogan trust within 180 days, the employer will send fifteen percent of the child's earnings to the Actor's Fund of America, and will notify the parents of that transaction (Cal Family Code § 6752, 2009). This process bypasses the Unclaimed Property Law and makes the Actor's Fund of America, or AFA, the new trustee for the child's earnings. The AFA is required to hold the child's earnings until he or she reaches the age of eighteen, or is legally emancipated from his or her parents. The funds will become available to the performer within sixty days of reaching this age (Cal Family Code § 6752, 2009). Another interesting stipulation of the 2003 amendment is that it allows the AFA to lump every performer's earnings into one general account. These funds are then used to create new programs for the benefit of all child performers nationwide. Although the new Coogan Law protects the earnings of child actors on a grand scale, it is still not entirely free of flaws.

IV. Problems with the Coogan Law

a. Incentives to Create Coogan Accounts

The modern-day Coogan Law is more than capable of protecting the earnings of child performers; however, it lacks in terms of sparking incentives for parents to establish Coogan accounts for their children. Although the law offers a step-by-step guide for establishing Coogan trusts, some parents still neglect creating the trusts in a timely manner. According to California Family Code § 6752 (2009), parents are required to notify their child's employer of the creation of a Coogan trust within ten days of their child's employment. In some cases some parents do not create these trusts at all, which forces the employer to transfer the child's funds to the Actor's Fund of America after 180 days. By handing off the role of trustee to the AFA, parents are able to avoid almost all responsibility when it comes to protecting their child's earnings. This is not to say that the Coogan Law does not provide any incentives for parents to create trusts for their children; the renewal of child work permits often motivates otherwise lazy parents.

It is not possible for a child performer to work without a work permit; this fact provides an incentive for parents to establish Coogan accounts. Under the latest version of the Coogan Law, it states that a child's work permit may not be renewed or extended without evidence that a Coogan account has been created (Din, 2004, "Denying Work Permit Renewals"). This stipulation is more than adequate for motivating parents, yet some parents still find ways around it. The California Labor Code § 1308.9 (2009) states that the Labor Commissioner will approve a work permit if the parents of the child performer present evidence of the creation of a Coogan account within ten business days. While this is a reasonable law to abide by, some parents choose to take advantage of the ten business days they are granted. Occasionally children will work without a Coogan trust for only a few days within the ten-day limit given by the Labor Commissioner. Parents are able to avoid creating a Coogan account by following this practice. In theory, a child could work continuously, in ten-day intervals, which would completely abandon the need for a Coogan account—therefore providing no protection for the child's earnings. For those children who work for long periods of time, the establishment of a Coogan account is vital; otherwise, the Actors' Fund of America will handle the child's earnings.

b. Actor's Fund of America as Trustee

As mentioned earlier, if a parent does not provide evidence of the establishment of a Coogan account to their child's employer within 180 days, the employer will transfer the funds to the Actors' Fund of America, or AFA. This foundation aims to help all young performers by creating programs that provide for these actors nationwide. These programs help to show the AFA in a positive light; however, this organization becomes rather unscrupulous when handling a child actor's earnings. Instead of holding each actor's earnings in a separate account specific to that actor, the AFA groups all of these earnings into one general account "provided it maintains accounting records for each beneficiary's interest in the master account" (California Family Code § 6752). There is no concrete provision in the Coogan Law that insists that the child's earnings in the general account are monitored. The child's earnings could potentially be dispersed and hidden by the AFA within the general account. Also, the helpful programs established by the AFA are created using the funds within this general account. The AFA is essentially robbing the child performers of their earnings, yet establishing programs to help other child performers, which creates an ironic cycle. If the parents of child performers would create Coogan accounts in the time allotted, this cycle would end.

Parents put their child's earnings in even more harm by allowing the AFA to act as the trustee of the funds. California Family Code § 6752 (2009) explicitly states that after one year, the AFA is allowed to deduct expenses from the child's earnings. These expenses are related to the management of the child's funds, such as establishing the account and creating account notifications for the child (Cal Family Code § 6752, 2009). Charging these fees to the children who have their money saved by the AFA is not fair to the child. There is no logical reason why a parent would submit their child to such a process without seeking some kind of personal or financial gain. Perhaps the other share of the child's earnings not protected by a Coogan trust does not satisfy the needs of greedy parents who live off of their child's income.

c. 85% of Earnings not Protected

Under the new Coogan Law, only fifteen percent of a child actor's net earnings are required to be set-aside in a Coogan trust established by the child's parents (California Family Code § 6752). Nowhere in the law does it reference what is to be done with the other eighty-five percent of the child's net earnings. Protecting such a small amount of what the child has earned may not be beneficial, for the parents could easily take advantage of those funds kept outside of the Coogan trust. Since it is not referenced in the actual law itself, there are no legal restrictions to stop parents from using those funds for themselves. In this sense, the Coogan Law does not provide as much security for the child as it seems; rather, the law turns the other cheek on protecting the majority of a child performer's earnings. It is problems such as this that signal the need for further amendments to the Coogan Law in order to further ensure the welfare of child performers.

V. Solutions to Fix Coogan Law

a. Coogan Trust Before Work Permit

The Coogan Law currently encourages parents to establish Coogan accounts for their children by coupling with California Labor Code § 1308.9 to prevent the renewal of work permits unless parents present evidence for the creation of a trust. As discussed earlier, parents have found ways around this provision to avoid having to establish these trusts for their children. It is parents like these that call for stricter regulations in the Coogan Law in terms of allowing work permits. If a child is going to work in a film, the parents should have to establish a Coogan trust for that child before applying for a work permit. Parents must present valid evidence of the creation of the trust before the work permit is approved. By establishing the trust early, parents and employers will avoid complications when the child's earnings are to be distributed. Adding this provision will also prevent parents from avoiding the creation of trusts since the child will not be allowed to work at all. Also, there would no longer be the need for the Actors' Fund of America to step in as a trustee.

b. Separate Accounts Held by AFA

California Family Code § 6752 states that the Actors' Fund of America will become the trustee of a child performer's earnings if no evidence of the creation of a Coogan account is presented to an employer within 180 days. It also specifies that the AFA is not required to create separate accounts for each child; instead, the earnings of every child are combined into one general account. Combining the earnings of these performers causes problems, which, as addressed above, will only be solved by creating separate accounts for each child's earnings. Separating the earnings on a child-by-child basis will help to avoid the confusion of whose money belongs to whom. It will also make the accounting of the funds much easier by not having to sort through one, massive account and dividing up the funds from the whole. The percentage of earnings that goes into the account may be meager, but it is still worth protecting for each child performer individually.

c. Making 15% a Minimum

In the 1999 version of the Coogan Law, or Senate Bill 1162, it stated that the parents of children with court approved contracts may petition to have more than fifteen percent of their child's earnings placed into a Coogan account ("The New Coogan Law," 2009). In the 2003 amendment to the Coogan Law, there appears to be no indication of whether or not this stipulation still exists. Court approved contracts or not, all parents should have the ability to request that more than fifteen percent of their child's gross earnings be set aside in a Coogan account. While the law would still require a minimum of fifteen percent, parents would have the ability to save more. Setting aside more of a child performer's earnings would be helpful in the long run; larger sums of money in the bank would gather interest over time, making the earnings more substantial upon withdrawal. Also, by protecting more than fifteen percent of a child's earnings, parents would have less access to the remaining funds, and the children themselves would be forced not to squander those funds. Perhaps having less money to spend freely would help discipline child performers and force them to manage their money efficiently. If these solutions are taken into consideration, they will help to further amend the Coogan Law, making it stronger than ever.

VI. Conclusion

The case of Jackie Coogan led to the creation of the Coogan Law in 1939, a law that has been amended twice to further serve the financial wellbeing of child performers. Although it has provided a strong sense of security for most of these children, it is still weak in its efforts to persuade parents to establish Coogan accounts in an effective manner. Through the cases of Macaulay Culkin and Gary Coleman, it is obvious that the Coogan Law is not yet as strong as it should be. By motivating parents to establish Coogan trusts before seeking work permits, forcing the Actors' Fund of America to create separate accounts for each child performer's earnings, and allowing parents to adjust the percentage of earnings to be set aside for their children, the Coogan Law will become more secure and protective than ever before.

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