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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **FOR THE COUNTY OF LOS ANGELES - CENTRAL CIVIL WEST**

17 IN RE: TV WRITERS CASES  
18

**Case Nos. BC 268836 (and related cases)**  
**[Assigned to Hon. Emilie H. Elias for all purposes]**

19 THIS DOCUMENT RELATES TO:

**PROPOSED FINDINGS AND ORDER**  
**ADDRESSING OBJECTIONS AND**  
**APPROVING CLASS COUNSEL'S**  
**MOTION FOR THE AWARD OF FEES**  
**AND EXPENSES**

20 **Case No. 268 836** – Alch, et al. v. Time  
21 Warner Entertainment Company, L.P.,  
et al.;

22 **Case No. 268 837** – Neal, et al. v. Viacom  
23 Inc. and United Paramount Network;

24 **Case No. 268 838** – Young, et al. v.  
DreamWorks SKG TV LLC;

25 **Case No. 268 839** – Bast, et al. v. Fox  
Broadcasting Company, et al.;

26 **Case No. 268 840** – Levy, et al. v. The  
Gersh Agency, Inc.;

27 **Case No. 268 841** – Edwards, et al. v. The  
Carsey-Werner Co., et al.;

**DATE: May 14, 2010**

**TIME: 1:45 p.m.**

**DEPT: 324**

1 **Case No. 268 842** – Wynn, et al. v.  
2 National Broadcasting Company, Inc.,  
et al.;

3 **Case No. 268 843** – Brooks, et al. v.  
4 William Morris Agency, Inc.;

5 **Case No. 268 844** – Brett, et al. v. Walt  
6 Disney Company, et al.;

7 **Case No. 268 845** – Distefano, et al. v.  
8 Columbia TriStar Television, Inc.;

9 **Case No. 268 847** – Eisenson, et al. v.  
10 Lucy Stille & Associates, Inc.,  
11 d/b/a Paradigm Talent & Literary  
Agency, et al.;

12 **Case No. 268 848** – Lang, et al. v.  
13 Shapiro-Lichtman, Inc., d/b/a Shapiro  
14 Lichtman-Stein;

15 **Case No. 268 849** – Neal, et al. v. The  
16 Endeavor Agency, Inc.;

17 **Case No. 268 877** – Kinghorn, et al. v.  
18 Universal Studios, Inc., et al.;

19 **Case No. 268 878** – Moriarty, et al. v.  
20 Viacom Inc., Paramount Studios, Inc.,  
et al.;

21 **Case No. 268 880** – Yanok, et al. v.  
22 Agency for the Performing Arts, Inc.;

23 **Case No. 268 881** – Schwartz, et al. v.  
24 United Talent Agency, Inc.;

25 **Case No. 268 882** – Shayne, et al. v.  
26 Viacom Inc. and CBS Broadcasting  
27 Inc.; and

28 **Case No. 268 883** – Kalish, et al. v.  
Viacom Inc., Spelling Entertainment  
Inc., et al.

21 Prior to entering the Final Judgment in these cases, the Court considered the  
22 Report of Lead Class Counsel, including declarations by the Settlement Administrator,  
23 Lance Blair, on mailed notice and claim statistics; Patricia McCarron on published  
24 notice; Barry Goldstein on case results; and Theodore Eisenberg, Ph.D. on attorneys'  
25 fees; the written and verbal comments in support of the settlement by 12 claimants; the  
26 objections of three Claimants and one non-Claimant; the parties joint response to the  
27  
28

1 objections of Claimant Claudia Prada; the recommendations of Class Counsel to approve  
2 the late filing of a claim by Dorothy Ahlswede based on excusable neglect; Class  
3 Counsel's recommendation to dismiss the objection of non-claimant David C. Barrow for  
4 lack of standing (or, in the alternative, to overrule his objection), and to overrule the  
5 objections of Claimants Keating and Ahlswede. The Court has also considered Class  
6 Counsel's Motion for an Award of Attorneys' Fees and Expenses, including the  
7 declarations of Class Counsel verifying their time and the declaration of Roger E. Warin.  
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9         Based on the foregoing, and the Court's knowledge of the case, the Court makes  
10 these additional findings:

11         1.         **Adequacy of Notice.** The Court finds that counsel properly followed the  
12 Court's orders to provide mailed and published notice, as corroborated by the  
13 Declarations of the Claims Administrator, Lance Blair, and Patricia McCarron. The court  
14 expressly overrules the objections of Dorothy Ahlswede that mailed notice should have  
15 been sent by certified mail and the objection both she and John S. Keating raise that the  
16 claims filing period should have been longer. The cost of mailing by certified mail would  
17 be prohibitive. Moreover, there is no evidence that uncertified mailing, in conjunction  
18 with extensive published notice, was inadequate. To the contrary, the filing of over 4,200  
19 claims indicates that both the method of notice and the time for filing claims were  
20 adequate. The Court nevertheless approves the acceptance of the late claim filed by Ms.  
21 Ahlswede on the grounds of excusable neglect; it will consider other late claims,  
22 provided they are submitted for resolution on or before June 7, 2010, on the same basis  
23 upon the recommendations of Class Counsel.  
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1           2.       **Objections.** The Court has considered the objections of Claimants Prada,  
2 Keating and Ahlswede regarding the provisions in the settlement agreement for the Fund  
3 for the Future, confidentiality, liquidated damages and attorneys' fees.

4           a.       The Fund for the Future is a novel approach to providing  
5 affirmative opportunities for older writers. Moreover, Claimants had the opportunity to  
6 receive an additional credit to their awards if they preferred cash over an opportunity to  
7 participate in the Fund. (Approximately 42% of the Claimants chose the credit.) Between  
8 2% and 4% of the settlement funds will ultimately be dedicated to the Fund. This is an  
9 appropriate proportion of the entire settlement amount. Moreover, as proposed by Class  
10 Counsel, the publication of rules governing the Fund for the Future, with an opportunity  
11 for comment by eligible settlement class members, provides assurance that the rules and  
12 procedures governing the Fund will be transparent and reasonably formulated with  
13 adequate input from the settlement classes. Self-dealing and conflicts of interest will be  
14 prohibited. The requirement of an annual accounting and report on the use of the Fund  
15 provides additional assurance that the money will be spent in accordance with the  
16 constraints of the settlement agreement and such rules as are adopted by the Governing  
17 Board. Accordingly, the Court overrules the objections of Prada, Keating and Ahlswede  
18 as to the Fund for the Future.

19           b.       The Court has also weighed the objections of Ms. Prada to the  
20 confidentiality provision and the liquidated damages provision of the settlement  
21 agreement. The Court is persuaded that there is no merit to the suggestion that the  
22 confidentiality of claims be compromised in any way. It is clear from the Declaration of  
23 Lead Class Counsel that confidentiality is extremely important to the vast majority of  
24 claimants and this provision was deemed essential to the deal. Likewise, the Court finds  
25 that the liquidated damages provision that enforces the claimants' promise of  
26 confidentiality complies with Cal. Civ. Code Section 1671 and provides for reasonable  
27 proportionality in relation to the damages that concern the defendants. Finally, Ms.  
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1 Prada's concerns about the fairness of the allocation of awards are misplaced. All  
2 claimants will receive notice of the proposed formula and will have an opportunity to  
3 comment on it. The Court will then rule on the formula, assuring that it is fair and  
4 reasonable.

5 c. The objections and comments of claimant Keating pertaining to the  
6 award of attorneys fees are addressed below. However, the Court agrees that objector  
7 David Barrow, not having filed a claim in this matter, is not an aggrieved party with  
8 respect to attorneys fees. His objection and comments have been addressed adequately  
9 and substantively by Class Counsel and Professor Theodore Eisenberg in support of Class  
10 Counsel's request for an award of fees, and his objection would otherwise be overruled.  
11 However, since Barrow lacks standing to complain of the fee award, his objection is  
12 dismissed.

13 5. **Award of Past and Future Attorneys' Fees and Expenses.** The Court  
14 finds that Class Counsel's request for attorneys' fees equal to one-third of the settlement  
15 fund is fair and reasonable. Class Counsel's petition, and their extensive response to the  
16 objections of Mr. Keating (and to Mr. Barrow, despite his lack of standing), amply  
17 demonstrate that the award is fully justified, taking into account the exceptional benefits  
18 to the class, as well as the length, complexity and risks of the litigation, as articulated by  
19 both Lead Class Counsel and declarants Barry Goldstein and Professor Theodore  
20 Eisenberg. Indeed, as Professor Eisenberg points out, the agreement of Class Counsel to  
21 cap their award at one-third of the settlement actually protects the class from a possibly  
22 higher award based on the lodestar. Indeed, Class Counsel are receiving substantially  
23 less than they would, based on their hourly rates and hours worked, all of which they  
24 have verified in sworn declarations. The Court is also satisfied that the award of  
25 litigation expenses through December 31, 2009 in the amount of \$2,194,886<sup>1</sup>, to which

26  
27 <sup>1</sup> Expenses were incurred by the following Class Counsel: \$2,062,810, Sprenger +  
28 Lang/JLPS, S. Sprenger Decl. Ex. C; \$13,430, Kator Parks & Weiser, M. Caplan Decl. ¶  
5; and \$118,646, AARP Foundation Litigation, T. Osborne Decl. ¶ 11.

1 no objection has been made, is reasonable, especially in light of the ten year duration of  
2 this litigation. The Trustees shall reimburse such expenses pursuant to prior orders of the  
3 Court.

4 IT IS SO ORDERED.

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6 Dated: \_\_\_\_\_, 2010

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9 Emilie H. Elias  
10 Judge, Superior Court for the County  
11 of Los Angeles  
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