

1 PAUL SPRENGER AND JANE LANG, ATTORNEYS

Paul C. Sprenger (DC SBN 412029)

2 Jane Lang (DC SBN 031112)

1614 Twentieth Street, N.W.

3 Washington, DC 20009

(202) 518-2021; (202) 518-0228 (Fax)

4 SPRENGER + LANG, PLLC

5 Steven M. Sprenger (DC SBN 418736)

Michael D. Lieder (DC SBN 444273)

6 1400 Eye Street, N.W., Suite 500

Washington, D.C. 20005

7 (202) 265-8010; (202) 332-6652 (Fax)

8 SCHWARTZ, STEINSAPIR, DOHRMANN

& SOMMERS LLP

9 Henry Willis (CA SBN 82981)

6300 Wilshire Boulevard, Suite 2000

10 Los Angeles, California 90048-5268

11 (323) 655-4700; (323) 655-4488 (Fax)

12 KATOR, PARKS & WEISER, PLLC

Maia Caplan (DC SBN 422798)

13 1200 18th Street, N.W., Suite 1000

Washington, D.C. 20036

14 (202) 898-4800; (202) 289-1389 (Fax)

15 *Attorneys for Plaintiffs* (other attorneys identified on signature block)

16 SUPERIOR COURT OF THE STATES OF CALIFORNIA  
17 FOR THE COUNTY OF LOS ANGELES CENTRAL CIVIL WEST

18 IN RE: TV WRITERS CASES

Case No. BC 268 836

[Assigned to Hon. Emile H. Elias for all  
purposes]

19  
20  
21 THIS DOCUMENT RELATES TO:

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

23 Case No. 268 837 – Neal, et al. v. Viacom 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.;

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

**DECLARATION OF BARRY GOLDSTEIN  
IN SUPPORT OF FINAL APPROVAL OF  
SETTLEMENTS AND PETITION FOR  
FEES**

**APRIL 14, 2010**

1 Case No. 268 843 – Brooks, et al. v. William  
2 Morris Agency, Inc.;

3 Case No. 268 844 – Brett, et al. v. Walt Disney  
4 Company, et al.;

5 Case No. 268 845 – Distefano, et al. v.  
6 Columbia TriStar Television, Inc.;

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

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

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

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

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

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

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

24 Case No. 268 882 – Shayne, et al. v. Viacom  
25 Inc. and CBS Broadcasting Inc.; and  
26 Case No. 268 883 – Kalish, et al. v. Viacom  
27 Inc., Spelling Entertainment Inc., et al.

28 Defendant.

I, Barry Goldstein, declare:

**A. INTRODUCTION AND SUMMARY**

1. I am “Of Counsel” to the law firm of Goldstein, Demchak, Baller, Borgen & Dardarian (“GDBBD”), an Oakland law firm that specializes in employment discrimination, wage and hour, and other types of class actions. I have personal knowledge of the facts contained in this declaration and if called as a witness, am competent to testify as to those facts.

2. Paul Sprenger, who is Lead Class Counsel, has requested that I give my independent professional opinion regarding the proposed settlements in *In Re: TV Writers Cases*, Case No. BC 268 836 (Sup. Ct. County of Los Angeles). In particular, Mr. Sprenger requested that I give my opinion on the difficulty and complexity of the litigation and compare the litigation and results obtained with other age discrimination cases as well as, more generally, fair employment cases.

1           3.       In preparing this Declaration, I have reviewed the following documents: (a) *Wynn v.*  
2 *National Broadcasting Company*, 234 F. Supp. 2d 1067 (C.D. Ca. 2002); (b) *Alch v. Time Warner*  
3 *Entertainment*, 122 Cal. App. 4th 339 (2004), *review denied*, 2004 Cal. LEXIS 12622 (December 22,  
4 2004); (c) *Alch v. Superior Court*, 165 Cal. App. 4th 1412 (2008), *review denied*, 2008 Cal. LEXIS  
5 12786 (October 28, 2008); (d) Settlement Agreement (proposed), *In Re: TV Writers Cases*; (e) Order  
6 Preliminarily Approving Class Action Settlement and Directing Notice; (f) Notice of Motion and  
7 Motion for (1) Preliminary Approval of Settlement Agreements, etc.; (g) Declaration of Paul Sprenger  
8 in Support of Motion for Preliminary Approval; and (h) Description of Fund for Future and other  
9 documents and descriptions on the website, <http://www.tvwriterscounsel.com/>.

10           4.       On the basis of the information and documents that I have reviewed, it is my professional  
11 opinion that Class Counsel obtained substantial monetary and future benefits for the class. As  
12 explained below, the difficulty and complexity of this litigation, the novelty of the issues raised, the  
13 substantial risk undertaken by Class Counsel and the substantial results obtained strongly support Class  
14 Counsel's request for a fee award that is one-third of the settlement fund or approximately \$23.3 million  
15 in my opinion.

16 **B.       BACKGROUND AND EXPERIENCE**

17           5.       I am an attorney admitted to the practice of law before the bars of the States of California  
18 and New York, the District of Columbia, the Supreme Court of the United States, the United States  
19 District Courts for the Northern District of California, the District of Columbia, and the Southern and  
20 Eastern Districts of New York, and the United States Courts of Appeal for the Ninth Circuit.

21           6.       A copy of my resume is appended as Attachment A to this Declaration. While the  
22 resume accurately summarizes my educational and professional experience, it is relevant to highlight  
23 several aspects of my background and experience that are particularly pertinent.

24           7.       From 1971, when I joined the staff of the NAACP Legal Defense & Educational Fund,  
25 Inc., (LDF), until 1989, I primarily litigated fair employment and other complex civil rights class action  
26  
27  
28

1 cases on behalf of LDF. During the period of 1971 through my departure from LDF in June 1989, I had  
2 substantial responsibility for the fair employment program at LDF.<sup>1</sup>

3 8. In 1989, I joined the Oakland-based firm of Goldstein, Demchak, Baller, Borgen &  
4 Dardarian (at that time the firm was known as Farnsworth, Saperstein & Seligman). After serving as a  
5 partner, I became managing partner from 1995 through 1999. GDBBD has prosecuted scores of federal  
6 and state court class actions. The firm is a nationally recognized leader in the field of fair employment  
7 and class action law. One of the cases I have litigated, *Haynes v. Shoney's Inc.*, 89-30093-RV (N.D.  
8 Fla.), resulted in a nationwide consent decree that provided \$132.5 million in monetary relief as well as  
9 extensive injunctive relief. The University of Georgia Press has published a book describing this civil  
10 action. S. Wakins, *The Black O: Racism and Redemption in an American Corporate Empire* (1997).  
11 Other significant cases litigated by GDBBD in which I have played a significant role, include: *Butler v.*  
12 *Home Depot*, C94-4335-SI (N.D.Cal.) (\$87.5 million gender class action settlement covering employees  
13 in the company's western division); *Shores v. Publix, Inc.*, No. 95-1162-CIV-T-25E (M.D. Fla.) (a  
14 gender discrimination company-wide consent decree providing extensive injunctive relief plus \$81.5  
15 million in monetary relief); *Babbitt v. Albertson's, Inc.*, No. C-92-1883-SBA (PJH) (N.Ca.); *Byrd v.*  
16 *Sprint Corp.*, No. CV92-18979 (Cir. Cit. Jackson County, MO.) (\$62.5 million recovery for class based  
17 primarily on a state contract claim); *Kraszewski v. State Farm General Ins. Co.*, C-79-1261-THE (N.D.

18  
19 <sup>1</sup> The Legal Defense Fund had an extensive fair employment docket during my tenure. Many of these  
20 cases were class actions that involved the application of the class action rule in litigation and settlement  
21 contexts. The scope and importance of LDF's docket is illustrated by the number of Supreme Court  
22 cases in which LDF lawyers represented the plaintiffs. *Phillips v. Martin Marietta Corp.*, 400 U.S. 549  
23 (1971); *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971); *McDonnell Douglas Corp. v. Green*, 411 U.S.  
24 792 (1973); *Johnson v. Railway Express Agency, Inc.*, 421 U.S. 454 (1975); *Albemarle Paper Co. v.*  
25 *Moody*, 422 U.S. 405 (1975); *Franks v. Bowman Transportation Co.*, 424 U.S. 747 (1976); *Brown v.*  
26 *General Services Administration*, 425 U.S. 280 (1976); *International Union of Electrical Workers v.*  
27 *Robbins & Myers, Inc.*, 429 U.S. 229 (1976); *Furnco Construction Corp. v. Waters*, 438 U.S. 567  
28 (1978); *Carson v. American Brands, Inc.*, 450 U.S. 79 (1981); *Gulf Oil Co. v. Bernard*, 452 U.S. 89  
(1981); *American tobacco Co. Patterson*, 456 U.S. 63 (1982); *Pullman-Standard v. Swint*, 456 U.S. 273  
(1982); *United States v. Aikens*, 460 U.S. 711 (1983); *Firefighters Local Union No. 1784 v. Stotts*, 467  
U.S. 561 (1984); *Cooper v. Federal Reserve Bank*, 467 U.S. 867 (1984); *Anderson v. City of Bessemer*  
*City*, 470 U.S. 564 (1985); *Library of Congress v. Shaw*, 487 U.S. 310 (1986); *Bazemore v. Friday*, 478  
U.S. 385 (1986); *University of Tennessee v. Elliott*, 487 U.S. 788 (1986); *Lorance v. AT&T*  
*Technologies*, 109 S.Ct. 2261 (1989); *Patterson v. McLean Credit Union*, 109 S.Ct. 2363 (1989). I  
argued two of these cases before the United States Supreme Court. After joining GDBBD, I argued a  
third case before the Supreme Court.

1 Cal.) (a gender discrimination case brought on behalf of women who were denied positions as insurance  
2 agents that resulted in over \$200 million in monetary relief to the class and extensive injunctive relief).  
3 Since becoming Of Counsel to GDBBD, I served as counsel for the class in *Gonzalez v. Abercrombie &*  
4 *Fitch*, Civil Action No. 03-2817 SI (N.D. Cal.) which, in 2005, resulted in a settlement of approximately  
5 \$47 million and in *Satchell v. Federal Express*, Civil Action No. C03-2659 SI (N.D. Cal.), which  
6 resulted in a settlement of approximately \$55 million.

7 9. Of particular relevance to this age discrimination litigation, I have served as counsel to  
8 plaintiffs in two large collective actions brought under the Age Discrimination in Employment Act  
9 (ADEA) that were contested over several years and resulted in significant settlement in the eight  
10 figures.<sup>2</sup> I was also counsel in an age discrimination case that resulted in an opinion, *Pines v. State*  
11 *Farm Insurance*, 1992 WL 92398 (C.D. Cal. 1992), relied upon by the federal court decision in this  
12 litigation, *Wynn v. National Broadcasting Company*, 234 F. Supp. 2d 1067, 1081, 1085 (C.D. Ca. 2002).

13 10. Two law review articles have described some of the class action litigation in which I  
14 have participated. Sturm, "Second Generation Employment Discrimination: A Structural Approach,"  
15 101 *Columbia L. Rev.* 458 (2001); Sturm, "Lawyers and the Practice of Workplace Equity," 2002 *Wis.*  
16 *L. Rev.* 277 (2002). In particular, these law review articles describe, in part, my experience in the  
17 design and implementation of remedial programs designed to assure fair employment opportunity.

18 11. For many years, I have been involved in projects concerning the development of the law  
19 as it pertains to class action procedures. From 1981 through 1985, I served on the American Bar  
20 Association's (ABA) Special Committee on Class Action Improvements ("Committee"). As reported at  
21 110 F.R.D. 195, 196 (1986), the Committee was "comprised of attorneys with broad experience  
22 representing plaintiffs and defendants in major class action litigation" and included the late Hon. Sam  
23 C. Pointer, Jr., U.S. District Judge (Alabama), who was the principal author of The Manual for  
24 Complex Litigation, Second. The Committee issued a report and recommendations to the Advisory  
25 Committee on Civil Rules of the Judicial Conference of the United States. Similarly, I was invited to  
26

27 <sup>2</sup> As collective actions in which numerous individuals opted-in, the settlements were not public and  
28 were entered under confidentiality provisions.

1 serve on the Brookings Task Force on Civil Justice Reform, sponsored by the Brookings Institution, and  
2 participated in the preparation of Justice for All: Reducing Costs and Delay in Civil Litigation (1989),  
3 which was the “genesis for many of the ideas embraced within Title I [the Civil Justice Reform Act of  
4 1990] ...” S. Rep. No. 101-416 at 14 (1990). As described in the United States Senate Report, the task  
5 force was comprised of “leading litigators from the plaintiffs’ and defense bar, civil and women’s rights  
6 lawyers, ... general counsels of corporations, former judges, leading attorneys, and law professors.” *Id.*

7 12. As indicated by my resume, I have taught law, been active generally in continuing legal  
8 education programs, and co-chaired a committee on fair employment law for both the Litigation Section  
9 and Labor and Employment Law Section of the American bar Association. I am a co-editor of the third  
10 of the leading employment discrimination treatise, Lindemann & Grossman, Employment  
11 Discrimination Law, Bureau of National Affairs (1996 BNA Books).

12 13. On several occasions, I have been asked to provide expert testimony in support of  
13 requests for attorneys’ fees or other matters related to complex class action litigation. Courts have  
14 accepted my testimony as an expert. For example, *Wilfong v. Rent-A-Center, Inc.*, Case No. 00-680-  
15 DRH (S. D. Ill Oct. 4, 2002) (Attachment B), the Court specifically accepted and adopted the expert  
16 testimony that I presented. Att. B. at pp. 6-8. In that opinion, the District Court referred to me as “the  
17 most skilled employment discrimination lawyer in the United States.” *Id.* at p. 7. *See also Velez v.*  
18 *Wynne*, No. 04-17425 (9th Cir. Jan 29, 2007) (not for publication) (Ninth Circuit relies upon affidavit  
19 that I submitted in support of a request for attorneys’ fees in an employment discrimination action.)

20 C. **THE EXTRAORDINARY DIFFICULTY OF THE LITIGATION AS WELL AS THE**  
21 **RESULTS ACHIEVED SUPPORT THE AMOUNT OF FEES AND COSTS**  
22 **REQUESTED.**

23 14. Class Counsel achieved a substantial benefit for the classes of writers over age forty  
24 whom they represent by obtaining a monetary remedy of approximately \$70 million and establishing an  
25 innovative plan that promises to increase significantly the opportunity of older writers to obtain work.  
26 The amount of monetary remedy speaks for itself. The combination of a significant monetary award in  
27 civil actions against multiple studios, networks and talent agencies and the innovative Fund for the  
28

1 Future will provide substantial benefits both in monetary awards and increased opportunities to class  
2 members.

3 15. The seminal California decision addressing the determination of reasonable attorneys'  
4 fees is *Serrano v. Priest*, 20 Cal. 3d 25 (1977). The Supreme Court stated that the "starting point" for  
5 determining a reasonable fee was the "lodestar" method because this analysis provided the "objectivity"  
6 that is "vital" for the prestige of the bar and courts. 20 Cal. 3d at 48. The lodestar method is premised  
7 upon a determination of reasonable hours times a reasonable rate. The focus of this Declaration is upon  
8 three additional factors which the *Serrano* Court examined: (1) the novelty and difficulty of the  
9 questions involved, and the skill displayed in presenting them; (2) the extent to which the nature of the  
10 litigation precluded other employment by the attorneys; and (3) "the contingent nature of the fee award  
11 both from the point of view of eventual victory on the merits and the point of view of establishing  
12 eligibility for an award." *Id.* at 49. It is important to note that while the United States Supreme Court  
13 has approved the factors referenced in *Serrano*, see *Lealao v. Beneficial California, Inc.*, 82 Cal. App.  
14 4th 19, 28 (2000) (citations to Supreme Court decisions), the United States Supreme Court, but not the  
15 California Supreme Court with respect to state statutory fee cases such as this one, has rejected in  
16 certain types of federal statutory fee cases contingent risk as a ground for awarding a multiplier to the  
17 lodestar rate. See *City of Burlington v. Dague*, 505 U.S. 557 (1992). California courts consider  
18 contingent risk in determining whether to award an enhancement. *Ketchum v. Moses*, 24 Cal. 4th 1122,  
19 1131-33 (2001); *Lealao*, 82 Cal. App. 4th at 42 (California "trial courts have considerably wider  
20 latitude to consider whether an enhancement is necessary to induce lawyers to undertake expensive and  
21 risky litigation in order to further public policy or enforce the right of individuals in class . . . suits"). It  
22 is my understanding that Class Counsel are not seeking an enhancement to their lodestar and, in fact,  
23 are accepting a reduction to their lodestar despite, as explained below, the significant contingent and  
24 risky nature of this litigation. In my opinion this approach underscores the reasonableness of the  
25 requested fee.

26 16. For approximately ten years, Class Counsel have aggressively pursued claims of age  
27 discrimination in the television industry. A good deal of the litigation is described in three opinions:  
28 *Wynn v. National Broadcasting Company*, 234 F. Supp. 2d 1067 (C.D. Ca. 2002); *Alch v. Time Warner*

1 *Entertainment*, 122 Cal. App. 4th 339 (2004), *review denied*, 2004 Cal. LEXIS 12622 (December 22,  
2 2004); and *Alch v. Superior Court*, 165 Cal. App. 4th 2008), *review denied*, 2008 LEXIS 12786  
3 (October 28, 2008). By dividing the litigation into three parts, the (a) development of the legal theories  
4 and strategies, (b) implementation of the legal theories and strategies, and (c) negotiation of the  
5 settlement, we may appreciate fully the complexity and novelty of the issue raised, the skill required to  
6 achieve a successful result, and the substantial risk involved.

7 17. Class Counsel embarked on a Herculean task in 1999 and began an extensive  
8 investigation of the employment practices at issue in the litigation, following which they developed a  
9 legal strategy to advance the claims of their clients. This was not the usual set of discrimination claims  
10 where a protected class of employees allege that an employer is failing to hire or promote in a non-  
11 discriminatory manner. Rather the writers' claims alleged that an industry, comprised of multiple  
12 studios, networks and talent agencies, engaged in practices that effectively denied equal opportunity to  
13 older writers. Since writers might work for multiple employers as well as seek advice from a talent  
14 agency, Class Counsel sought to achieve an effective remedy for older writers by challenging the  
15 practices of an entire industry and the multiple players, studios, networks and agencies in that industry.

16 18. To mount such an industry-wide challenge was an unprecedented undertaking for private  
17 counsel. The only somewhat comparable litigation in fair employment law was the settlement entered  
18 into in the 1970s by the United States Justice Department, Department of Labor and Equal Employment  
19 Opportunity Commission with nine steel companies and the Steelworkers Union. *See United States v.*  
20 *Allegheny-Ludlum Industries*, 517 F.2d 826 (5th Cir. 1975), *cert denied*, 425 U.S. 944 (1976). While a  
21 massive undertaking, the *Allegheny-Ludlum* settlement addressed entrenched patterns of racial  
22 segregation in job opportunity that were established by identifiable selection and seniority rules. The  
23 alleged claims in the television were not so well identified and more difficult to establish.

1           19.     Initially, Class Counsel filed a complaint in federal court representing fifty individuals  
2 alleging a pattern of age discrimination in violation of federal, California and New York law. Class  
3 Counsel named approximately forty employer defendants and eleven agency defendants. The  
4 defendants<sup>3</sup> raised substantial challenge to this complaint and the theories of liability, including, among  
5 others, timeliness of the allegation, the validity of the claims of “deterred” applicants, the application of  
6 the joinder of the multiple plaintiffs and defendants, this industry-wide approach, and the justification  
7 for issuing “Notice” for potential claimants to opt-in to assert their individual claims. In a lengthy  
8 opinion, the District Court dismissed all of the plaintiffs’ claims some with prejudice and some without  
9 prejudice. *Wynn v. National Broadcasting Company, supra*.

10           20.     Class Counsel refashioned the legal strategy by filing twenty-three separate class actions  
11 in California Superior Court asserting only violations of California law. After not succeeding in joining  
12 all of the claims into one action, Class Counsel undertook the arduous step of filing multiple,  
13 coordinated class actions. I do not know of another example where private plaintiffs have undertaken to  
14 pursue claims by filing such a large number of coordinated class actions. Once again, the multiple  
15 defendants filed substantial challenges to the plaintiffs’ claims and, once again, the defendants were  
16 successful in the trial court. However, in a detailed opinion, the appellate court reinstated the principal  
17 claims asserted by the plaintiffs. *Alch v. Time Warner Entertainment, supra*. In its opinion, the  
18 appellate court recognized the “significant history” of the federal litigation, 122 Cal. App. 4th at 350,  
19 but permitted the class claims to proceed. After four years of extensive litigation in federal and state  
20 courts during which numerous difficult legal issues were addressed, Class Counsel had finally  
21 established a legal strategy that would permit the claims of age discrimination to proceed against the  
22 television industry.

23           21.     Having established a legal basis for proceeding, Class Counsel had the difficult task of  
24 litigating twenty-three class actions simultaneously against multiple well-represented defendants. One  
25 specific difficulty created by having to prosecute so many class actions was the requirement to respond  
26

27 <sup>3</sup> The defendants have been represented by some of the most distinguished and experienced members of  
28 the employment defense bar.

1 to extensive interrogatories and document requests served on each of the more than 150 class  
2 representatives. I am informed that class representatives had to answer collectively thousands of  
3 interrogatories including the subparts of the interrogatories and cumulatively produced or made  
4 available for inspection, hundreds of thousands of documents in response to numerous document  
5 requests. As a general matter, it is a burdensome task for Class Counsel to respond to extensive  
6 discovery served on the named class representatives. Typically, there may be three to seven class  
7 representatives in a large fair employment class action. This burdensome task was multiplied twenty-  
8 three fold in this litigation.

9       22. In order to maintain and successfully litigate a large fair employment class action, Class  
10 Counsel need demonstrate tenacity and a willingness to expend the lawyer and financial resources  
11 necessary to prosecute these complex cases. A dramatic example of the commitment of Class Counsel  
12 was its prompt response to the significant set back when the federal district court dismissed, on January  
13 24, 2002, the original complaint. Approximately one month after that dismissal, Class Counsel filed the  
14 twenty-three class actions in state court. The coordination and organization of such a filing required  
15 significant time and effort. For Class Counsel to respond to such a loss with a dramatic and aggressive  
16 strategy signaled clearly that they were willing to undertake the risk and expend the resources in order  
17 to represent effectively the putative class members.

18       23. The discovery of evidence relevant for trial is often the most burdensome and expensive  
19 part of the prosecution of a fair employment class action. However, as explained by the United States  
20 Supreme Court, in the usual fair employment class action the "liberal civil discovery rules" and federal  
21 regulations, which require employers to maintain records regarding the impact of its selection practices,  
22 facilitate such discovery. *Ward Cove Packing Co. v. Atonio*, 490 U.S. 642, 657-58 (1989). However, in  
23 this case, Class Counsel could not simply rely upon the liberal federal or state discovery rules  
24 applicable to parties to litigation since most of the class members were "deterred applicants" and since  
25 the various defendants would have little or no pertinent information about the class members or the  
26 characteristics of the available workforce. Instead, Class Counsel had to seek relevant information  
27 about potential and available applicants from a third party, the Writers Guild of America. After 7,700  
28 out of the 47,000 persons potentially effected by disclosure objected to providing personal information,

1 the trial court sustained the objections to the production of the information. This order effectively  
2 blocked the ability of Class Counsel to develop the statistical information necessary for attempting to  
3 prove the claims of discrimination. But, once again, Class Counsel were able, on appeal, to preserve the  
4 viability of the claims. The appellate court granted the petition file by Class and ordered the production  
5 of sufficient information to allow Class Counsel to develop a valid statistical analysis. *Alch v. Superior*  
6 *Court, supra.*

7 24. After persevering in the face of these obstacles, Class Counsel commenced a  
8 complicated mediation process with the multiple defendants. The mediation sessions lasted for over  
9 two years. It is particularly difficult to settle a complex class action where there are multiple parties. I  
10 am not familiar with any fair employment case where the settlement discussions involved as many  
11 parties. It is a tribute to Class Counsel as well as to the mediator and counsel for defendants that such a  
12 comprehensive settlement was reached.<sup>4</sup>

13 25. The total settlement amount, \$70,000,000, speaks for itself. Of course, it should be  
14 considered that there are multiple defendants contributing to the settlement. The distribution plan is  
15 carefully developed. Furthermore, the innovative "Fund for the Future" creates an approach that is  
16 tailored to this unique situation that promises to develop and open opportunities for older writers as well  
17 as providing benefits for the entire industry by expanding the availability of skilled writers.

### 18 CONCLUSION

19 26. It is my opinion that the novel nature of this litigation, the substantial risk undertaken by  
20 Class Counsel in pursuing these claims over a ten-year period, the difficulty and complexity of the legal  
21 and evidentiary issues, the significant results obtained, and the diligence and skill demonstrated by  
22 Class Counsel at each stage of the litigation support Class Counsel's request for an attorneys' fee award  
23 of 33.3% of the settlement fund or approximately \$23,300,000.  
24

25  
26 <sup>4</sup> It is my understanding that the proposed settlement agreement covers nineteen class actions and  
27 approximately 120 defendants and their affiliates. In January 2009, two other defendants entered into a  
28 separate settlement (ICM – Broder Settlement). In 2006, another defendant entered into a settlement  
(Irv Schechter Agency). There is one ongoing litigation (Creative Artists Agency).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct. Executed this 12th day of April, 2010, in Oakland, California.

Barry Goldstein  
Barry Goldstein