

1 MEMORANDUM

2 I. INTRODUCTION

3 On May 14, 2010, the Court granted final approval to the settlement of the above-  
4 referenced 19 age discrimination class action lawsuits (together the "Settlement"), subject to  
5 entry of findings and an Order, including the process by which over 4,300 members of the two  
6 Settlement Classes of professional and aspiring television writers have filed claim forms. The  
7 Court also scheduled a hearing on June 9, 2010, subsequently rescheduled to June 24, to rule on  
8 the claim distribution formula.

9 Based on the information in the claim forms, the knowledge gained in litigating these  
10 cases, and input from settlement class members about factors important to successful writing  
11 careers, Lead Class Counsel now proposes a formula, attached as Exhibit A, that would be the  
12 basis for the proposed allocation of awards among eligible claimants. This sophisticated formula  
13 estimates, based on the available information, the likelihood that each claimant would prevail on  
14 his claim had the litigation gone to second stage individual proceedings, taking into account  
15 available evidence and the trial-readiness of the claim, and the range of damages that claimants  
16 might have recovered in those proceedings. The goal has been to replicate as closely as possible  
17 the results that might have been achieved in such second stage proceedings.

18 Lead Class Counsel will lodge with the Court, as soon as possible and before June 24,  
19 2010, a list of recommended awards (including names and identifying the named plaintiffs and  
20 liaison committee members)."<sup>1</sup> The list will not be filed so that the names of awardees and the  
21 amounts of their awards remain confidential. Lead Class Counsel also will file any comments  
22 received from Eligible Claimants about the formula after it is posted.

23 Obviously, the number of eligible claims bears significantly on the size of awards to be  
24 included in the list. Almost four times as many professional writers submitted valid claims in  
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26 <sup>1</sup> Throughout this memorandum Lead Class Counsel refers to numbers of persons filing  
27 claim forms. Those figures are based on all claim forms submitted through June 1, 2010,  
28 including those that are deficient or were postmarked after the deadline. (Blair Decl., ¶ 2.)  
Probably some of those claimants ultimately will not receive awards. Thus, the figures may not  
exactly correspond to the figures associated with the claims that the Court ultimately approves.

1 this Settlement than in the ICM- Broder Kurland settlement. Additionally, over 2,000 aspiring  
2 writers filed claim forms in this Settlement; there were none in the Broder Kurland settlement.  
3 The claim forms in the two settlements differed significantly, in part because the earlier  
4 settlement was focused exclusively on claims against talent agencies. For these reasons, it is  
5 impossible for claimants in the ICM-Broder Kurland settlement to engage in a simple  
6 mathematical calculation to predict the size of their award from this Settlement.

7 The proposed formula that Class Counsel has devised is fair and reasonable to all of the  
8 claimants in this Settlement and meets all of the requirements of Administrative Order No. 4.  
9 The Court should approve the proposed formula.

## 10 **II. BACKGROUND**

### 11 **A. Settlement Provisions Concerning the Formula**

12 The Settlement does not prescribe a claim distribution formula. Instead, it establishes a  
13 process under which Class Counsel proposes a claim formula after reviewing data from the claim  
14 forms, Eligible Claimants receive notice of the formula and an opportunity to comment on it,<sup>2</sup>  
15 and the Court then decides whether to approve the formula. (Admin. Order. No. 4, § III.A.1.)  
16 Although not required by the Settlement, Class Counsel also solicited suggestions in advance of  
17 determining the formula by emailing or mailing an invitation to comment to all claimants on  
18 May 20, 2010.

19 The notice of the Settlement initially mailed to current and former members of the  
20 Writers Guild of America, which also has been available on the websites maintained by the  
21 Claims Administrator and Class Counsel, states:

22 The formula will include but is not limited to the following factors: (i) television  
23 writing income during the Class Period and before, (ii) attempts to obtain, or  
24 bases for deterrence from seeking, television writing work or talent agency  
25 representation during the Class Period, (iii) writing qualifications, (iv) television  
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27 <sup>2</sup> Section III.A.2.g of Administrative Order No. 4 provides that any written comments from  
28 Eligible Claimants must be postmarked no later than ten days before the hearing on the claims  
formula, that is, by June 14, 2010.

1 genres and types of positions in which you were interested, (v) anecdotal evidence  
2 of alleged age discrimination, (vi) evidence developed in support of the individual  
3 and class allegations, and (vii) documented physical and emotional injuries,  
4 medical expenses and financial losses related to age discrimination claims. Union  
5 membership will not be one of the factors taken into account.

6 (Long-Form Notice, § 18; *see* Admin. Order No. 4, § III.A.2.a (“The claim distribution formula  
7 will include all of the criteria specified in the notice.”).)

8 The Settlement prescribes that the minimum award is \$250. (Admin. Order No. 4, §  
9 III.A.2.a.) It also creates an enhancement for claimants who waive the right to participate in the  
10 Fund for the Future, a fund created by the Settlement to benefit class members in multiple ways,  
11 ranging from \$150 to \$500, depending on the size of the award. The enhancement boosts the  
12 minimum to \$400 for Eligible Claimants who waive FFF participation. (*Id.*, III.A.2.b.) There is  
13 no maximum, although Defendants have the right to challenge any formula that yields awards  
14 that they deem “disproportionately high.” (*Id.*, III.A.2.d-f.)

15 In addition, on an individualized basis, the formula must allocate for tax purposes all  
16 awards among wage damages, non-wage damages arising from claims based on discrimination in  
17 talent agency representation, and interest. (Admin. Order No. 4, § III.B.2.) Employment taxes,  
18 including Social Security, Medicare, and Federal and State Unemployment Taxes, will be  
19 payable on the amount of each award allocated to wage losses, but not to the talent agency  
20 damages or to interest. The total of all allocations to non-wage agency damages may not exceed  
21 \$8 million of the \$70 million principal payment, although there is no cap on any individual  
22 claimant’s allocation to non-wage agency damages. (*Id.*, § III.B.3.) The Claims Administrator  
23 must allocate awards between interest and wage damages based on an opinion from Tax Counsel  
24 (Neal Kochman of the firm of Caplin & Drysdale). (*Id.*, § III.B.4.)

25 **B. Claim Forms Submitted**

26 The Settlement required Settlement Class Members to submit a claim form postmarked  
27 by April 13, 2010, in order to be eligible to receive an award. Four thousand two hundred and  
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1 two (4,202) persons submitted claim forms by the postmark deadline, and 110 others submitted  
2 claims after that date through June 1, 2010. (Blair Decl., ¶ 3.)

3 Two thousand two hundred thirty one (2,231) of the claimants stated that they had been  
4 paid to write for television, which would make them members of the Professional Television  
5 Writers Settlement Class. However, 46 of them did not provide evidence of income earned as a  
6 television writer or provide a waiver so that information could be obtained from the Writers  
7 Guild of America, despite receiving a notice from the Claims Administrator that if they did not  
8 do one or the other their claim forms would be deemed deficient, and are not on the mailing lists  
9 provided by the WGA in January 2000 of its members and associate members. Accordingly,  
10 those 46 are treated as aspiring writers. Twenty other claimants who did not check that they had  
11 been paid to write for television nonetheless provided proof of such payments, and are therefore  
12 deemed professional writers. Thus, 2,205 claimants are treated as members of the Professional  
13 Television Writers Settlement Class, and the other 2,107 claimants are treated as members of the  
14 Aspiring Television Writers Settlement Class. (*Id.*, ¶ 4.)

### 15 **III ARGUMENT**

#### 16 **A. The Formula Fairly Weighs the Claims of Professional Versus Aspiring** 17 **Writers**

18 Perhaps the single hardest decision in devising the formula was how to weigh the claims  
19 of professional writers, who have been paid to write for television, versus the claims of aspiring  
20 writers, who had not. The difficulty is reflected in the varying views received from Settlement  
21 Class Members.

22 One class member, for example, asserts that the formula should be weighted to favor  
23 aspiring writers, “as theirs is the greater loss, for the unrealized careers foregone... versus those  
24 who had experienced some degree of employment or success.” (Ex. A to Sprenger Decl.)<sup>3</sup> On  
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26 \_\_\_\_\_  
27 <sup>3</sup> We have redacted the names of Settlement Class Members whose suggestions about the  
28 formula are cited in this memorandum in order to preserve their confidentiality. We do not  
anticipate redacting names from any written comments made in response to the proposed  
formula.

1 the other extreme, a second class member argues that aspiring writers should get “minimum  
2 awards as I don’t know how it could be determined if they had the ability to write professionally  
3 in the first place.” (Ex. B to Sprenger Decl..) Still a third class member advocates treating  
4 professional and aspiring writers identically: “The only fair disbursement formula would be one  
5 that recognizes [aspiring writers] are just as deserving as [professional writers].” (Ex. C to  
6 Sprenger Decl.) Obviously, all three views cannot be accommodated.

7         Lead Class Counsel ultimately decided to take a position that did not wholly adopt any of  
8 these three suggestions, but starts with the need to establish a reason to believe that a claimant is  
9 qualified to write for television. Typically, in an employment discrimination case, a plaintiff  
10 must show that s/he was qualified for the position allegedly discriminatorily given to someone  
11 else. *See Guz v. Bechtel National, Inc.* (2000) 24 Cal. 4th 317, 355. Although the burden may  
12 shift to the employer to disprove that a claimant was qualified after a finding of a pattern or  
13 practice of discrimination, a claimant’s ability to do the work remains an issue.

14         The Claims Administrator cannot assess writers’ qualifications directly by reading scripts  
15 or other materials. Instead, a proxy must be used. For professional writers, the proxy is that on  
16 at least one occasion they have been deemed qualified to write for television because they have  
17 been paid. Indeed, the professional writers averaged more than \$130,000 per year in television  
18 writing income during their five highest income-earning years, even taking into account  
19 mitigation of damages principles as discussed below. (Blair Decl., ¶ 5.) These were not just  
20 one-shot writers.

21         Aspiring writers, never having been paid to write for television, cannot validate their  
22 ability to write for television in the same manner. Lead Class Counsel has decided instead to use  
23 whether they obtained talent agency representation as a proxy, in the belief that few agents  
24 would take on a client unless they believed the writer had the talent to be hired. (Sprenger Decl.,  
25 ¶ 5.) Three hundred forty-five aspiring writers had talent agency representation during the  
26 liability period (Blair Decl., ¶ 6.);<sup>4</sup> they can receive points in all categories (other than earnings),  
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28 <sup>4</sup> Although not a factor in the formula, it is worth noting that aspiring writers were not

1 just as professional writers can. (*Id.*, at 1; Sprenger Decl., ¶ 5.) The formula gives aspiring  
2 writers without talent agency representation the minimum award of \$250 (plus a \$150  
3 enhancement if they waive the right to participate in the FFF).

4 **B. The Formula Is Structured in a Fair and Reasonable Manner that Considers**  
5 **Relevant Information about the Claimants**

6 The claim formula calculates awards for each claimant based on several categories of  
7 information. The table below briefly describes each type of information, plus the percentage of  
8 the total awards attributable to that category, if all late claims are allowed and all claimants  
9 whose forms are deficient cure their deficiencies:

<u>Category</u>	<u>Percentage</u>
The strength of the evidence developed and available to prove the claimant's liability case, if the litigation had proceeded to second stage individual proceedings	40.0%
The magnitude of the claimant's damages, measured primarily by the claimant's high five years of television-writing income but also by other factors such as major financial or personal injuries attributable to the alleged discrimination	32.1%
The claimant's development of evidence in support of his or her individual claims and the claims of the class	4.3%
The claimant's age during the liability period to reflect various proof issues related to age	9.7%
The strength of both a claimant's liability evidence and his/her evidence to reflect that the strongest claim is one that is strong in both areas	22.4%
Unavailability to work as a writer during part of the liability period	[10.0%]
Waiver of the right to participate in the Fund for the Future	1.5%
Total	100.0%

27 included in the definition of the class in the complaint and that, as a class or individually, they  
28 would present substantial problems of proof of entitlement to damages in a trial context. .

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2           These six categories incorporate virtually all of the information sought by the claim form.  
3 As discussed below, Lead Class Counsel also considered information gained during the course of  
4 the litigation and during his years of experience in employment class action litigation in order to  
5 assess the importance of certain categories of data from the claim forms, but in no instance is the  
6 formula slanted to favor particular individual claimants. Points are awarded based solely on  
7 whether the claimant's information meets the requirements of the formula. The formula is fair  
8 and reasonable.

9           In addition to its role in governance of the award of points, the formula also prescribes  
10 how each claimant's award is to be allocated among talent agency representation claims, interest  
11 and wages. The directions in the formula conform with the requirements of the Settlement and  
12 the tax opinion obtained from Class Counsel.

### 13                   **1.     Liability Points**

14           An individual must adduce evidence to establish liability, regardless whether a plaintiff in  
15 a stand-alone case or a claimant in a second stage proceeding after a finding of a pattern or  
16 practice of discrimination. (Sprengr Decl., ¶ 6.) In recognition of its critical nature to any case,  
17 liability points based on answers to Sections IV and VI of the claim form are the most important  
18 factor under the proposed formula, measured in total points to be awarded. (Blair Decl., ¶ 7.)<sup>5</sup>

19           Claimants receive points for the number of times they were rejected for employment or  
20 for talent agency representation during the liability period; individuals who are able to  
21 corroborate the rejections receive more points than those who simply assert that they had  
22 occurred. (Ex. A., at 2.) Rejections from employers are worth more than rejections from talent  
23 agents because the unsolicited materials that many persons submit to talent agencies are  
24 routinely rejected for reasons unrelated to age. (Sprengr Decl., ¶ 7.) Conversely, the formula  
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27 <sup>5</sup>           In addition, the Claims Administrator was instructed to count analogous information  
28 contained in declarations filed in response to Part II by members of the Aspiring Television  
Writers Settlement Class. (Blair Decl., ¶ 8.) Other points awarded for information relevant to  
both liability and damages are discussed in several sections below.

1 also awards points to claimants who had a talent agent because the agent gave them access to  
2 studio employers; thus their submissions were not unsolicited. For this reason, claimants with  
3 agents arguably have stronger evidence that they were rejected because of age. (Ex. A, at 2.)  
4 Additional points are awarded for allegations that the claimant was deterred by age  
5 discrimination from seeking employment or talent agency representation and for providing a  
6 factual basis for the deterrence. (*Id.*) In that regard, a description of at least one instance of an  
7 ageist comment addressed to the claimant entitles a claimant to more points. (*Id.*)

8 In addition, claimants are entitled to points based on the genre of their writing interests.  
9 They receive points if they were interested in working in comedy or late night programming or in  
10 staff or hyphenate positions, genres and positions in which WGA West statistics and other  
11 evidence developed by Class Counsel indicate that older writers faced the greatest barriers in  
12 obtaining jobs. (Sprenger Decl., ¶ 8.)

## 13 2. Damage Points

14 Claimants' high-five years of television writing income are the principal basis for  
15 assessing the amount of their potential damages. The information also is relevant to liability  
16 assessments. In general, the amount a writer was paid at his or her earning peak indicates  
17 Hollywood's assessment of his or her talents as a writer, and in general, the higher the writer's  
18 pay during his or her peak years, the greater his or her claim for damages when he or she  
19 becomes unable to secure writing employment. (Sprenger Decl., ¶ 9.)<sup>6</sup>

20 Professional writer claimants' high-five years of income earned from television writing  
21 are identified based either on information provided by the claimants, such as income statements  
22 or contracts, or – for WGA members – from data contemporaneously reported to and recorded by  
23 the WGA for purposes of determining dues. (Claim Form, § V; Sprenger Decl., ¶ 10.) Although  
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26 <sup>6</sup> Without trying each damage claim, economic loss calculations must be estimated.  
27 Although income earned early in a writer's career is not a perfect proxy for talent, the high five  
28 years of income is the best single measure available to Class Counsel to assess both talent and  
potential damages. The high five income years also was given similar weight in the settlement  
formula in the ICM-Broder Kurland settlement. (Sprenger Decl., ¶ 9.)

1 neither source of information is perfect, to the maximum extent feasible, efforts were made to  
2 ascertain that income was neither over-reported nor under-reported. (Sprenger Decl., ¶ 10.)  
3 Professional writers who choose not to provide income information receive no points for this  
4 factor.

5 The formula requires the Claims Administrator, upon identification of a claimant's high  
6 five income years, to use the consumer price index to bring television writing earnings in those  
7 years to current values. (Ex. A, at 3.) Next, the Claims Administrator is required to calculate  
8 mitigated damages for each claimant.<sup>7</sup> The mitigated damages are then converted to points  
9 through a conversion table appended to Exhibit A.

10 In addition to damages based on the amount of income earned during the high five  
11 earning years, the formula awards damages-related points based on several other factors. First,  
12 points are given for the span of years between the first and last of the high five years, to credit  
13 longevity of careers. (Ex. A, at 4-5; Sprenger Decl., ¶ 11.) Second, the formula gives points to  
14 claimants who can offer evidence that the alleged age discrimination contributed to adverse  
15 health consequences. Finally, it gives additional points to professional writer claimants who  
16 suffered significant financial reverses, such as bankruptcy or loss of a home, or significant  
17 personal non-medical harm, such as divorce, as a consequence of the alleged age discrimination.  
18 (Ex. A, at 5; Sprenger Decl., ¶ 11.)

19 Initially, consideration was given to equalizing the maximum number of points for  
20 damages and the maximum points for liability questions. However, the average award for  
21 liability proved several times larger than the average award for damages. The maximum number  
22 of damage points was increased, but still more points will be awarded based on liability  
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24 <sup>7</sup> Unmitigated damages are reduced by 90% for claimants who indicated on their claim  
25 forms that they had found alternative employment since the end of their writing employment that  
26 paid as much or more as writing had, and by 50% for claimants who indicated on their claim  
27 forms that they had found alternative employment that paid from 50% to as much as they had  
28 earned through their writing work. For other claimants, the formula calls for reduction of  
unmitigated damages by less than 50%, with the actual size of the reduction dependent on the  
number of years since the last of the high five years. (Ex. A, at 4.)

1 questions than based on damages questions, Nonetheless, Lead Class Counsel believes that the  
2 proposed formula brings these two categories of points into a reasonably proportionate  
3 relationship to each other. (Sprenger Decl., ¶ 12; Blair Decl., ¶ 7.)

### 4 **3. Claim Development**

5 Liability and damages points were also enhanced for claimants who expended efforts  
6 and/or developed evidence in support of their claims and the claims of the class. In the class  
7 context, development of a single claim, especially with evidence of discriminatory bias, also  
8 helps all other class members. Development of a strong claim is much more valuable than  
9 development of a weak claim. Even if trial-ready, a weak claim has little value, whereas a trial-  
10 ready strong claim has substantial value. (Sprenger Decl., ¶ 13.) To reflect the interaction of  
11 claim development and strength of claims, claimants were assigned a claim development factor  
12 that was multiplied by the number of liability and damage points to yield a number of claim  
13 development points.

14 Each plaintiff received a claim development factor based on being interviewed by Class  
15 Counsel and filing a charge of discrimination, being selected as a lead plaintiff (which indicates  
16 both Class Counsel's assessment of strength of claim and the plaintiff's ability and willingness to  
17 actively support his/her case), answering interrogatories, preparing for a deposition and being  
18 deposed, and serving on the plaintiffs' liaison committee. (Ex. A, at 5-6; Sprenger Decl., ¶ 14.)  
19 Other class members could receive claim development credit by indicating on the claim form  
20 other means by which they developed and strengthened the case for themselves and the class.  
21 (Ex. A, at 6.)

### 22 **4. Other Factors Influencing the Value of a Claim**

23 The formula takes into account three other factors that would influence the value of the  
24 claims in second stage individual proceedings: the age of the claimant, the breadth of the claim,  
25 and the availability of the claimant for television writing work throughout the liability period.

26 **Age of the Claimant.** Evidence available to Class Counsel indicates that, if there is age  
27 discrimination against television writers, it becomes more pronounced beginning around age 50.  
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1 Throughout the liability period, writers in their 50's have had far lower rates of employment than  
2 have writers in their 40's. Anecdotal evidence also suggests that it is far harder for writers in  
3 their 50's to find employment than for writers in their 40's. (Sprenger Decl., ¶ 15.) The formula  
4 accordingly adjusts claimants' liability and damages points by a factor reflective of age. The  
5 factor increases by 2% for each year that a writer has been in his or her 50's during the liability  
6 period and by 1% for each year that the writer is in his 60's.<sup>8</sup> (Ex. A, at 6.) The maximum age  
7 factor is .24, for someone who became 50 in 1996.

8 **Breadth of the Claim.** The claim with the greatest value is one with strong liability  
9 evidence and substantial damages. Claimants with overwhelming liability evidence but little if  
10 any damages because they found alternative employment that paid more than television writing  
11 have claims with little value. Similarly, claimants with huge potential damages but no liability  
12 evidence have claims with little value. (Sprenger Decl., ¶ 16.) To reflect this phenomenon, each  
13 claimant receives 100% of the lower of his or her liability or damages points. (Ex. A, at 6.) For  
14 example, if a claimant had 300 liability points and 200 damages points, he or she would receive  
15 200 additional points based on the breadth of his or her claim.

16 **Unavailability of the Claimant.** Many claimants were unavailable to work as television  
17 writers or were not class members during part of the liability period. They do not have viable  
18 claims for those periods. (Sprenger Decl., ¶ 17.) Unavailability or exclusion from the class may  
19 occur because the claimant was born after 1956 and hence was outside the class during part of  
20 the period, died during the period, was an executive or talent agent with one of the defendants,  
21 was an executive producer, or was otherwise not interested or available, *e.g.*, because s/he found  
22 better paying alternative employment or retired. For any year in which a claimant was  
23 unavailable, 7% of his or her points are deducted (each year is about 7% of the total because the  
24 liability period is about 14 years). (Ex. A, at 6.)

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27 <sup>8</sup> Employment rates decline even more for writers in their 60's, 70's and 80's than for  
28 writers in their 50's, but as age increases, it becomes harder to separate how much of the  
statistical pattern is attributable to alleged discrimination and how much to writers'  
unavailability, either by choice (retirement) or incapacity.



1 Claims Administrator has performed the necessary calculations to allocate the awards among  
2 those three categories on an individualized basis.

3 **a. Interest**

4 Administrative Order No. 4 prescribes that, in calculating the amount of each award  
5 attributable to interest, the Claims Administrator will follow the advice of Tax Counsel, and that,  
6 among other things, Tax Counsel shall use the statutory rate in California of ten percent  
7 compounded annually. (Admin. Order No. 4, § III.B.4.) Based on Tax Counsel's advice, the  
8 Claims Administrator has determined the amount of interest allocable to the recommended award  
9 to each professional writer claim using the mitigated damages discussed above. For each year  
10 after the later of 1995 or the last of each claimant's high five years, each professional writer  
11 claimant has a mitigated damages amount (see page 9 above). The Claims Administrator applies  
12 the 10% rate, compounded annually, to that amount to determine the ratio of wages to interest for  
13 each year. The Claims Administrator then totals the amounts of wages and interest attributable  
14 to each year and calculates the ratio of wages to total damages for all years. That ratio is applied  
15 to the award to arrive at the interest component of the award for professional writers. (Ex. A, at  
16 7.)

17 Because aspiring writers have not been paid to work as television writers, they do not  
18 have any mitigated damages. Accordingly, interest for them is based on the assumption that  
19 their total award was based on damages evenly distributed throughout the liability period, or if  
20 they turned 40 during the liability period, for each year after they turned 40. Otherwise, the  
21 methodology is the same as for professional writers. (*Id.*)

22 **b. Talent Agency Claims**

23 Administrative Order No. 4 requires that no more than eight million dollars of the  
24 Settlement be allocated to talent agency claims. (*Id.*, § III.B.3.) That is about 20% of the  
25 approximately \$39.8 million to be distributed after creating tax reserves recommended by Tax  
26 Counsel. The formula informs the Claims Administrator how to allocate the \$8 million among  
27 claimants.

1 Three questions in Part IV of the Claim Form ask specifically about claimants' efforts to  
2 obtain talent agency representation and the facts that may have deterred them from seeking such  
3 representation. Under the formula, the Claims Administrator calculates for each professional  
4 writer and the 350 aspiring writers with talent agency representation the percentage of the  
5 claimant's total points attributable to those three questions. The Claims Administrator then  
6 multiplies that fraction by each of those claimants' awards to arrive at the dollars attributable  
7 directly to those three questions. (Ex. A, at 8.) The Claims Administrator totals all of those  
8 products, and finds the percentage of the total awards attributable to the answers to those  
9 questions (the "agency percentage"). Accordingly, the Claims Administrator multiplied each  
10 claimant's total attributable to those three questions by the ratio of 20% to the agency percentage  
11 to arrive at the portion of each claimant's award attributable to the talent agency claims. (*Id.*)

12 The information is not available to make similar calculations for other ATW members.  
13 Accordingly, they are each allocated a flat 20% of their awards for their talent agency claims.  
14 (Ex. A, at 8.)

#### 15 c. Wage Damages

16 Once the amount of each claimant's award attributable to interest and talent agency  
17 claims is calculated, the remainder is the amount attributable to wage damages. This set of  
18 calculations completes the awards and tax allocations for each claimant mandated by the  
19 formula.

#### 20 IV. CONCLUSION

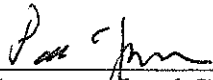
21 The care with which Lead Class Counsel has developed the formula and his method of  
22 handling both professional and aspiring writers in the same formula provide ample assurance that  
23 the formula is fair and reasonable; that has been the goal. Legal principles applicable to the  
24 award of damages were the starting point. In addition, comments received from claimants in  
25 response to the request posted on May 19, 2010 have been considered as well.

26 When the final universe of eligible claimants is determined by the Court, and additional  
27 comments from claimants are assessed, the formula will be run as proposed – and as amended, if  
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1 appropriate. Thereafter, information about the range and distribution of awards will be available  
2 and will be disseminated to claimants and the Court.

3 For the reasons set forth above, the Court should approve the proposed formula attached  
4 as Exhibit A and the final list of awards generated by the formula that will be presented to the  
5 Court.

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7 Dated: June 7, 2010

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10 Paul C. Sprenger, Lead Class Counsel  
11 On behalf of all Class Counsel  
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