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21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

22 **FOR THE COUNTY OF LOS ANGELES**

23 **CENTRAL DISTRICT**

24 PAUL EDWARDS, RICHARD ADES,
CECILE ALCH, KARL ALEXANDER,
25 NANCY ALVAREZ, CHRISTOPHER
AMES, JOHN B. AYLESWORTH,
26 ROBERT GUY BARROWS, WILLIAM
BAST, MARIA CRISTINA BEATO-
LANZ, ANNE BEATTS, HARRIET
27 BELKIN, NORMAN BELKIN, JOHN
BENSINK, ROBERT S. BIHELLER,
28 JOHN BONI, ALVIN BORETZ,

CASE NO. BC 268 843

**FOURTH AMENDED COMPLAINT
[CLASS ACTION]**

1 RICHARD D. BOYLE, STEVE ALLISON
BRASFIELD, ELIZABETH GILL
2 BRAUER, LARRY BRODY, HINDI
BROOKS, DAVID BROWN, CRAIG
3 BUCK, TIMOTHY BURNS, DORAN
WILLIAM CANNON, JAMES W.
4 CARLSON, PATRICIA JOYCE
CARTER, ROXANNE LUCIER
5 CHECKOR, RANDY B. CHRISTOPHER,
CALVIN CLEMENTS, JR., EDWARD
6 CLINTON, WANDA COLEMAN,
OLIVER CRAWFORD, ROBERT LYON
7 DAMES, JEANNE CAROLYN DAVIS,
MARY E. DAVIS, LAVINA DAWSON,
8 PAULA DEATS, DENISE DECLUE,
HARRIET A. DICKEY, DAN
9 DISTEFANO, ANITA DOOHAN,
PAMELA DOUGLAS, GEORGE
10 ECKSTEIN, TOM EDWARDS, ARTHUR
EISENSON, PAUL C. ELLIOTT, IRVING
11 ELMAN, LOUIS J. EPPOLITO, TERRY
LOUISE FISHER, LAURIE FRANK,
12 RON FRIEDMAN, HENRY P. GARSON,
STEPHEN GELLER, MITCHELL A.
13 GIANNUNZIO, ERIC K. GOODMAN,
MICHAEL P. GRACE, STEVEN S.
14 GREENE, LARRY GRUSIN, ARLAN
GUTENBERG, DEBORAH HABER,
15 PHIL HAHN, RALPH S. HART, REX
HAUCK, KEN HECHT, BRUCE
16 HOWARD, TRUSTIN HOWARD, JOHN
N. HUFF, JERRY L. JACOBIUS, JACK
17 JACOBS, PATRICIA JONES, MICHAEL
KAGAN, AUSTIN KALISH, STEPHEN
18 B. KATZ, DAWNA KAUFMANN,
ROBERT KAY, JOSI W. KONSKI, RITA
19 LAKIN, BILL LAMOND, JO LAMOND,
TED LANG, L. LEE LAPIDUS,
20 NORMAN LAPIDUS, HAPPY JAMES
LAWRENCE, ALLAN LEICHT,
21 KATHLEEN KLEIN LESTRANGE,
MOLLY LEVY, DAVID LUMSDEN,
22 RONALD LUX, BERNARD MACK,
RUDY MAKOUL, ANN MARCUS,
23 LEAH MARKUS, ROBERT L.
MCCULLOUGH, JACK MENDELSON,
24 MICHAEL J. METZGER, HOWARD
MEYERS, MARK MILLER, MICHAEL
25 MILLIGAN, ROBERT L. MILLS,
LARRY MINTZ, GORDON MITCHELL,
26 GEORGE DOUGLAS MORGAN, THAD
MUMFORD, RON NEAL, WILLIAM J.
27 NELSON, LAN O' KUN, JOANNE M.
PAGLIARO, ADRIENNE PARKS,
28 JOYCE PERRY, ABE POLSKY, BURT
PRELUTSKY, BRAD RADNITZ,

1 MICHAEL RHODES, RONALD
RIBMAN, CAROL ROPER,
2 RICHARD ROSSNER, WILLIAM
JAMES ROYCE, ALBERT RUBEN, DON
3 RUBIN, MANN RUBIN, PAUL
SAVAGE, ROBERT E. SCHAEFER,
4 ELROY SCHWARTZ, STEPHEN F.
SHARON, BOB SHAYNE, CAROLYN
5 SHELBY, ROBERT SHERMAN,
GERALD SIEGEL, HAL SITOWITZ,
6 RUTH ANSON SOWBY, DEBORAH
SPECTOR, WILLIAM R. STRATTON,
7 RONALD A. SUPPA, JAMES
TROMBETTA, RICHARD JOSEPH
8 TUBER, ROGERS TURRENTINE,
ROBERT URSUL, NORMAN
9 THADDEUS VANE, MICHAEL
WALKER, EARL W. WALLACE,
10 CLYDE WARE, ROBERT A.
WEVERKA, JERRY WINNICK, JACK
11 WINTER, ROLAND H. WOLPERT,
EDMOND KEENAN WYNN, TRACY
12 KEENAN WYNN, GEORGE YANOK
AND STEVE YOUNG,

13 Plaintiffs,

14 VS.

15
16 INTERNATIONAL CREATIVE
MANAGEMENT, INC.,

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18 Defendant.
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1 Plaintiffs bring this action as a representative and class action on behalf of themselves
2 and all persons similarly situated, alleging as follows:

3 **Introduction**

4 1. This action arises out of defendant International Creative Management, Inc.'s
5 ("ICM") ageist business practices in refusing to represent older television writers and to refer
6 them for writing opportunities in violation of the Unruh Civil Rights Act, Cal. Civ. Code § 51
7 and § 51.5 of the California Civil Code, and aiding and abetting the ageist hiring policies or
8 practices of numerous employers in the television industry in violation of the Fair Employment
9 and Housing Act ("FEHA"), Cal. Gov't Code §§ 12920 *et seq.* Defendant's ageist representation
10 and referral practices have also been in direct violation of FEHA since January 1, 2003 and are in
11 violation of the Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.*

12 **Parties**

13 Plaintiffs

14 2. Plaintiffs are one hundred fifty-one (151) members of the Writers Guild of
15 America ("WGA"). Each is forty years of age or older, has previous television writing credits, is
16 qualified to write for television, and currently desires representation from ICM for the purpose of
17 obtaining writing opportunities with networks and studios including NBC, WB, FOX, ABC,
18 UPN, CBS, Paramount, Viacom Productions, Spelling, Big Ticket, Universal, Brillstein Grey,
19 Studios USA, 20th Century Fox, Twentieth Television, Greenblatt Janollari, Warner Bros., Castle
20 Rock, Disney, Touchstone, Miramax, Buena Vista, Columbia, DreamWorks, and Carsey-Werner
21 (collectively, the "Named Employers").

22 3. As indicated by the asterisks below, certain plaintiffs applied for or otherwise
23 sought representation with ICM for the purpose of obtaining television writing opportunities at
24 one or more times while they were age forty or above, but were rejected as a result of their age,
25 and all plaintiffs have been and continue to be deterred from applying for or otherwise seeking
26 representation with ICM. They reasonably believe that it would be a futile gesture to seek
27 representation because they are aware of facts and circumstances some of which are described

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1 below establishing ICM's well-deserved reputation for ageist business practices with respect to
2 the representation and referral of writers for television writing opportunities:
3

4	NAME	STATE/COUNTRY OF CITIZENSHIP	DATE OF BIRTH
5	Richard Ades	Maryland	7/24/1952
6	Cecile Alch*	California	Before 1958
7	Karl Alexander	California	8/23/1942
8	Nancy Alvarez	Washington	2/26/1944
9	Christopher Ames	California	3/10/1950
10	John B. Aylesworth	California	8/18/1928
11	Robert Guy Barrows	Colorado	2/9/1926
12	William Bast	California	4/3/1931
13	Maria Cristina Beato-Lanz	California	6/12/1951
14	Anne Beatts*	California	2/25/1947
15	Harriet Belkin	California	5/16/1931
16	Norman Belkin	California	11/1/1924
17	John Bensink	Pennsylvania	8/7/1948
18	Robert S. BiHeller	Washington	5/28/1938
19	John Boni	Canada	5/25/1953
20	Alvin Boretz	New York	6/15/1919
21	Richard D. Boyle	California	3/26/1942
22	Steve Allison Brasfield	California	8/24/1953
23	Elizabeth Gill Brauer*	California	3/20/1948
24	Larry Brody	California	12/5/1944
25	Hindi Brooks	California	Before 1960
26	David Brown*	California	1/18/1947
27	Craig Buck	California	5/16/1952
28			

1	NAME	STATE/COUNTRY OF CITIZENSHIP	DATE OF BIRTH
2	Timothy Burns	California	2/25/1943
3	Doran William Cannon	California	2/11/1937
4	James W. Carlson	Colorado	8/29/1932
5	Patricia Joyce Carter	California	11/22/1949
6	Roxanne Lucier Checkor	California	9/10/1942
7	Randy B. Christopher*	California	7/22/1960
8	Calvin Clements, Jr.	California	12/27/1941
9	Edward Clinton	Connecticut	9/23/1948
10	Wanda Coleman	California	11/13/1946
11	Oliver Crawford	California	8/12/1917
12	Robert Lyons Dames	California	6/13/1944
13	Jeanne Carolyn Davis*	California	6/12/1950
14	Mary E. Davis*	California	1957
15	Lavina Dawson	California	8/11/1937
16	Paula Deats	California	4/7/1949
17	Denise DeClue	Michigan	12/16/1948
18	Harriet A. Dickey	California	5/8/1959
19	Dan DiStefano	California	7/13/1947
20	Anita Doohan	California	11/4/1941
21	Pamela Douglas	California	2/11/1944
22	George Eckstein	California	5/3/1928
23	Paul F. Edwards	Montana	9/6/1939
24	Tom Edwards*	Georgia	3/24/1950
25	Arthur Eisenson*	California	7/20/1942
26	Paul C. Elliott*	California	11/21/1941
27	Irving Elman*	California	6/28/1915
28			

1	NAME	STATE/COUNTRY OF CITIZENSHIP	DATE OF BIRTH
2	Louis J. Eppolito*	Nevada	7/22/1948
3	Terry Louise Fisher	California	2/21/1946
4	Laurie Frank	California	before 1960
5	Ron Friedman	California	8/1/1932
6	Henry P. Garson	California	3/21/1912
7	Stephen Geller*	Rhode Island	8/31/1940
8	Mitchell A. Giannunzio*	California	9/20/1954
9	Eric K. Goodman	Ohio	5/29/1953
10	Michael P. Grace	California	7/4/1940
11	Steven S. Greene	California	5/18/1946
12	Larry Grusin	California	7/29/1942
13	Arlan Gutenberg	Arizona	1/10/1948
14	Deborah Haber	New York	Before 1960
15	Phil Hahn	Oregon	8/21/1932
16	Ralph S. Hart*	California	3/29/1928
17	Rex Hauck	Georgia	3/29/1951
18	Ken Hecht*	California	4/4/1947
19	Bruce Howard	California	6/6/1925
20	Trustin Howard	California	Before 1960
21	John N. Huff	California	1/20/1946
22	Jerry L. Jacobius	California	8/27/1947
23	Jack Jacobs	California	11/17/1919
24	Patricia Jones	California	10/22/1946
25	Michael Kagan	California	4/28/1944
26	Austin Kalish	California	2/3/1921
27	Stephen B. Katz	Texas	7/4/1946
28			

1	NAME	STATE/COUNTRY OF CITIZENSHIP	DATE OF BIRTH
2	Dawna Kaufmann	California	Before 1960
3	Robert Kay	California	3/6/1945
4	Josi W. Konski	California	4/28/1945
5	Rita Lakin	California	1/24/1930
6	Bill LaMond	California	5/14/1934
7	Jo LaMond	California	6/22/1940
8	Ted Lang	California	6/4/1944
9	L. Lee Lapidus*	California	6/9/1953
10	Norman Lapidus*	California	1/3/1953
11	Happy James Lawrence	North Carolina	8/25/1944
12	Allan Leicht*	New York	1/27/1942
13	Kathleen Klein LeStrange	Texas	9/12/1946
14	Molly Levy*	New York	10/14/1952
15	David Lumsden	Washington	5/12/1945
16	Ronald Lux*	California	Before 1960
17	Bernard Mack	California	2/16/1947
18	Rudy Makoul	California	7/2/1920
19	Ann Marcus	California	8/22/1921
20	Leah Markus	California	1/02/1945
21	Robert L. McCullough	California	7/23/1945
22	Jack Mendelsohn	California	11/8/1926
23	Michael J. Metzger	California	10/18/1939
24	Howard Meyers	California	1/3/1946
25	Mark Miller	California	11/3/1952
26	Michael Milligan	California	1/28/1947
27	Robert L. Mills	California	5/15/1937
28			

1	NAME	STATE/COUNTRY OF CITIZENSHIP	DATE OF BIRTH
2	Larry Mintz	California	2/9/1950
3	Gordon Mitchell	California	2/22/1932
4	George Douglas Morgan*	California	9/30/1953
5	Thad Mumford	California	2/8/1951
6	Ron Neal	California	12/22/1936
7	William J. Nelson*	California	8/19/1956
8	Lan O' Kun	California	1/13/1932
9	Joanne M. Pagliaro*	California	7/8/1950
10	Adrienne Parks	California	4/8/1948
11	Joyce Perry	California	6/11/1930
12	Abe Polsky*	California	8/13/1935
13	Burt Prelutsky*	California	1/5/1940
14	Brad Radnitz*	California	10/22/1930
15	Michael Rhodes*	California	11/9/1935
16	Ronald Ribman*	California	5/28/1932
17	Carol Roper	California	9/9/1940
18	Richard Rossner	Arizona	11/24/1950
19	William James Royce	California	12/16/1954
20	Albert Ruben	New York	10/29/1925
21	Don Rubin*	California	4/6/1945
22	Mann Rubin	California	12/11/1926
23	Paul Savage	California	9/2/1925
24	Robert E. Schaefer	California	7/17/1926
25	Elroy Schwartz*	California	6/23/1923
26	Stephen F. Sharon*	California	6/2/1953
27	Bob Shayne	California	7/21/1940
28			

	NAME	STATE/COUNTRY OF CITIZENSHIP	DATE OF BIRTH
1			
2	Carolyn Shelby	California	6/17/1949
3	Robert Sherman	California	1/9/1950
4	Gerald Siegel	Connecticut	2/12/1936
5	Hal Sitowitz	California	7/26/1933
6	Ruth Anson Sowby	California	10/11/1944
7	Deborah Spector	California	7/14/1950
8	William R. Stratton	California	11/11/1930
9	Ronald A. Suppa	California	10/21/1948
10	James Trombetta	California	12/11/1946
11	Richard Joseph Tuber	California	11/4/1930
12	Rogers Turrentine	California	1/28/1939
13	Robert Ursul*	Canada	10/23/1944
14	Norman Thaddeus Vane*	California	7/7/1927
15	Michael Walker	California	2/2/1949
16	Earl W. Wallace	California	10/23/1942
17	Clyde Ware*	California	12/22/1930
18	Robert A. Weverka	California	11/17/1926
19	Jerry Winnick	California	1937
20	Jack Winter	Maryland	12/4/1934
21	Roland H. Wolpert*	California	12/30/1923
22	Edmond Keenan Wynn	California	8/22/1953
23	Tracy Keenan Wynn	Colorado	2/28/1945
24	George Yanok	Tennessee	11/29/1938
25	Steve Young	California	1/22/1947
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1 Defendant

2 4. Defendant International Creative Management, Inc. is a Delaware corporation
3 with its principal place of business in Beverly Hills, California. ICM is a talent agency,
4 representing television and feature film writers, among others.

5 **Jurisdiction & Venue**

6 5. Jurisdiction and venue are proper in this Court because this action arises under
7 California state law, the defendant resides in the County of Los Angeles, and the acts and
8 omissions complained of herein have occurred and continue to occur in the County of Los
9 Angeles.

10 **Exhaustion of Administrative Remedies**

11 6. ICM has been put on notice of allegations of class-wide age discrimination by one
12 or more charges of discrimination filed by one or more plaintiffs with the California Department
13 of Fair Employment and Housing ("DFEH"). DFEH has issued to one or more plaintiffs a one
14 year notice of right to sue with respect to these allegations of class-wide age discrimination
15 against ICM.

16 **Facts**

17 ICM's Involvement In The Hiring Process

18 7. The hiring process for television writing opportunities is unique to the industry.
19 Networks and studios, including the Named Employers, do not accept applications, resumes or
20 scripts for TV writing opportunities from the general public. Rather, they fill TV writing
21 vacancies primarily by hiring writers who are referred to them through talent agents, including
22 ICM. An individual generally "applies" for a television writing opportunity by being referred to
23 an employer through an agent who will submit a script or arrange for an interview or "pitch
24 meeting" with a television hiring official on his behalf.

25 8. Because networks and studios, including the Named Employers, will not accept
26 unsolicited scripts (i.e., those submitted without an agent unless specifically invited), it is
27 virtually impossible for an individual to apply for a television writing opportunity – much less
28 actually obtain such an opportunity – without an agent or a close personal connection to a

1 television hiring official. The vast majority of older writers do not have the kind of close
2 personal connection that one must have in order to get themselves considered for a writing
3 position without an agent and, thus, in order to begin to compete for television writing
4 opportunities, they must secure representation from a talent agency like ICM. By determining
5 who they will represent and refer for writing opportunities, talent agencies like ICM act as
6 gatekeepers for networks and studios like the Named Employers.

7 ICM Is Well Aware of the Television Industry's Bias Against Older Writers

8 9. ICM is well aware of the pattern or practice of age discrimination
9 by each Named Employer in connection with its employment and business dealings with older
10 writers.

11 10. ICM's awareness of the ageist practices is based on the following:

- 12 a. Numerous television network executives and other industry insiders have
13 made public statements regarding their desire to hire younger writers or
14 to exclude older writers for particular shows and/or generally, including:
- 15 • FOX President Jamie Kellner put it bluntly: "We don't need
16 anyone over 50 years of age to succeed with our business plan."
 - 17 • Marta Kauffman, co-creator of the NBC show "Friends" told the
18 Discovery Channel: "Once you hit 40, you can't do it anymore.
19 Who's got this energy to go on three hours of sleep? You just
20 can't do it. And also, I think the networks and the studios, they
21 want the new fresh ideas. They're looking for the young people
22 coming in out of college."
 - 23 • NBC President Brandon Tartikoff pronounced a policy of not
24 hiring older writers.
 - 25 • Gary David Goldberg, producer of the ABC show "Spin City" told
26 TV Guide that the program had "no writers on the set over the age
27 of 29 – by design."

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