

1 SPRENGER & LANG, PLLC
Paul C. Sprenger (DC Bar No. 412029)
2 Steven M. Sprenger (DC Bar No. 418736)
Michael D. Lieder (DC Bar No. 444273)
3 1400 Eye Street, N.W., Suite 500
Washington, D.C. 20005
4 Telephone: (202) 265-8010 - Facsimile: (202) 332-6652

5 SCHWARTZ, STEINSAPIR, DOHRMANN & SOMMERS LLP
Dolly M. Gee (CA Bar No. 114493)
6 6300 Wilshire Boulevard, Suite 2000
Los Angeles, California 90048-5268
7 Telephone: (323) 655-4700 - Facsimile: (323) 655-4488

8 KATOR, PARKS & WEISER, PLLC
Maia Caplan (DC Bar No. 422798)
9 1200 18th Street, N.W., Suite 1000
Washington, D.C. 20036
10 Telephone: (202) 898-4800 - Facsimile: (202) 289-1389

11 AARP FOUNDATION LITIGATION
Thomas W. Osborne (DC Bar No. 428164)
12 Daniel B. Kohrman (DC Bar No. 394064)
Barbara Jones (CA Bar No. 88448)
13 601 E Street, N.W.
Washington, D.C. 20049
14 Telephone: (202) 434-2060 - Facsimile: (202) 434-6424

15 KATZ, MARSHALL & BANKS, LLP
Daniel B. Edelman (DC Bar No. 075101)
16 1718 Connecticut Avenue N.W., Sixth Floor
Washington, D.C. 20009
17 Telephone: (202) 299-1140 - Facsimile: (202) 299-1148

18 Attorneys for Plaintiffs

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
20 **FOR THE COUNTY OF LOS ANGELES - CENTRAL CIVIL WEST**

21 IN RE: TV WRITERS CASES

Case Nos. BC 268836 (and related cases)

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

22 _____
23 THIS DOCUMENT RELATES TO:

24 ***EDWARDS, et al. v. INTERNATIONAL***
25 ***CREATIVE MANAGEMENT, INC., –***
26 ***BC 268846; and***

27 ***MINTZ, et al. v. BRODER KURLAND***
28 ***WEBB AGENCY, INC., – BC 268850***

CONSENT DECREE

TABLE OF CONTENTS

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

TABLE OF CONTENTS i

I. INTRODUCTION 1

II. NATURE OF THE CASES..... 1

III. DEFINITIONS AND DESIGNATIONS 2

IV. JURISDICTION 7

V. EFFECTIVE DATE AND TERM OF DECREE 7

VI. SETTLEMENT CLASS 7

VII. CONDITIONAL NATURE OF SETTLEMENT 8

VIII. VOIDING THE SETTLEMENT 9

IX. RELEASE 10

A. Scope of Judicial Release of Claims and Waiver of Allegations 10

B. Individual Release 11

C. Opt Out Process 12

X. STAY OF ALL NON-SETTLEMENT RELATED PROCEEDINGS
AND DISCOVERY 12

XI. EQUITABLE PROVISIONS 12

A. General Provisions 12

B. Dispute Resolution and Enforcement Procedures 13

C. Communications 15

D. Training 15

E. Mediation-Privileged Task Force..... 16

F. Facilitation Job Opportunity Program 18

G. Data Collection and Maintenance 19

H. Access to Records, Reports and Monitoring 20

I. Class Counsel Reports and Enforcement Exclusivity 21

XII. MONETARY RELIEF 21

A. Settlement Fund 21

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

B. Creation of and Administration of the Settlement Fund 23

C. Claims Filing Procedures and Awards for Settlement Claims of
Named Plaintiffs and Class Members 24

D. Tax Treatment 25

E. Indemnification by Class Members and Named Plaintiffs 25

XIII. NOTICE AND FAIRNESS HEARING 26

XIV. DUTY TO DEFEND 28

XV. NO DRAFTING PRESUMPTION 28

XVI. NO WAIVER 28

XVII. MODIFICATION, INTEGRATION AND SEVERABILITY 29

XVIII. DENIAL OF LIABILITY 29

XIX. FORM OF SIGNATURES 29

1 **I. INTRODUCTION**

2 This Settlement and Consent Decree (“Decree” or “Settlement”) has been entered into by
3 the parties to this litigation and is hereby submitted to the Superior Court of California for the
4 County of Los Angeles for approval. On final approval by the Court, the Decree shall fully and
5 finally resolve these civil actions—Edwards, et al. v. International Creative Management, Inc.,
6 Case No. BC 268846 and Mintz, et al. v. Broder Kurland Webb Agency, Inc., Case No. BC
7 268850 (collectively, the “Class Actions”).

8 **II. NATURE OF THE CASES**

9 On February 25, 2002, plaintiffs filed these Class Actions against International Creative
10 Management, Inc. (“ICM”) and Broder Kurland Webb Agency, Inc. (“BKW”). The operative
11 complaints allege direct claims of age discrimination and aiding and abetting such discrimination
12 in violation of the Fair Employment and Housing Act (“FEHA”), Cal. Gov’t Code §§ 12920 *et*
13 *seq.*, ageist business practices in violation of the Unruh Civil Rights Act, Cal. Civ. Code § 51 and
14 § 51.5 of the California Civil Code, and violation of the Unfair Competition Law (“UCL”), Cal.
15 Bus. & Prof. Code § 17200 *et seq.*

16 Plaintiffs had previously filed a single class action complaint against ICM, BKW and
17 other defendants alleging violations of FEHA and the Age Discrimination in Employment Act
18 (“ADEA”), 29 U.S.C. sec. 621 *et seq.*, in the U.S. District Court for the Central District of
19 California on October 23, 2000, the 2002 rulings in which resulted in the filing of 23 separate
20 class actions in this Court, two of which are resolved by this Consent Decree. A partial history
21 of the Television Writers Cases is set forth in *Alch, et al. v. Time Warner Entertainment, et al.*
22 (2004) 122 Cal. App. 4th 339.

23 Plaintiffs in these Class Actions contend that ICM and BKW have engaged in a pattern or
24 practice of unlawfully failing and refusing to represent and refer writers ages 40 and older,
25 respectively, to networks and studios as candidates for television writing opportunities and
26 aiding and abetting such networks and studios in failing to hire and/or purchase material from
27 older writers, based at least in part on age. ICM and BKW deny that they have engaged in any
28 unlawful age discrimination or ageist activities and contend that they have worked with

1 considerable dedication to accomplish employment for writers of all ages, including those ages
2 40 and over.

3 The parties have litigated vigorously over almost eight years, including multiple appeals
4 and writ petitions to the Court of Appeal. In November of 2007, the parties entered into
5 discussions to resolve through mediation the claims raised by the plaintiffs. As part of the
6 settlement discussions, the parties reviewed and evaluated demographic data available publicly
7 on an industry-wide basis. The data included television writer employment by age, earnings, and
8 studio and agency representation during the liability period. The negotiations were conducted at
9 arms-length and without collusion for eight months until the parties reached an agreement, the
10 terms of which are embodied in this Decree.

11 In the opinion of Lead Counsel for the Plaintiff Class, based on his experience in the field
12 of employment class action litigation nationally in scores of cases over the past four decades,
13 after analyzing the informal discovery of demographic data conducted during the mediation and
14 settlement process, and its evaluation by the plaintiffs' statistical and labor economic experts,
15 supplemented with publicly available employment and earnings statistics, that the proposed
16 resolution can be properly assessed, taking into account the respective parties' individual, joint
17 and several risk of loss and the relative damages exposure of ICM and BKW in the alleged
18 industry-wide patterns or practices as well as the protracted and costly future litigation over these
19 allegations, and to compromise plaintiffs' classwide claims on a fair, adequate and reasonable
20 basis.

21 **III. DEFINITIONS AND DESIGNATIONS**

22 The following designations are hereby ordered for purposes of this Consent Decree and
23 when used in this Decree, in addition to the terms defined elsewhere in the Decree, shall have the
24 following meanings:

25 A. "Approval Date" means the date on which the Court signs this Decree, after
26 having certified a Settlement Class in this matter and determined that the Decree is fair, adequate
27 and reasonable to the Class as a whole, after: (1) notice to the Class; (2) an opportunity to opt
28 out of the Settlement Class with respect to monetary relief; (3) an opportunity to submit timely

1 comments favorable or not and/or objections to the Decree; and (4) a hearing on its fairness.

2 B. "Lead Class Counsel" or "Lead Counsel for Plaintiffs" or the "Lead Counsel for
3 the Plaintiff Class" means Paul Sprenger; "Class Counsel" means Steven Sprenger and Maia
4 Caplan of the law firms of Sprenger & Lang, P.L.L.C. and Kator Parks & Weiser, P.L.L.C.,
5 respectively and includes Lead Class Counsel; "Local Class Counsel" or "Local Counsel to the
6 Class" means Dolly Gee of Schwartz, Steinsapir, Dohrmann & Sommers L.L.P.; and "National
7 Class Counsel" or "National Counsel to the Class" means Thomas Osborne and AARP
8 Foundation Legal, a not-for-profit law firm affiliated with AARP, Washington, DC.

9 C. "ICM Class Representatives" or "ICM Named Plaintiffs" means Anita Dwyer
10 (f/k/a Doohan), Richard Ades, Cecile Alch, Karl Alexander, Nancy Alvarez, John B.
11 Aylesworth, Robert Guy Barrows, Maria Cristina Beato-Lanz, Anne Beatts, Harriet Belkin, John
12 Bensink, Robert S. Biheller, Richard D. Boyle, Steve Allison Brasfield, Elizabeth Gill Brauer,
13 Hindi Brooks, David Brown, Craig Buck, Timothy Burns, Mary Cannon, Patricia Joyce Carter,
14 Roxanne Lucier Checkor, Calvin Clements, Jr., Judith Clinton, Wanda Coleman, Oliver
15 Crawford, Robert Lyon Dames, Robert Davenport, Sara Davidson, Jeanne Carolyn Davis, Mary
16 E. Davis, Lavina Dawson, Paula Deats, Denise DeClue, Harriet A. Dickey, Dan DiStefano,
17 Pamela Douglas, George Eckstein, Paul F. Edwards, Arthur Eisenson, Paul C. Elliott, Irving
18 Elman, Laurie Frank, Ron Friedman, Liza Garson, Stephen Geller, Eric K. Goodman, Steven S.
19 Greene, Larry Grusin, Arlan Gutenberg, Deborah Pochna (f/k/a Haber), Phil Hahn, Ralph S.
20 Hart, Rex Hauck, Ken Hecht, Bruce Howard, Trustin Howard, Jerry L. Jacobius, Jack Jacobs,
21 Patricia Jones, Michael H. Kagan, Dawna Kaufmann, Robert Kay, Josi W. Konski, Rita Lakin,
22 Bill LaMond, Jo LaMond, Kenneth Landsman, L. Lee Lapidus, Norman Lapidus, Happy James
23 Lawrence, Allan Leicht, Kathleen Klein LeStrange, David Lumsden, Ronald Lux, Bernard
24 Mack, Ann Marcus, Leah Markus, Robert L. McCullough, Michael J. Metzger, Howard Meyers,
25 Robert L. Mills, Larry Mintz, Gordon Mitchell, George Douglas Morgan, Thad Mumford, Ron
26 Neal, Lan O' Kun, Adrienne Parks, Joyce Perry, Abe Polsky, Ronald Ribman, Richard Rossner,
27 William James Royce, Albert Ruben, Don Rubin, Mann Rubin, Paul Savage, Elroy Schwartz,
28 Stephen F. Sharon, Bob Shayne, Robert Sherman, Gerald Siegel, Ruth Anson Sowby, Deborah

1 Spector, William R. Stratton, Ronald A. Suppa, James Trombetta, Iris Tuber, Rogers Turrentine,
2 Robert Ursul, Norman Thaddeus Vane, Michael Walker, Clyde Ware, Robert A. Weverka and
3 Edmond Keenan Wynn who are hereby certified by this Court to represent the Settlement Class,
4 for settlement purposes, pursuant to Cal. Civ. Proc. Code § 382.

5 D. “BKW Class Representatives” or “BKW Named Plaintiffs” means Larry Mintz,
6 Richard Ades, Cecile Alch, Karl Alexander, Nancy Alvarez, Adrienne Armstrong, John B.
7 Aylesworth, Robert Guy Barrows, Maria Cristina Beato-Lanz, Harriet Belkin, John Bensink,
8 Robert S. Biheller, Richard D. Boyle, Steve Allison Brasfield, Hindi Brooks, David Brown,
9 Craig Buck, Timothy Burns, Mary Cannon, Patricia Joyce Carter, Roxanne Lucier Checkor,
10 Wanda Coleman, Oliver Crawford, Robert Lyon Dames, Robert Davenport, Jeanne Carolyn
11 Davis, Mary E. Davis, Lavina Dawson, Paula Deats, Denise DeClue, Harriet A. Dickey, Pamela
12 Douglas, Anita Dwyer (f/k/a Doohan), George Eckstein, Paul F. Edwards, Arthur Eisenson, Paul
13 C. Elliott, Irving Elman, Laurie Frank, Ron Friedman, Liza Garson, Stephen Geller, Eric K.
14 Goodman, Steven S. Greene, Larry Grusin, Arlan Gutenberg, Deborah Pochna (f/k/a Haber), Phil
15 Hahn, Ralph S. Hart, Ken Hecht, Bruce Howard, Trustin Howard, Jerry L. Jacobius, Jack Jacobs,
16 Patricia Jones, Michael H. Kagan, Dawna Kaufmann, Robert Kay, David J. Kinghorn, Josi W.
17 Konski, L. Lee Lapidus, Norman Lapidus, Happy James Lawrence, Allan Leicht, Kathleen Klein
18 LeStrange, David Lumsden, Ronald Lux, Bernard Mack, Ann Marcus, Leah Markus, Robert L.
19 McCullough, Robert L. Mills, Gordon Mitchell, George Douglas Morgan, Ron Neal, Lan O’
20 Kun, Adrienne Parks, Joyce Perry, Abe Polsky, Donald Reiker, Ronald Ribman, Richard
21 Rossner, William James Royce, Albert Ruben, Don Rubin, Mann Rubin, Paul Savage, Elroy
22 Schwartz, John Herman Shaner, Stephen F. Sharon, Robert Sherman, Ruth Anson Sowby,
23 Deborah Spector, William R. Stratton, Ronald A. Suppa, James Trombetta, Rogers Turrentine,
24 Robert Ursul, Norman Thaddeus Vane, Michael Walker, Robert A. Weverka and Edmond
25 Keenan Wynn who are hereby certified by this Court to represent the Settlement Class, for
26 settlement purposes, pursuant to Cal. Civ. Proc. Code § 382.

27
28

1 E. "Court" means the Superior Court of California for the County of Los Angeles.

2 F. "Final Approval Date" or "Effective Date" means the later of: (1) the expiration
3 of the time for filing of a direct appeal from the Court's approval of the Decree and a ruling
4 granting a motion for a good faith settlement determination, without the filing of a writ or notice
5 of appeal; or (2) if a timely direct appeal or writ is filed, the final resolution of that appeal or
6 writ, resulting in final judicial approval of the Decree.

7 G. "Liability Period" means the period between October 22, 1996 and the Final
8 Approval Date, for purposes of this Consent Decree only.

9 H. Minimum Basic Agreement ("MBA") or the WGA-Alliance of Motion Picture &
10 Television Producers Theatrical and Television Basic Agreement, means the collective
11 bargaining agreement that covers television writing work and positions performed by WGA
12 writers employed by defendant production studios or networks applicable before or during the
13 liability period.

14 I. "Preliminary Approval Date" means the date on which the Court entered an Order
15 preliminarily approving this Decree, pending notice, setting an opportunity to opt out of the
16 Settlement Class or submit objections to the Decree, and scheduling a fairness hearing.

17 J. "Referral" means any good faith reference to or recommendation of a writer by
18 ICM to a potential employer or purchaser of television writing services and/or products for the
19 purposes of employing such writer and/or purchasing his or her services, whether transmitted
20 formally or informally, in writing or verbally.

21 K. "Released Claims" include:

22 1. Any and all claims raised in the above-captioned lawsuits including but
23 not limited to direct violation of sections 51 and 51.5 of the California Civil Code, direct
24 violation of the California Fair Employment and Housing Act ("FEHA") for conduct occurring
25 since January 1, 2003, aiding and abetting a pattern or practice of age discrimination by networks
26 and studios in violation of the FEHA, violation of the unfair competition law, California
27 Business & Professions Code section 17200; and
28

1 2. Any and all causes of action and claims that have been, could have been,
2 may be, or could be alleged or asserted relating to, on the basis of, in connection with, or arising
3 out of, in whole or in part, the subject matter of any of the claims alleged in the operative
4 complaints. This includes, without limitation, any and all employment claims of any kind,
5 penalties, interest, attorneys' fees, and costs, based on any legal or equitable theory, whether
6 based on contract, common law, statute, federal law, state law, or otherwise, whether known or
7 unknown, whether suspected or unanticipated.

8 L. "Released Persons" includes ICM and BKW, their present and former parents,
9 subsidiaries, and affiliates, and all of their respective present and former insurers, reinsurers,
10 members, directors, officers, managers, agents, employees, servants, representatives, consultants,
11 attorneys, successors and assigns.

12 M. "Settlement Class" is defined in Part VI of this Decree.

13 N. "Television Writers Cases" means *Alch, et al. v. Time Warner, et al.* (BC
14 268836), *Bast, et al. v. Fox, et al.* (BC 268839), *Brett, et al. v. Disney, et al.* (BC 268844),
15 *Brooks, et al. v. William Morris* (BC 268843), *DiStefano, et al. v. Columbia Tristar* (BC
16 268845), *Doohan, et al. v. Irv Schechter* (BC 268876), *Edwards, et al. v. Carsey-Werner* (BC
17 268841), *Edwards, et al. v. ICM* (BC 268846), *Eisenson, et al. v. Paradigm* (BC 268847),
18 *Kalish, et al. v. Spelling, et al.* (BC 268883), *Kinghorn, et al. v. Universal, et al.* (BC 268877),
19 *Lang, et al. v. Shapiro-Lichtman* (BC 268848), *Levy, et al. v. Gersh* (BC 268840), *Moriarty, et*
20 *al. v. Paramount, et al.* (BC 268878), *Mintz, et al. v. Broder* (BC 268850), *Neal, et al. v.*
21 *Endeavor* (BC 268849), *Neal, et al. v. UPN, et al.* (BC 268837), *Reuben, et al. v. CAA* (BC
22 268879), *Schwartz, et al. v. UTA* (BC 268881), *Shayne, et al. v. CBS, et al.* (BC 268882), *Wynn,*
23 *et al. v. NBC, et al.* (BC 268842), *Yanok, et al. v. APA* (BC 268880), and *Young, et al. v.*
24 *Dreamworks* (BC 268838).

25 O. "Television writing opportunities" is defined to include, but is not limited to,
26 employment as a staff or freelance television writer as well as sales of television scripts and/or
27 television writing services.

28

