

## **NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

TO: All persons who have been credited writers of a motion picture, television program, or certain other audio-visual work that has earned foreign levies.

### **THIS NOTICE MAY AFFECT YOUR RIGHTS PLEASE READ THE COMPLETE NOTICE CAREFULLY**

#### **I. PURPOSE OF THIS NOTICE**

There is now pending in the Superior Court of the County of Los Angeles a class action lawsuit entitled *Richert, et al. v. Writers Guild of America west, Inc.*, Case No. BC339972 (the "Litigation"). This Notice explains the nature of the Litigation, general terms of a proposed settlement, and informs you of your legal rights and obligations.

This case arises as a result of the collection and distribution to authors of levies on blank DVDs and tapes in several foreign nations. During the 1980s, various European countries began to adopt laws imposing levies on video rentals, blank cassettes (and later, DVDs), and recording equipment, which were designed to provide compensation to rights holders, including "authors" of the motion pictures and television programs exhibited within each country and which were subject to home recording and other uses. Some countries also impose levies on cable retransmissions. Under copyright regimes and related law then-prevailing in various European countries, film and television writers are considered to be "authors" of motion pictures. Laws enacted in various European nations authorized private "collecting societies" existing in each country to allocate and distribute the levies to the rights holders of the affected films and programs. American writers receive foreign levies as a result of various agreements with production companies regarding the division between them of the foreign levies.

In this Litigation, Plaintiffs have questioned the authority of the WGA to collect these foreign levies and have asserted that WGA has failed to properly distribute foreign levies to writers. WGA has denied, and continues to deny, each and every claim and contention alleged in the Litigation.

Plaintiffs and their Counsel have investigated and evaluated the claims asserted in the Litigation and have determined that the proposed settlement is fair, reasonable, and adequate. The proposed Settlement provides for various policies and procedures to ensure that to the extent WGA is collecting foreign levies, the monies are collected and distributed in a fair and reasonable manner. The settlement also requires WGA to publish detailed information about the foreign levy program on its website. Plaintiffs believe that there are many risks to going forward with the Litigation, including the risks of not being able to maintain the case as a certified class action or of failing to prove liability or damages.

The Honorable Judge Carl J. West of the Superior Court of the County of Los Angeles (the "Court") has determined that this Litigation should proceed as a class action, with Plaintiffs William Richert, Maude Feil Retchin, and Ann Jamison as the representatives of the Class, and has granted preliminary approval of the settlement.

#### **II. CLASS MEMBERS**

The Court has conditionally ruled that the Litigation may be maintained on behalf of anyone who satisfies the following criteria:

"All writers, including members of the WGAW and non-members of the WGAW, whose works, whether or not written under any WGAW collective bargaining agreement, earned Foreign Levy Funds that were paid to the WGAW by foreign collection societies. This class definition includes the lawful heirs of any such writer who is no longer living."

Excluded from the Class are WGA, as well as its directors, officers; Judge West and his immediate family; and all persons who timely and validly request exclusion from the Class in compliance with the requirements of this Notice.

#### **III. SETTLEMENT BENEFIT FOR CLASS MEMBERS**

- A. If this settlement is finally approved by the Court, parties shall jointly select an independent accounting firm to conduct a one-time review of WGA's foreign levy program (the "One-Time Review"). The One-Time Review shall review the WGA's foreign levies program, from inception to the present, according to Generally Accepted Accounting Principles (GAAP) and shall determine and issue a report analyzing and setting forth details of the foreign levies held by the WGA. A more detailed description of the review process can be found in Section 3 of the Settlement Agreement.

- B. For fiscal year 2009 and all subsequent fiscal years in which WGA maintains its foreign levies program, the WGA shall, as part of its annual financial review, have a review performed of the foreign levies program. Said review of the foreign levies program shall be performed by the same accounting firm that WGA selects for its overall annual review. WGA currently posts and publishes on its website annual reports in their entirety, including full financial statements and notes. The review of the foreign levies program will be included in this full and complete posting and publication.
- C. WGA shall engage consultants to provide a one-time review and to make recommendations to improve the processing and distribution of foreign levies. Counsel for the Plaintiffs shall select one or two consultants, and the WGA may also select additional consultants. The consultants shall prepare and issue a report(s) which shall include recommendations on how the WGA can improve the processing and distribution of foreign levies. The report(s) will be provided only to Plaintiffs' counsel and the WGA and will not be published. Counsel for the Plaintiffs and representatives of the WGA shall meet, if possible with the consultants present, to review the report(s) and discuss implementation of some or all of the consultants' recommendations. Following this meeting(s), the WGA shall implement whichever of the proposals it deems, in good faith, to be appropriate, with any objections to be resolved by mediation and, where necessary, binding arbitration.
- D. For a period of three (3) years, on an annual basis, WGA shall publicize the existence and availability of foreign levies and the WGA's foreign levies program to writers in industry and non-industry publications. Also, the WGA's website (currently, [www.wga.org](http://www.wga.org)) will contain the content regarding foreign levies, including all titles the WGA is aware of for which foreign levies have been collected but for which a writer (or writers) has not been identified, the names of all writers who may be eligible for payment of foreign levies but who have not been paid, and an online (and alternative) mechanism for writers to register titles of works for which payment of foreign levies may become due.
- E. WGA will use its best efforts to pay all foreign levies in its possession to the proper recipients within three (3) years. The parties shall discuss, in good faith, and come to agreement upon and establish the circumstances and facts under which foreign levies in the possession of the WGA shall be deemed incapable of distribution and what shall be done with respect to foreign levies deemed incapable of distribution. The parties agree to submit to mediation if any disputes regarding these circumstances cannot be informally resolved.

#### **IV. DISMISSAL OF LITIGATION, ENTRY OF JUDGMENT, AND RELEASE OF CLAIMS**

If the Court approves the proposed settlement, it will enter a judgment that will dismiss the Litigation on the merits and with prejudice as to all Class Members. All Class Members who do not validly and timely request to be excluded from the proposed settlement shall be forever barred from prosecuting their own lawsuits and shall be deemed to have fully, finally, and forever irrevocably, on behalf of themselves, their heirs, and their past, present and future spouses, agents, attorneys, trusts, beneficiaries, devisees, legatees, predecessors- and successors-in-interest and assigns (all collectively referred to as "Releasors"), have released, discharged, and dismiss WGA, including each of its predecessor and successor firms, affiliated companies, current and former parents and subsidiaries, and all of their respective shareholders, directors, officers, employees, agents, attorneys, insurers and assigns (all collectively referred to as the "Releasees") of and from any and all "Released Claims." "Released Claims" shall mean any and all known and unknown claims for relief, causes of action, suits, rights of action, or demands, at law or in equity, whether sounding in contract, tort or equity, including, without limitation, claims for equitable or injunctive relief, damages, indemnity, contribution, or for costs, expenses and attorneys' fees, which Releasors now or at any past or present time have, own or hold against the Releasees based upon and/or arising out of the facts and circumstances alleged in the Action.

#### **V. ATTORNEYS' FEES AND COSTS**

From the inception of this lawsuit, Plaintiffs' counsel has not received payments for their services. Plaintiffs' counsel shall submit a request for attorneys' fees and reimbursement of expenses and costs, along with a request for class representative enhancements, with the parties' application for final approval. WGA has agreed not to contest the reasonableness of this request to the extent the total amount for fees and costs is no less than \$500,000.00 and does not exceed \$1,750,000.00, including any multiplier. WGAW has further agreed not to contest Plaintiffs' requests for enhancement of up to \$10,000.00 for Mr. Richert (with the understanding that Plaintiffs may request an enhancement of up to \$20,000.00), \$3,500.00 for Ms. Jamison, and \$3,500.00 for Ms. Feil, which shall be paid from the balance of residual settlement funds prior to cy pres distribution.

## VI. RIGHTS AND OPTIONS OF CLASS MEMBERS

### A. Remain a Class Member

- i. If you do not request exclusion from the Class, you will remain a Class Member. Your interests in connection with the proposed settlement will be represented by Plaintiffs and Plaintiffs' counsel. You will not be charged for the services or expenses of Plaintiffs' counsel. Plaintiffs and WGA's Counsel include the following attorneys and law firms:

#### **Co-Counsel for the Plaintiff Class:**

Neville Johnson, Esq.  
Johnson & Johnson  
439 N. Canon Drive, Suite 200  
Beverly Hills, California 902 10  
Telephone: 310-975-1080  
Facsimile: 310-975-1095

Paul Kiesel, Esq.  
Kiesel, Boucher & Larson, LLP  
8648 Wilshire Boulevard  
Beverly Hills, CA 90211-2910  
Telephone: 310-854-4444  
Facsimile: 310-854-0812

#### **Counsel for WGA:**

Emma Leheny, Esq.  
Rothner, Segall, Greenstone, & Leheny  
510 South Marengo Avenue  
Pasadena, California 91101-3115  
Telephone: 626-796-7555  
Facsimile: 626-577-0124

- ii. If the settlement is not granted final approval or the judgment does not become final, the certification of the Class will be vacated and the Litigation will continue as if no proposed settlement has been reached.
- iii. As a Class Member, you will be bound by any judgment or other disposition of the Litigation. Furthermore, you and your heirs, executors, administrators, representatives, agents, partners, successors, and assigns will be deemed to have agreed to the terms of the settlement and the release set forth in Section IV above.

### B. Opt-Out of the Settlement. You have the right to opt-out of the settlement. If you opt-out of the settlement, you will not be bound by or subject to any judgment or settlement of the Litigation. If you wish to opt-out, you must, submit a written, signed request to opt-out, by postage-paid, first class mail, stating (1) your name, address, and telephone number; (2) a reference to this Litigation; (3) identify all works to which you were a writer for which you believe WGA has received a portion of an Author's Share of a Video Levy or Video Rental Levy attributable to such work and; and (5) a statement that you wish to opt-out of the Class. Requests to opt-out must be sent to:

Richert, et al. v. WGA west, Inc.  
c/o The Garden City Group, Inc.  
P.O. Box 91103  
Seattle, WA 98111-9203

Requests to opt-out must be post-marked no later than February 8, 2010. If you do not submit a timely opt-out request that complies with these requirements, your opt-out request will be deemed invalid and you will not be excluded from the Class.

### C. Intervene In The Litigation And/or Object to the Settlement. You have the right to intervene in the Litigation and/or object to, or comment on, the proposed settlement, award of attorneys' fees, cost, or payment to the Plaintiffs as set forth in Section VII below.

## **VII. FINAL SETTLEMENT HEARING AND SETTLEMENT OBJECTIONS**

A. Settlement Hearing. On March 9, 2010 at 9:00 a.m., a public hearing will be held before Judge Carl J. West of the Superior Court of California, County of Los Angeles, located at 600 South Commonwealth Avenue, Los Angeles, California 90005 ("Settlement Hearing"). The Settlement Hearing will determine: (1) whether the proposed settlement of the Litigation as set forth in the Settlement Agreement is just, fair, reasonable, and adequate for the Class and should be granted final approval; (2) whether certification of the Class should be made final for purposes of the Settlement; (3) whether the Court should enter the proposed judgment; (4) whether the Court should award Plaintiffs' counsel attorneys' fees and costs in the amount to be determined; and (5) whether the Court should award the Plaintiffs up to \$1,750,000.00 for their time and effort in the Litigation. You are not required to attend the Settlement Hearing.

B. Objection Procedure and Deadline

- i. If you are a Class Member, you have the right to intervene in or object to the settlement. To do so, you must submit a written statement setting forth: (1) your name, address, and telephone number; (2) a reference to this Litigation; (3) identify all works to which you were a writer for which you believe WGA has received a portion of an Author's Share of a Video Levy or Video Rental Levy attributable to such work and; and (5) your objection/intervention, notice of intent to appear, and comments and supporting arguments to:

Clerk of the Court  
Central Civil West Courthouse  
600 South Commonwealth Avenue  
Los Angeles, California 90005  
Case No. BC339972

You must also send identical copies of your written submission to Plaintiffs' counsel and WGA's Counsel at the addresses set forth above. Your written objection or request to intervene must be received by the Court and by Plaintiffs' counsel and WGA's Counsel (and not merely postmarked) by February 8, 2010. Your submission to the Court must include a certification that you have personally delivered identical copies to Plaintiffs' counsel and WGA's Counsel, or that you have mailed such copies by postage prepaid first-class mail to Plaintiffs' counsel and WGA's Counsel on or before February 8, 2010. You cannot object or request to intervene if you have opted out of the class. Only those that remain in the Class may object to the settlement or request to intervene.

You also have a right to hire an attorney at your own expense to assist you or to represent you.

- ii. You may also attend the Final Settlement Hearing either in person or through an attorney retained by you at your expense.

## **VIII. ADDITIONAL INFORMATION AND IMPORTANT DATES**

A. Additional Information. The description of the Litigation set forth in this Notice is general and does not cover all of the issues and proceedings thus far. If you have additional questions you can contact Counsel.

B. Deadlines and Dates to Remember.

February 8, 2010 is the deadline to opt-out of the settlement.

February 8, 2010 is the deadline for Intervention/Objection.

March 9, 2010 at 9:00 a.m. is the Settlement Hearing.