DECLARATION OF MICHAEL SCHUR IN OPPOSITION TO PRELIMINARY INJUNCTION MOTIONS

WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC, et al.,

v.

WRITERS GUILD OF AMERICA, WEST, INC., et al.,

Defendants and Counterclaimants,

and PATRICIA CARR, et al.

Counterclaimants.

Hearing Date: Dec. 18, 2020
Hearing Time: 10:00am
Location: Courtroom 7B
Judge: Hon. André Birotte, Jr.
I, Michael Schur, hereby declare as follows:

1. I make this declaration from my personal knowledge and could testify competently to its contents.

2. I have been a member of the Writers Guild of America since 1998 (that year, I joined Writers Guild of America, East and then switched my membership to Writers Guild of America, West in or around 2004). I have written for multiple Hollywood television series, including The Office, Parks and Recreation, Brooklyn Nine-Nine, and The Good Place. I worked as a showrunner/executive producer on Parks and Recreation (which I initially ran with my co-creator Greg Daniels before running the last five plus seasons as a solo showrunner), Brooklyn Nine-Nine (which I initially ran along with my co-creator Daniel Goor), and The Good Place (which I ran for all four seasons). Taking into account all of the programs on which I have served as a showrunner, I have “run” or co-“run” well over a decade of seasons of television.

3. While a showrunner has both writing and production responsibilities, the core responsibility of a showrunner is writing, and writing has occupied the vast majority of my time on every single show that I have run. The core writing tasks that I spend most of my time and energy on when working as a showrunner include breaking stories (i.e. creating individual episodes, as well as the overall story for the entire season), writing from scratch the scripts of certain episodes, assigning scripts to other writers to draft and then providing notes and other feedback, rewriting portions of scripts drafted by others on the writing team, leading a “table read” (i.e. the first read through of the script by the cast), and then rewriting the script once more to incorporate edits and changes based on the table read. All other showrunning duties are secondary.

4. For every single season of television for which I have served as a
showrunner, I have been credited as a writer (or co-writer) on at least one episode. The episodes for which I am credited as a writer are those that I started writing in the first instance from scratch (either alone or with a writing partner, if I am working with a co-writer).

5. The fact that I am not credited as a writer or co-writer on more episodes each year does not mean that I am not equally involved in the writing of those scripts. Even if I assign a script to another writer, I am nonetheless involved in every single step of the writing process of that episode through the development of the story arc and outline for that episode, and by giving notes and other edits to that writer’s drafts. Moreover, even after the writer assigned to the script turns in a “final” draft, I generally rewrite significant portions of the script, or lead a group rewrite, as part of my job of guaranteeing the quality of scripts that I send out for production.

6. Accordingly, I have written or rewritten at least portions of literally every single episode of television for which I served as the showrunner. By “writing” or “rewriting,” I mean sitting in front of a computer with the script open in a word processing program, writing lines of dialogue or other aspects of a script.

7. On all the shows that I have run, my practice is to take a credit as a writer (or co-writer) only on those episodes that I write in the first instance from scratch. Even when I substantially rewrite someone else’s script I do not take a writing credit, even though in many cases it would be perfectly permissible for me to do so under the Writers Guild of America credit system. I do not take a credit in those circumstances because the “Written By” credit is a source of pride for members of a TV writing staff, and because I believe the writer assigned to the script deserves to have his or her hard work recognized. In addition, being credited as having written an episode can increase the compensation of members of the
writing staff, and writers deserve those “script fees” as a reward for their singular focus on the episodes to which they were assigned.

8. In addition to being my top concern as a showrunner, writing is also the primary skill that I bring to a television production. Studios hire me to run television programs largely because of my writing – they believe that I can consistently produce scripts that meet the studio’s (and my own) expectations. The showrunner is nearly always the person credited as the writer of the pilot episode of a new television program, and I have been so credited on every single pilot episode for the shows that I have run. The credited writer of the pilot is usually the same person who ultimately runs the show because the job of the showrunner is to continue writing in the same voice as the pilot. Moreover, studios make their decisions about which shows to take to series principally based on the ideas, themes, characters, and dialog contained in the pilot, and they hire showrunners to ensure that the promise and key attributes of the pilot episode continue throughout the remainder of the season and series. There is simply no way for showrunners to fulfill that role if they are not intimately involved in every single aspect of the writing process.

9. Even though production studios value showrunners like me for our writing skills, showrunner compensation does not always reflect the fact that we are being hired principally to write and principally for our writing skills. My compensation as a showrunner is nominally comprised of certain wages, payments, and fees for “writing services” and other wages, payments, and fees for “producing services.” But the allocation between those two types of wages, payments, and fees has nothing to do with how I allocate my time between writing and producing or what value I bring to a production. Instead, it is my understanding that production studios allocate my compensation between those two categories largely
for complex financial and budgetary reasons. For example, studios have a
disincentive to make payments to me for writing services because payments for
“producing services” do not trigger an obligation for the studio to make payments
to the Writers Guild Health Fund and Pension Plan.

10. If I did not spend the majority of my time each week performing the
writing services described above, the projects on which I have worked would have
needed to hire additional writers to perform that work. On every single television
program there is a certain amount of writing work that needs to be done. If I were
to cease any or all of the many writing duties detailed above, it would be necessary
to hire additional writers to provide those services. It is my belief that at least one
or two additional writers would need to be hired on each of my projects if, for
some reason, I were to cease performing these writing services.

11. It is true that as a showrunner I also take on certain “producing”
duties—that is, things that are outside of the scope of writing work defined in the
WGA collective bargaining agreement. But these producing tasks are a small
percentage of my duties as a showrunner and far from my top priority.

12. In fact, I and most other showrunners with whom I am familiar
delegate day-to-day responsibility over the physical production to other
professionals so that we have more time and energy to write and focus on scripts,
which are the core of my responsibilities as a showrunner. Those professionals
include a line producer, whose day-to-day tasks are directly related to the physical
production, including managing the budget, hiring directors, choosing shooting
locations, and liaising with production studios. I also employ a manager and
producing partner, who takes on many of those “producing” responsibilities. In
fact, one of the first jobs of a showrunner is to hire people who can tackle as many
of these tasks as possible, in order to allow the showrunner more time to focus on
writing. The showrunner often has final say in these producing decisions, but that does not mean they occupy nearly as much of his or her time as the development and execution of scripts.

13. Moreover, the producing tasks that I perform as a showrunner are inextricably linked with, and an extension of, the writing tasks described above. Even when I am engaged in activities that seem less directly related to writing (such as approving the choice of filming locations), every decision I make is inextricably intertwined with my core writing responsibilities. When I approve filming locations or sets, for example, I am always focused on ensuring that the decisions about physical production will be faithful to the script that I and the writing team have produced.

14. I have reviewed the analysis of Dr. Edward Snyder, who submitted declarations in support of the motions for a preliminary injunction filed by plaintiffs William Morris Endeavor Entertainment, LLC and Creative Artists Agency, LLC. Dr. Snyder asserts that showrunners like me “primarily perform managerial functions” rather than writing services. See Dkt. 157-5 at ¶24.

15. Based on my own experience as a showrunner and my knowledge of the day-to-day tasks of fellow showrunners, Dr. Snyder’s description of what showrunners do is wrong. Were Dr. Snyder to spend a single hour in a writers’ room, he would see clearly that the primary duties of showrunners are writing duties. There may be a few showrunners who do not perform the writing duties described in his declaration, but they are a small percentage of the showrunners working at a given time on television programs. It’s difficult for me even to imagine the composition and workflow of such a room.

16. Other contentions in Dr. Snyder’s report do not describe my experiences as a showrunner or what I know to be the practice of other
showrunners in television. Dr. Snyder asserts, for example, that showrunners are “principally responsible for decisions to hire and fire creative talent” and that the core duties of a showrunner are “managing the hiring, firing, and day-to-day work of a long line of writers, actors, and creative departments.” Dkt. 157-5 at ¶¶23, 32. In fact, I do a very small amount of hiring and firing or managing of other creative departments as a showrunner. Generally I oversee the hiring of writers at the very beginning of a season, and then (hopefully) no personnel decisions need to be made for a long time. I also, at the beginning of a production, oversee the hiring of department heads and other personnel, but often those people are already known to me, or else are found and recommended by the line producer. Over the course of a season there will be a few meetings about staff members to hire. After those meetings, however, I generally do not spend time worrying about staffing or managing the production departments. Instead, I am mostly engaged in writing with the writing team.

17. In many cases, the hiring of one person – such as a Director of Photography – will lead directly to the hiring of dozens of other people, because that person will have a crew he or she has worked with before, and trusts. In a properly-functioning production, the vast majority of these managerial decisions occur before the actual work of writing scripts begins in earnest, and thus do not conflict with the time spent on the scripts.

18. Dr. Snyder contends that “showrunners generally do not compete for work with Writers.” See Dkt. 157-5 at ¶38. That is also wrong. Nearly every member of a writing staff in Hollywood will at some point work on his or her own pilot, and if a writer’s pilot gets picked up then that writer is now a showrunner and has to learn how to run a show on the fly. These days, it is not uncommon for a showrunner on a long-running show to lose several members of the showrunner’s
staff when those writers on the staff become showrunners on their own projects. I have experienced this personally on shows that I have run.

19. Similarly, it is also not uncommon for writers who have served as showrunners on one project to work on another, later project as a member of the writing staff in a non-showrunner position. For example, after Master of None debuted, the co-creator and showrunner of Master of None, Alan Yang, wrote an episode of The Good Place as a member of The Good Place’s writing staff. When Alan performed those writing duties on The Good Place he was displacing another writer who could have written that episode.

20. Showrunners whose shows end or are canceled also often rejoin the staffs of shows they wrote on previously, or on other shows produced by the same studios as their canceled shows, serving not as showrunners but simply as members of the staff. Movement between “showrunner” and non-showrunning staff member is common and fluid. It is also common for a member of the staff to become a showrunner if the current showrunner decides to leave the show, is fired, or begins work on another project while the show is still running.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 3rd day of December, 2020 at Los Angeles, CA.

[Signature]

Michael Schur