

1 CASE NUMBER: BC339972  
2 CASE NAME: WILLIAM RICHERT VS. WRITERS  
3 GUILD OF AMERICA WEST, INC.  
4 LOS ANGELES, CALIFORNIA MONDAY, MARCH 23, 2009  
5 DEPARTMENT NO. 311 HON. CARL J. WEST, JUDGE  
6 APPEARANCES: (AS NOTED ON TITLE PAGE.)  
7 REPORTER: WANDA GRAY, CSR NO. 7675, RPR  
8 TIME: 10:00 A.M.

9

10 THE COURT: IN THE RICHERT VERSUS WGA CASE, WE HAVE A  
11 MATTER ON CALENDAR TODAY. IT WAS CAPTIONED AS AN  
12 APPLICATION TO EFFECT A DISMISSAL OF THE CLAIMS OF  
13 MR. RICHERT AND THE SUBSTITUTION OF A PLAINTIFF FOR A  
14 DECEASED CLASS REPRESENTATIVE.

15 I RECEIVED A COPY OF MR. RICHERT'S OPPOSITION THAT  
16 WAS SERVED ON FRIDAY. WE'VE GOT A MESS HERE, AND I WOULD  
17 LIKE TO HELP YOU SOLVE THIS PROBLEM, BUT I'M NOT SURE JUST  
18 HOW WE'RE GOING TO DO IT. WE'RE NOT GOING TO DO IT ON THE  
19 APPLICATION. MR. RICHERT NOW IS THE CLASS REPRESENTATIVE,  
20 DESIRES NOT TO IN EFFECT BE RELIEVED OF THAT RESPONSIBILITY  
21 AND WANTS TO STAY IN THIS CASE.

22 MONTHS AGO -- AND I WENT BACK. THIS SETTLEMENT  
23 CONCEPT HAS BEEN PERCOLATING SINCE JUNE OF LAST YEAR. WE  
24 HAD A MOTION WHERE YOU, MR. JOHNSON, SOUGHT TO BE RELIEVED.  
25 WE PUT THAT OVER TO TRY AND ACCOMMODATE THE PRACTICALITIES  
26 OF WHAT THAT WOULD MEAN. I'M NOT SURE WHERE TO GO. LET ME  
27 GIVE YOU THE COMMENTS I HAVE, AND THEN YOU ALL CAN GIVE ME  
28 YOUR SUGGESTIONS ON WHAT YOU THINK WE OUGHT TO DO.

1 MR. JOHNSON: WHY DON'T WE DO APPEARANCES.

2 THE COURT: WELL, I KNOW MR. RICHERT IS PRESENT. YOUR  
3 APPEARANCES WILL BE NOTED ON THE MINUTE ORDER, BUT YOU CAN  
4 ANNOUNCE YOUR APPEARANCES.

5 MR. JOHNSON: I ALWAYS SEEM TO DO IT WHENEVER I GO TO  
6 COURT. I DON'T HAVE TO. THAT'S FINE.

7 THE COURT: WE DON'T USUALLY DO THAT HERE, AND WE NOTE  
8 THE APPEARANCES. MR. RICHERT IS PRESENT IN COURT. I'LL  
9 NOTE THAT FOR THE RECORD, AND CLASS COUNSEL IS PRESENT AND  
10 COUNSEL FOR THE WRITERS GUILD.

11 I DON'T THINK I CAN GRANT THE RELIEF REQUESTED ON  
12 THE APPLICATION THAT'S PENDING, PARTICULARLY IN VIEW OF THE

13 OBJECTIONS FILED BY MR. RICHERT.

14 UPON THE DEATH OF THE CLASS REPRESENTATIVE, I  
15 THINK, MR. JOHNSON, YOU HAD AN OBLIGATION TO INFORM THE  
16 COURT THAT YOU NO LONGER HAD A CLASS REPRESENTATIVE, AND I  
17 GUESS I HAVE REAL CONCERNS ABOUT HOW ALL THESE NEGOTIATIONS  
18 AND MEDIATIONS WERE TAKING PLACE WITH NO LIVING CLASS  
19 REPRESENTATIVE FOR ONE OF THE SUPP. CLASSES. THAT'S A  
20 PROBLEM.

21 I HAVE A QUESTION REGARDING THE ABILITY OF CLASS  
22 COUNSEL TO CONTINUE TO REPRESENT THE INTERESTS OF THE CLASS  
23 AT THIS JUNCTURE GIVEN THE INFORMATION THAT HAS BEEN PLACED  
24 BEFORE THE COURT.

25 I HAVE AN ISSUE REGARDING MR. RICHERT'S  
26 CONTINUATION AS A CLASS REPRESENTATIVE. IF HE'S TO  
27 CONTINUE, HE'S GOING TO HAVE TO OBTAIN COUNSEL. THE COURT  
28 WILL HAVE TO APPROVE SUBSTITUTE CLASS COUNSEL.

3

1 WE HAVE REPRESENTATIONS MADE IN THE MOTION TO BE  
2 RELIEVED WHICH WAS PREVIOUSLY PUT BEFORE THE COURT THAT  
3 THERE'S BEEN A BREAKDOWN OF THE RELATIONSHIP BETWEEN CLASS  
4 COUNSEL AND MR. RICHERT.

5 THAT CREATES A NUMBER OF PROBLEMS, ALL OF WHICH I  
6 THINK HAVE TO BE RESOLVED ON A FAIRLY FORMAL PROCESS. I  
7 CAN'T JUST DO IT INFORMALLY OR SAY -- WAVE MY MAGIC GAVEL  
8 AND SAY, HERE'S WHAT WE DO. I NEED TO HAVE MOTIONS. I  
9 NEED TO HAVE A SHOWING.

10 WE HAVE A NUMBER OF CLASS MEMBERS THAT HAVE A  
11 RIGHT TO HAVE THIS PROCESS BE FAIRLY TRANSPARENT AND KNOW  
12 WHAT'S GOING ON. THERE'S ALSO AN ISSUE REGARDING THE  
13 SUBSTITUTION OF NEW CLASS REPRESENTATIVES FOR MISS RETCHIN,  
14 WHO IS DECEASED AND APPARENTLY PASSED AWAY IN JUNE OF LAST  
15 YEAR.

16 I CAN'T JUST SUBSTITUTE TWO NEW HEIRS. I NEED TO  
17 HAVE SOME DOCUMENTATION, AN APPLICATION TO SUBSTITUTE A NEW  
18 CLASS REPRESENTATIVE. I HAVE TO GO THROUGH AND MAKE  
19 FINDINGS AS TO THE SUITABILITY OF THOSE INDIVIDUALS TO  
20 SERVE AS CLASS REPRESENTATIVES. THAT IS ONE OF THE TWO  
21 SUBCLASSES.

22 AND I GUESS MY NEXT QUESTION IS IN WHOSE NAME HAS  
23 THIS PENDING SETTLEMENT BEEN NEGOTIATED. I'VE BEEN  
24 REASSURED THAT WE'RE WORKING ON THE DOCUMENTATION. WE'RE  
25 FINALIZING ALL THESE THINGS. WHO'S BEEN AT THE HELM? IS  
26 MISS JAMISON STILL IN AS THE REPRESENTATIVE FOR THE  
27 NON-WGA MEMBERS?

28 MR. KURTZ: YES, YOUR HONOR. AND IF IT HELPS TO CLEAR

4

1 THINGS UP, YOUR HONOR, THE NEGOTIATION OVER THE SETTLEMENT  
2 DOES NOT PERCEIVE A CLASS DEFINITION THAT WAS SET OUT IN  
3 THE COURT'S ORDER CERTIFYING THE CLASS. IT SETS OUT MORE  
4 OF A BROADER, GENERAL DEFINITION AS ALLEGED IN THE  
5 COMPLAINT WHERE IT'S ONE DEFINITION OF ALL WRITERS FOR WHOM  
6 THE WGA HAS RECEIVED FOREIGN LEVY MONIES, AND THAT INCLUDES  
7 MEMBERS, NON-MEMBERS.

8 SO, YES, MISS JAMISON HAS BEEN PARTICIPATING AS A  
9 CLASS REPRESENTATIVE, SO HAS MISS FEIL RETCHIN. SHE HAS  
10 BEEN ACTUALLY PARTICIPATING TO A CERTAIN EXTENT FROM THE  
11 VERY BEGINNING OF MISS PEARL RETCHIN BEING IN THE CASE AS  
12 HER DAUGHTER. SO SHE'S VERY INTIMATELY FAMILIAR WITH THE  
13 CASE AND SINCE HER MOTHER'S PASSING HAS BEEN EVEN MORE  
14 INVOLVED WITH THE CASE.

15 THE COURT: HOW COULD THIS POSSIBLY HAVE GONE FORWARD.  
16 COUNSEL HAS AN OBLIGATION IF THE CLASS REPRESENTATIVE IS  
17 DECEASED, YOU CAN'T INFORMALLY JUST PICK SOMEBODY TO CARRY  
18 THE BALL. THE COURT HAS TO APPROVE ANY SUBSTITUTE  
19 REPRESENTATIVE. I HAVE TO MAKE FINDINGS THAT THEY'RE A  
20 SUITABLE REPRESENTATIVE, THAT THEY ARE CAPABLE OF PURSUING  
21 THE INTERESTS OF THE CLASS.

22 I'VE HAD IT REPRESENTED TO ME REPEATEDLY SINCE  
23 JUNE OF LAST YEAR THAT WE'RE IN NEGOTIATIONS. WE'RE CLOSE  
24 TO A SETTLEMENT. I HAVE NEVER SEEN ANY DOCUMENTATION OF  
25 ANY OF THIS SETTLEMENT. IT'S BEEN KEPT -- BASICALLY JUST  
26 HASN'T BEEN FILED BECAUSE OTHER ISSUES KEPT COMING UP, BUT  
27 I HAVE SERIOUS CONCERNS ABOUT THE WAY THIS HAS BEEN DONE.

28 I'M WILLING TO WORK WITH YOU. I KNOW YOU,

5

1 MR. KURTZ AND MR. JOHNSON. YOU ARE GOOD LAWYERS. I'M SURE  
2 YOU HAVE NOT DONE ANYTHING UNTOWARD INTENTIONALLY, BUT IT  
3 JUST HAS A BAD LOOK TO IT, AND I'M VERY CONCERNED ABOUT  
4 WHAT'S COMING UP HERE.

5 MR. RICHERT, YOU HAD SOMETHING YOU WANTED TO ADD.

6 MR. RICHERT: WELL, I WANTED TO ALSO SAY THAT I SPOKE  
7 TO ANN JAMISON, AND SHE HADN'T TALKED TO ANY OF THESE  
8 LAWYERS IN YEARS. THE LAST TIME I TALKED TO HER WAS  
9 PROBABLY SIX MONTHS AGO, AND ALSO SHE DOES NOT REPRESENT  
10 NON-MEMBERS, YOUR HONOR. HER FATHER, PHANE WILLIAMSON, WAS  
11 WRITING IN THE 1930'S, AND HE WAS A NON-MEMBER WRITER, BUT

12 SHE'S HIS DAUGHTER.  
13 THE COURT: I UNDERSTAND THAT, SIR.  
14 MR. RICHERT: SO SHE'S NOT A NON-MEMBER WRITER AS I WAS  
15 TOLD SO THAT SHE COULD, YOU KNOW -- BECAUSE I HAD TALKED TO  
16 MR. JOHNSON WHO ALWAYS TOLD ME THERE WERE OTHER PEOPLE TO  
17 REPLACE ME IF I WERE TO WITHDRAW, BUT I SEE THAT THERE  
18 WEREN'T REALLY ANYBODY WHO WAS A WRITER WITH MY  
19 CREDENTIALS, YOU MIGHT SAY.  
20 THE COURT: WHEN THE COURT'S ORDER CERTIFYING THE  
21 CLASSES AND IDENTIFYING THREE SUBCLASSES IDENTIFIED  
22 MISS JAMISON AS THE REPRESENTATIVE, FOR THOSE ENTITLED TO  
23 FOREIGN LEVIES WHO ARE NOT NOW NOR HAVE BEEN MEMBERS OF THE  
24 WGA.  
25 MR. RICHERT: AS A WRITER, YOUR HONOR. PEARL RETCHIN  
26 WAS REPRESENTING THE OTHER HEIRS. AS I UNDERSTAND IT --  
27 THE COURT: I UNDERSTAND THAT. I HAVE AN ORDER, AND  
28 I'M READING FROM MY ORDER. SO MISS JAMISON WAS THE

6

1 DESIGNATED REPRESENTATIVE.  
2 NOW HAVE YOU BEEN DEALING WITH MISS JAMISON AND  
3 HAS SHE BEEN ENGAGED IN THE NEGOTIATIONS WITH THE WGA AND  
4 THE MEDIATOR, OR AS MR. RICHERT SAYS, SHE HASN'T HEARD FROM  
5 YOU IN MONTHS. WHAT'S THE STORY HERE?  
6 MR. KURTZ: WELL, FRANKLY, YOUR HONOR, I DON'T KNOW  
7 WHERE THAT'S COMING FROM. WE'VE BEEN IN CONTACT WITH ALL  
8 THE CLASS REPRESENTATIVES, OBVIOUSLY WITH MR. RICHERT AND  
9 NOW WITH MISS FEIL RETCHIN AND MISS JAMISON. THEY WERE ALL  
10 INFORMED OF THE MEDIATION.  
11 ONE OF THE MEDIATIONS MR. RICHERT SPECIFICALLY  
12 OBJECTED TO AND DID NOT APPEAR, AND UNFORTUNATELY THE OTHER  
13 TWO CLASS REPRESENTATIVES, THEY OBVIOUSLY KNEW OF IT BUT  
14 THEY COULD NOT APPEAR. THEY WERE BOTH OUT OF TOWN.  
15 MR. RICHERT: THEY WERE AVAILABLE BY PHONE.  
16 MR. KURTZ: BUT THEY WERE AVAILABLE BY PHONE FOR  
17 MEDIATION.  
18 MR. JOHNSON: MAY I SAY ONE THING ABOUT MR. RICHERT.  
19 MR. RICHERT, AS YOU WILL RECALL AT THE LAST HEARING, WENT  
20 OUT AND ENGAGED OTHER COUNSEL IN THE CASE. I HAD EXTENSIVE  
21 DISCUSSIONS WITH HIS OTHER COUNSEL ABOUT THE  
22 APPROPRIATENESS OF THE SETTLEMENT, THAT COUNSEL CAME OUT TO  
23 CALIFORNIA, MET WITH HIM, WENT OVER ALL OF IT, CALLED ME UP  
24 AND SAID, OKAY. IT'S ALL RIGHT. I TOTALLY UNDERSTOOD.  
25 MR. RICHERT KNEW EXACTLY WHAT WAS HAPPENING AT ALL  
26 TIMES, AND, AS YOU KNOW, HE'S BLOWN HOT AND COLD IN THIS

27 CASE WHERE HE'S BEEN WITH ME, HE'S BEEN AGAINST ME, AND,  
28 YOU KNOW, FRANKLY, I'M JUST SORT OF FLABBERGASTED AS WHAT

7

1 HAPPENED TO HIM LAST FRIDAY, BUT WE'VE DONE EVERYTHING WE  
2 CAN TO KEEP HIM INFORMED AND TO DO WHAT'S RIGHT FOR  
3 EVERYBODY.

4 AND THE SETTLEMENT THAT WE WORKED OUT WAS AFTER  
5 EXTENSIVE REPEATED MEETINGS. WE STILL HAVEN'T PUT THE --  
6 DOTTED ALL OF THE I'S BECAUSE WE'RE STILL FIGHTING FOR  
7 EVERYBODY, AND WE EFFECTUATED A RESOLUTION THAT'S GOING TO  
8 HELP EVERYBODY IN WHAT IS A COMPLETELY DIFFICULT, MESSY,  
9 UGLY SITUATION UP TO THIS POINT.

10 SO IT'S BEEN -- HIS INTERESTS HAVE BEEN COMPLETELY  
11 PROTECTED. HE'S JUST UNHAPPY NOW BECAUSE, AS I'VE SAID TO  
12 YOU BEFORE, HE HAS -- I DON'T WANT TO SAY ANYTHING AGAINST  
13 THE INTEREST OF MY CLIENT RIGHT NOW. I DON'T WANT TO SAY  
14 ANYTHING.

15 THE COURT: I UNDERSTAND THAT, AND I DON'T WANT TO PUT  
16 ANYBODY IN AN AWKWARD POSITION, BUT I DO HAVE A RATHER  
17 CONVOLUTED RECORD BEFORE ME NOW.

18 AND, MR. RICHERT, IF YOU HAVE COUNSEL THAT IS  
19 REPRESENTING YOU, I WOULD URGE YOU TO GET THAT COUNSEL IN  
20 THIS COURTROOM TO STAND UP FOR YOUR INTERESTS BECAUSE I AM  
21 GETTING MIXED MESSAGES FROM YOU. YOU WERE HERE ON  
22 JANUARY 15TH. YOU TOLD ME YOU WANTED TO WITHDRAW.

23 MR. RICHERT: I TOLD --

24 THE COURT: SO WE NEED TO DECIDE WHICH DIRECTION WE'RE  
25 GOING AND HOW WE'RE GOING TO GET THERE.

26 MR. RICHERT: YOUR HONOR, THAT WAS BEFORE I FIGURED OUT  
27 WHAT THIS WAS ALL ABOUT FROM THE BEGINNING. IT WAS  
28 NOTHING. THIS IS ONE HAND CLAPPING. THE WRITERS GUILD

8

1 REPRESENTS SEVEN PERCENT OF THE MONEY THAT'S BEEN TAKEN FOR  
2 THE PAST 20 YEARS.

3 I FOUND CONTRACTS WITH THE WRITERS GUILD WITH ALL  
4 THE MAJOR STUDIOS WHICH HAVE NEVER BEEN GIVEN, AS FAR AS I  
5 KNOW, IN EVIDENCE. THE WHOLE SETTLEMENT WAS BASED ON THE  
6 WRITERS GUILD CONTENTION THAT THERE WAS SOME KIND OF GERMAN  
7 PATENT OFFICE THAT MADE THEM DO THIS, AND THAT IS NOT TRUE.

8 THE COURT: I DON'T KNOW. THAT'S LIKE A COMMENT FROM  
9 OUTER SPACE. YOU'RE MAKING COMMENTS IN YOUR OPPOSITION  
10 ABOUT REPRESENTATIONS MADE BY THE WRITERS GUILD. I HAVE

11 NONE OF THAT BEFORE ME.  
12 THE WAY THE COURT OPERATES, WE WORK ON WHAT IS  
13 PRESENTED. NOW I'VE BEEN TRYING TO GET AN APPLICATION FOR  
14 PRELIMINARY APPROVAL OF THIS PENDING CLASS SETTLEMENT ON  
15 FILE FOR SIX MONTHS. THAT APPLICATION WOULD OF NECESSITY  
16 PROVIDE ME WITH BACKGROUND AND WITH INFORMATION, AND I'M  
17 NOT GOING TO APPROVE A SETTLEMENT THAT HAS OBJECTORS THAT  
18 GIVE VIABLE AND CREDIBLE OBJECTIONS THAT I SHOULD CONSIDER  
19 OR THAT DOESN'T HAVE THE NECESSARY SUPPORT SHOWING HOW THE  
20 SETTLEMENT WAS REACHED AND WHAT WAS DONE.

21 THAT'S WHAT WE'VE BEEN TRYING TO GET ON THE TABLE  
22 FOR MONTHS NOW. WE'VE HAD A NUMBER OF DIFFERENT HURDLES,  
23 AND SO I KNOW NOTHING ABOUT IT, AND YOU CAN TALK ABOUT  
24 CONTRACTS.

25 MR. RICHERT: THAT'S WHAT I'M SAYING, YOUR HONOR.  
26 NOBODY IS GIVING YOU THE TRUTHFUL INFORMATION. THIS IS A  
27 FRAUD THAT'S GOING ON HERE JUST LIKE THE SUB PRIME  
28 MELTDOWNS. I CAN SHOW YOU WHERE IT BEGAN.

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1 YOU HAVE NOT BEEN GIVEN -- THE SETTLEMENTS DIDN'T  
2 GIVE THE RIGHT INFORMATION. THE PEOPLE INVOLVED IN HELPING  
3 MR. JOHNSON ALSO SIGNED THE DEALS WITH THE STUDIOS THAT  
4 GAVE THEM -- THE WGA SAID THEY COLLECTED \$60,000,000  
5 APPROXIMATELY OVER THE PAST TEN YEARS, BUT THAT'S ONLY  
6 SEVEN PERCENT OF THE MONEY THAT SHOULD HAVE GONE TO THE  
7 WRITERS THAT THEY PREVENTED THE WRITERS FROM GETTING  
8 BECAUSE THEY MAKE SIDE DEALS WITH THE STUDIOS, AND I HAVE  
9 THOSE SIDE DEALS, YOUR HONOR, AND THEY HAVE NEVER BEEN  
10 GIVEN TO ANYBODY.

11 THE COURT: WELL, MR. RICHERT, HAVE YOU GIVEN THEM TO  
12 MR. JOHNSON?

13 MR. RICHERT: I GOT THEM FROM MR. JOHNSON. MR. JOHNSON  
14 DIDN'T GIVE THEM TO ANYBODY.

15 MS. LEHENY: THEY WERE PRODUCED IN DISCOVERY.

16 THE COURT: SO THEY'VE BEEN ON THE TABLE.

17 MR. RICHERT, PART OF THE PROCESS -- YOU SAY  
18 THERE'S A FRAUD BEING PERPETRATED ON THIS COURT, THAT THESE  
19 AGREEMENTS HAVE NEVER BEEN PUT BEFORE THE COURT. NOTHING  
20 HAS BEEN PUT BEFORE THE COURT BECAUSE WE HAVE BEEN STALLED  
21 IN THE PROCESS, AND THE APPLICATION HAS NOT BEEN FILED. I  
22 HAVE NOT SEEN THE PROPOSED SETTLEMENT OR THE TERMS, AND I  
23 HAVE AN OBLIGATION TO REVIEW THEM WITH THE SUPPORTING  
24 DOCUMENTATION THAT WOULD COME IN, AND THEN I'LL LOOK AT IT.

25 YOU SIT HERE TODAY AS A CLASS REPRESENTATIVE

26 OPPOSED TO THE PENDING SETTLEMENT, AND SO MY GUESS IS  
27 EITHER THERE'S GOING TO HAVE TO BE SOME FORMAL MOTION TO  
28 OBTAIN COUNSEL THAT CAN ADEQUATELY REPRESENT YOUR INTERESTS

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1 AND THE INTERESTS OF THE CLASS FROM YOUR PERSPECTIVE OR  
2 THERE'S GOING TO HAVE TO BE A MOTION TO HAVE YOU REMOVED AS  
3 A CLASS REPRESENTATIVE AND ANOTHER CLASS REPRESENTATIVE  
4 SUBSTITUTED FOR THE SETTLEMENT CLASS.

5 I'M NOT COMFORTABLE WITH THE NOTION THAT  
6 MISS JAMISON AND/OR MISS RETCHIN'S DAUGHTER HAS BEEN  
7 INVOLVED INFORMALLY SINCE MISS RETCHIN DIED IN JUNE OF LAST  
8 YEAR. THIS IS A REAL PROBLEM, AND SO I'M OPEN TO  
9 SUGGESTIONS. YOU CAN PUT BEFORE ME WHATEVER APPROPRIATE  
10 MOTIONS YOU THINK SHOULD BE CONSIDERED, AND I'LL DO THAT.

11 MR. JOHNSON: HOW ABOUT THIS. EITHER YOU OR SOMEBODY  
12 ELSE GETS INTO A ROOM WITH EVERYBODY, AND MR. -- AND I'M  
13 HAPPY TO HAVE THAT GENTLEMAN -- WHAT'S THE NAME --

14 MR. RICHERT: WHAT'S WHOSE NAME, SIR?

15 MR. JOHNSON: THE NAME OF THE GUY IN KANSAS.

16 MR. RICHERT: HE HAS NOTHING TO DO WITH ME. HE CAME --  
17 HE'S A COLLEGE GRAD. I NEEDED A COLLEGE GRAD.

18 MR. JOHNSON: NO LAWYER.

19 MR. RICHERT: HE'S NOT MY LAWYER, SIR. HE IS A LAWYER,  
20 BUT HE WAS NOT MY LAWYER. HE WAS SOMEBODY WHO WAS  
21 INVESTIGATING --

22 MR. JOHNSON: WHAT MR. RICHERT IS BRINGING UP IS HE'S  
23 SAYING THAT THERE SHOULD BE ADDITIONAL DEFENDANTS IN THIS  
24 CASE. I DON'T WANT TO GO INTO IT ON THE RECORD RIGHT NOW  
25 AS TO THE PROS AND CONS OF THIS. A, IT'S IRRELEVANT, AND,  
26 B, AT THIS POINT I JUST DON'T FEEL THAT IT'S NECESSARY.

27 HOWEVER, I AM NOT OPPOSED TO HAVING A FULL FREE  
28 FORM DISCUSSION OF THE PROS AND CONS OF ALL ASPECTS OF THE

11

1 SETTLEMENT WITH YOURSELF OR ANYBODY ELSE AND MR. RICHERT,  
2 AND AT THAT POINT IT CAN BE -- IT CAN HELP HIM DETERMINE  
3 WHAT, IF ANYTHING, CAN BE DONE AND/OR THE COURT WHICH COULD  
4 INCLUDE HE CAN GET ADDITIONAL COUNSEL TO COME IN AND  
5 REPRESENT HIS INTERESTS AS WELL.

6 THE COURT: WHY COULDN'T THIS BE DONE -- THIS WHOLE  
7 SETTLEMENT -- AND I LOOK BACK AT MY NOTES. YOU HAD A  
8 MEDIATOR THAT WAS ACTIVELY INVOLVED IN THIS PROCESS, DID  
9 YOU NOT?

10 MR. JOHNSON: HE DOESN'T LIKE THE MEDIATOR.  
11 THE COURT: AND WHO WAS THE MEDIATOR?  
12 MR. KURTZ: JOEL GROSSMAN.  
13 MR. RICHERT: YOUR HONOR, JOEL GROSSMAN WAS THE  
14 ORIGINAL SIGNERS FOR COLUMBIA PICTURES FOR CRT. HE WAS ONE  
15 OF THE ORIGINAL PEOPLE WHO GAVE THE STUDIOS THE RIGHT TO  
16 COLLECT THIS MONEY, AND IN 1990 THE WGA WORKED WITH HIM IN  
17 THE STUDIOS TO CONTINUE ALLOWING HUNDREDS OF MILLIONS OF  
18 DOLLARS TO FLOW DIRECTLY TO THE STUDIOS AND ONLY PARTIALLY  
19 TO THE WGA IN THE SAME WAY THAT MR. JOHNSON WANTS TO MAKE A  
20 SETTLEMENT WHERE HE'LL GET SOME OF THE MONEY AND -- IN  
21 OTHER WORDS, FIRST THERE WAS A BIG AMOUNT OF MONEY THAT WAS  
22 ALL GIVEN TO THE STUDIOS UNTIL 1990, BUT THEN THE BURN  
23 CONVENTION MEANT THAT THAT WOULDN'T BE ABLE TO HAPPEN. SO  
24 THE UNIONS GOT TOGETHER WITH THE STUDIOS AND ALLOWED THE  
25 STUDIOS TO KEEP TAKING 85 PERCENT OF THE WRITERS' MONEY, MY  
26 MONEY AND OTHER WRITERS' MONEY.  
27 THE COURT: MR. RICHERT, THIS IS NOT THE WAY TO PRESENT  
28 THE EVIDENCE THAT YOU --

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1 MR. RICHERT: I WISH I KNEW A BETTER WAY, YOUR HONOR.  
2 THE COURT: NOW IF YOU CAN'T DO IT, MR. GROSSMAN,  
3 BECAUSE I'M GOING TO HAVE TO MAKE DECISIONS IN THIS CASE,  
4 AND I'M NOT PARTICULARLY COMFORTABLE THAT I CAN GET A  
5 STIPULATION OR AN EFFECTIVE WAIVER FROM EVERYBODY TO LET ME  
6 PARTICIPATE IN A SETTLEMENT PROCESS SINCE I ULTIMATELY HAVE  
7 TO APPROVE OR DISAPPROVE ANY PROPOSED SETTLEMENT.  
8 I THINK THIS SHOULD BE DONE EITHER WITH ANOTHER  
9 NEUTRAL OR PERHAPS WITH ANOTHER JUDGE IN OUR PROGRAM, BUT  
10 ONE OF THE PROBLEMS THAT I PERCEIVE -- APPEARS TO ME TO BE  
11 PART OF THE PROBLEM IS THAT THERE'S BEEN LESS TRANSPARENCY  
12 IN THIS PROCESS THAN MIGHT HAVE BEEN APPROPRIATE AT LEAST  
13 AS BETWEEN MR. GROSSMAN, WGA, COUNSEL FOR THE RESPECTIVE  
14 PARTIES, CLASS COUNSEL AND THE REPRESENTATIVE PLAINTIFFS  
15 THAT WERE APPOINTED BY THE COURT AS REPRESENTATIVE  
16 PLAINTIFFS WHEN I CERTIFIED THE CLASSES.  
17 AND SO I THINK THERE IS THE POTENTIAL FOR  
18 SOMETHING GOOD TO HAPPEN, MR. RICHERT, IF YOU KEEP CALM AND  
19 JUST STEP BACK AND COUNT TO TEN. IF THERE COULD BE A GROUP  
20 LIKE ALL OF THE CLASS REPRESENTATIVES GET TOGETHER IN A  
21 ROOM WITH THE LAWYERS AND MAYBE WITH MR. GROSSMAN AND THEN  
22 A THIRD PARTY NEUTRAL TO --  
23 MR. JOHNSON: THAT'S WHAT I'D LIKE TO SEE HAPPEN. I  
24 THINK THAT'S WHAT I'D LIKE TO SEE HAPPEN. IF YOU COULD



25 JUST GET US TO ANOTHER JUDGE HERE, AND WE'LL GET  
26 MR. GROSSMAN INVOLVED, AND MR. RICHERT COULD HAVE HIS  
27 ENTIRE SAY.  
28 THE COURT: AT LEAST HAVE EVERYBODY SIT DOWN, AND IT

13

1 WOULD BE, IN MY VIEW, UNFORTUNATE IF NOBODY EVER COULD TAKE  
2 AN OPEN-MINDED VIEW OF ALL THE EFFORTS THAT'S GONE IN TO  
3 RESOLVE THIS CASE AND SEE IF, IN FACT, YES, IT'S A VIABLE  
4 RESOLUTION, NO, IT HAS LOTS OF ISSUES.  
5 AND YOU SHOULD PARTICIPATE IN THAT, MR. RICHERT,  
6 BUT YOU HAVE TO DO IT ON A KIND OF COOPERATIVE,  
7 COUNT-TO-TEN BASIS RATHER THAN GETTING EXCITED ABOUT WHAT  
8 YOU PERCEIVE TO BE THE INEQUITIES OR THE PROBLEMS, AND IF  
9 YOU DON'T DO IT THAT WAY, THEN IT WON'T BE PRODUCTIVE.  
10 AND I'M NOT SAYING THAT YOU HAVE TO COME OUT OF  
11 THE ROOM SAYING, YEAH, I AGREE WITH EVERYTHING EVERYBODY  
12 SAID. YOU COULD STILL AGREE TO DISAGREE, BUT IT HAS TO BE  
13 DONE ON A COOPERATIVE -- THIS PROCESS THAT WE'RE ENGAGED  
14 IN, WE ALL HAVE YOUR SEATS, BUT IT IS A COLLABORATIVE  
15 PROCESS, AND WE RESOLVE A LOT OF CASES IN A MANNER THAT IS  
16 BENEFICIAL TO EVERYONE INVOLVED, BUT IT TAKES SOME EFFORT,  
17 AND THE PEOPLE HAVE TO WORK TOGETHER A LITTLE BIT. SO  
18 LET'S COUNT TO TEN.  
19 IS THERE A PREFERRED JUDGE THAT YOU WOULD LIKE TO  
20 GO TO ON THIS?  
21 MR. JOHNSON: WELL, I JUST HAVE PENDING CASES BEFORE  
22 JUDGES ELIAS AND LICHTMAN. SO ANYBODY ELSE WOULD BE FINE.  
23 THE COURT: WGA HAVE ANY PREFERENCE?  
24 MR. RICHERT, DO YOU HAVE ANY FAMILIARITY WITH ANY  
25 OF THE JUDGES IN THIS PROGRAM?  
26 MR. RICHERT: NO, YOUR HONOR.  
27 THE COURT: YOU KNOW WHO I MIGHT SUGGEST IS MAYBE  
28 JUDGE HIGHBERGER SINCE HE HAS QUITE A SIGNIFICANT

14

1 BACKGROUND IN LABOR RELATIONS AND LABOR LAW THAT WAS HIS  
2 PRACTICE BEFORE HE BECAME A JUDGE, AND HE'S BEEN A JUDGE  
3 FOR 10 OR 15 YEARS, A LONG TIME, BUT HE HAS AN APPRECIATION  
4 OF LABOR ISSUES MORE SO THAN SOME OF THE REST OF US. AND  
5 IF THAT WOULD BE ACCEPTABLE, THEN THAT'S WHAT -- I WOULD  
6 CALL HIM AND SAY THESE PEOPLE ARE GOING TO CHECK IN WITH  
7 YOU AND TRY AND GET A DATE. BRING MR. GROSSMAN IN AND SEE  
8 WHAT HAPPENS.

9 MR. RICHERT: I HAVE BEEN WILLING -- YOUR HONOR, I  
10 THINK YOU'VE BEEN HERE FOR ALMOST FOUR YEARS. I'M NOT  
11 SURE.  
12 THE COURT: I'VE BEEN HERE FOREVER IT SEEMS LIKE, AND  
13 WHEN I GET A CASE LIKE THIS, IT SEEMS EVEN LONGER.  
14 MR. RICHERT: IT'S AMAZING THE TINY AMOUNT OF RESULT  
15 THAT'S TAKEN PLACE IN TERMS OF THE SETTLEMENT. YOU HAVEN'T  
16 SEEN THE SETTLEMENT YET. IT'S SIX OR SEVEN PAGES OF A  
17 COVERUP AS FAR AS I CAN TELL, AND THAT IS NOT --  
18 YOUR HONOR, I'M NOT TRYING TO BE EMOTIONAL ABOUT THIS.  
19 I JUST CAME OVER THE PAST WEEK, AND PART OF IT HAS  
20 TO DO, I GUESS, WITH MADOFF AND ALL THE OTHER ISSUES THAT  
21 HAVE HAPPENED IN OUR COUNTRY, AND I JUST SEE, OH, BOY,  
22 THAT'S WHAT'S GOING ON HERE, AND IT ISN'T LABOR LAW,  
23 YOUR HONOR. IT HAS NOTHING TO DO WITH LABOR. IT'S A PLAIN  
24 OUT AND OUT OLD EMBEZZLEMENT, AND I THINK I COULD PROVE IT  
25 WITH WHAT I GOT RIGHT HERE, AND IT'S NEVER BEEN GIVEN TO  
26 YOU.  
27 THE COURT: MR. RICHERT, THIS IS YOUR VIEW. KEEP AN  
28 OPEN MIND. AT LEAST SIT DOWN WITH THE PEOPLE WHO PUT A LOT

15

1 OF EFFORT IN TRYING TO REACH AN AGREEMENT THAT PURPORTS TO  
2 BE FROM SOME PEOPLE'S PERSPECTIVE IN THE BEST INTEREST OF  
3 THE PEOPLE YOU ARE HERE TO REPRESENT, AND TAKE A LOOK AT IT  
4 AND WE'LL SEE WHERE WE GO FROM THERE.  
5 MR. RICHERT: THANK YOU VERY MUCH.  
6 THE COURT: NOW IN THE INTERIM, WE NEED TO ADDRESS THIS  
7 ISSUE OF THE DEATH OF OUR CLASS REPRESENTATIVE, AND I DON'T  
8 KNOW WHAT WE'RE DOING WITH THAT. YOU WANT TO HOLD -- I CAN  
9 CHECK WITH JUDGE HIGHBERGER. I DON'T KNOW WHAT HIS  
10 SCHEDULE WILL PERMIT. OR DO YOU WANT TO MAYBE GO OVER  
11 THERE NOW AND THEN COME BACK AND TELL US WHEN YOU COULD GET  
12 SOMETHING SCHEDULED.  
13 MR. JOHNSON: THAT'S FINE, BECAUSE WE NEED TO CALL  
14 GROSSMAN AS WELL. AND THEN WE CAN --  
15 THE COURT: I'D LIKE TO SEE THIS HAPPEN WITHIN THE NEXT  
16 TWO WEEKS, 30 DAYS AT THE OUTSIDE. I MEAN I'M WILLING TO  
17 STALL TO GIVE PEOPLE A CHANCE TO AT LEAST SIT DOWN IN A  
18 ROOM AND TALK ABOUT WHAT'S ON THE TABLE, BUT AT SOME POINT  
19 WE GOT TO PULL THE PLUG.  
20 I MEAN I'M FAIRLY COOPERATIVE WHEN PEOPLE SAY  
21 WE'RE WORKING ON SOMETHING, AND WE'VE HAD A LOT OF BUMPS IN  
22 THE ROAD, AND NOW WE GOT MORE THAN A BUMP. WE HAVE ONE  
23 OF -- WHAT DO THEY CALL THOSE THINGS WHEN THE ROAD

24 COLLAPSES AND GOES DOWN INTO A BIG SINK HOLE.  
25 MR. JOHNSON: EARTHQUAKE.  
26 THE COURT: NOW WE'RE HAVING SOMETHING A LITTLE MORE  
27 SERIOUS HERE THAN A BUMP IN THE ROAD, AND WE GOT TO DEAL  
28 WITH THESE ISSUES.

16

1 AND, MR. RICHERT, YOU CAN'T COME IN HERE -- YOU  
2 ARE THE CLASS REPRESENTATIVE, BUT I'M NOT GOING TO LET YOU  
3 COME IN AND SIT IN THE BACK AND JUST TALK ABOUT THINGS THAT  
4 BOTHER YOU. IF YOU THINK THAT YOU NEED DIFFERENT  
5 REPRESENTATION ON BEHALF OF THE CLASS, YOU MAY NOT PROCEED  
6 IN PRO PER, IN OTHER WORDS, WITHOUT A LAWYER AS A CLASS  
7 REPRESENTATIVE. I HAVE TO HAVE CLASS COUNSEL.  
8 AND SO AFTER THIS NEXT ROUND OF A MEETING WITH  
9 JUDGE HIGHBERGER AND MR. GROSSMAN, IF WE CAN'T MAKE  
10 PROGRESS, WE'RE GOING TO HAVE TO REGROUP AND REORGANIZE  
11 HERE. IF YOU WANT TO BE THE LEADER IN CHARGE, YOU GOT TO  
12 ACT LIKE A LEADER, AND YOU GOT TO HAVE SOMEBODY TO  
13 REPRESENT YOU, AND WE'RE GOING TO HAVE TO GET INVOLVED HERE  
14 IN HOW WE'RE GOING FORWARD.  
15 DO YOU UNDERSTAND THAT?  
16 MR. RICHERT: I DIDN'T INTEND TO BE THE LEADER,  
17 YOUR HONOR. IT JUST TURNS OUT I'M IN FRONT OF THIS PARADE  
18 THAT I'VE DISCOVERED.  
19 THE COURT: WELL, WHATEVER IT IS, THAT'S WHERE YOU ARE,  
20 AND YOU GOT TO STAND UP AND DO WHAT'S NECESSARY, OR ELSE  
21 I'M NOT GOING TO BE ABLE TO LET YOU BE THE LEADER.  
22 MR. RICHERT: I'LL DO THE BEST I CAN, YOUR HONOR.  
23 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.  
24 WHY DON'T WE SET THIS OVER FOR A FURTHER STATUS  
25 CONFERENCE IN 30 DAYS, AND I'LL BE FLEXIBLE ON THAT, BUT I  
26 EXPECT THAT WHEN YOU COME BACK, YOU WILL HAVE HAD THIS  
27 EFFORT TO SIT DOWN AND LOOK AT THINGS.  
28 MR. JOHNSON: DO YOU WANT TO LET US JUST LEAVE FOR A

17

1 MINUTE AND COME BACK SO WE CAN SEE JUDGE HIGHBERGER AND  
2 WHAT HIS SCHEDULE IS LIKE AND WHETHER HE'S WILLING TO HELP  
3 US OUT.  
4 THE COURT: YOU CAN GO OVER AND LET US KNOW, BUT I  
5 THINK I SHOULD SET A DATE. I'M GOING TO SAY MAY 6TH AT  
6 2:30, AND TRY AND SEE WHAT YOU CAN DO WITHIN THAT TIME  
7 FRAME.

8 MR. JOHNSON: ALL RIGHT.  
9 THE COURT: ALL RIGHT.  
10 MR. KURTZ: YOUR HONOR, DO YOU WANT US TO SET A FORMAL  
11 HEARING TO SUBSTITUTE MISS FEIL RETCHIN IN WITH FURTHER  
12 DOCUMENTATION IN THE MEANTIME?  
13 THE COURT: YOU NEED TO MAKE A MOTION. I MEAN THIS  
14 APPLICATION -- WE GOT PROBLEMS HERE NOW. I'VE GOT A  
15 DECEASED CLASS REPRESENTATIVE THAT WAS NEVER DISCLOSED TO  
16 ME THAT'S BEEN DEAD FOR NINE MONTHS WHILE YOU'VE BEEN  
17 NEGOTIATING A SETTLEMENT.  
18 IF YOU WANT TO FILE A MOTION, GET IT ON FILE  
19 BEFORE THE NEXT STATUS CONFERENCE. I'LL SET A BRIEFING  
20 SCHEDULE, AND WE'LL HAVE A HEARING DATE ON IT. WE NEED TO  
21 GET THIS UP IN A DIFFERENT LEVEL. WE ALL WORK  
22 COOPERATIVELY. MR. RICHERT HAS WORKED COOPERATIVELY WITH  
23 US, BUT NOW WE HAVE SOME CONFLICTS THAT WE NEED TO DEAL  
24 WITH ON A LITTLE MORE FORMALIZED BASIS.  
25 ALL RIGHT. THANK YOU VERY MUCH.  
26 MS. LEHENY: THANK YOU, YOUR HONOR.  
27 ///  
28 ///

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1 (THE MATTER WAS CONTINUED TO  
2 WEDNESDAY, MAY 6, 2009, AT  
3 2:30 P.M.)  
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT NO. 311 HON. CARL J. WEST, JUDGE

4  
5 WILLIAM RICHERT, ) SUPERIOR COURT  
6 PLAINTIFF, )  
7 VS. ) NO. BC339972  
8 WRITERS GUILD OF AMERICA WEST INC., )  
9 DEFENDANT. )  
\_\_\_\_\_ )  
10

11

12 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
13 MARCH 23, 2009

14

15 APPEARANCES:

16 FOR THE PLAINTIFF: JOHNSON & JOHNSON  
17 BY: NEVILLE L. JOHNSON, ESQ.  
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FOR WGA DEFENDANTS: ROTHNER, SEGALL & GREENSTONE  
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JOHN SPANO, ESQ.  
23 9606 OAKMORE  
LOS ANGELES, CALIFORNIA 90035

24

ALSO PRESENT: WILLIAM RICHERT

25

26

27 REPORTED BY: WANDA GRAY, CSR NO. 7675, RPR  
OFFICIAL REPORTER

28

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT NO. 311 HON. CARL J. WEST, JUDGE

4  
5 WILLIAM RICHERT, )  
6 PLAINTIFF, ) NO. BC339972  
)

7           VS.                    ) REPORTER'S  
  ) CERTIFICATE  
8 WRITERS GUILD OF AMERICA WEST INC., )  
  )  
9           DEFENDANT.         )  
  )  
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I, WANDA GRAY, OFFICIAL REPORTER OF THE  
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY  
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING  
PAGES, 1 THROUGH 18, INCLUSIVE, COMPRISE A FULL, TRUE, AND  
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE  
ABOVE-ENTITLED MATTER ON MARCH 23, 2009.  
DATED THIS 30TH DAY OF APRIL, 2009.

WANDA GRAY, CSR NO. 7675  
OFFICIAL REPORTER