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14  
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES  
17

18 WRITERS GUILD OF AMERICA, WEST, INC.;  
WRITERS GUILD OF AMERICA, EAST, INC.;  
19 PATRICIA CARR; ASHLEY GABLE;  
BARBARA HALL; DERIC A. HUGHES;  
20 GEORGE JOHANNESSEN; DEIRDRE  
MANGAN; DAVID SIMON; and MEREDITH  
21 STIEHM,

22 Plaintiffs,

23 v.

24 WME ENTERTAINMENT; CREATIVE ARTISTS  
AGENCY; UNITED TALENT AGENTS;  
25 INTERNATIONAL CREATIVE MANAGEMENT  
PARTNERS; and DOES 1-10,  
26

27 Defendants.  
28

Case No.:

**COMPLAINT FOR:**

1. **BREACH OF FIDUCIARY DUTY**
2. **UNFAIR COMPETITION (CAL. BUS. & PROF. CODE, § 17200 ET SEQ.)**

1 Plaintiffs Writers Guild of America, West, Inc. and Writers Guild of America, East, Inc.  
2 (collectively “Guilds” or “WGA”), and plaintiffs Patricia (“Patti”) Carr, Ashley Gable, Barbara  
3 Hall, Deric A. Hughes, George (“Chip”) Johannessen, Deirdre Mangan, David Simon, and  
4 Meredith Stiehm (collectively “Individual Plaintiffs”), allege as follows:

### 5 INTRODUCTION

6 1. Writers are the creative heart of the television and film businesses. They are  
7 responsible for providing the stories, plots, dialogue, and other content of television shows and  
8 movies that are enjoyed by audiences around the world and that generate billions of dollars in  
9 revenue every year. Without the work and creative content provided by these writers, the  
10 television and film industries could not operate.

11 2. The compensation and benefits paid to writers for their work are determined by a  
12 collectively-bargained contract between the Guilds and hundreds of studios and production  
13 companies. Because the entertainment industry is a freelance industry, and because writers may  
14 negotiate compensation above the minimum levels established by the WGA contract, the vast  
15 majority of working writers procure employment through talent agents they have retained to help  
16 them find work and negotiate for the best possible compensation. These agents owe a fiduciary  
17 duty to their clients, and must provide their clients with conflict-free representation.

18 3. Historically, the agents whom writers retained were compensated by receiving a  
19 portion of any payments made to the writers by production companies for work that the agents  
20 helped them procure. By tying the agents’ compensation to the writers’ compensation, this  
21 arrangement aligned the interests of the agents with the interests of their writer clients.

22 4. Unfortunately, over the last few decades, the four largest talent agencies—  
23 defendants WME Entertainment, Creative Artists Agency, United Talent Agents, and  
24 International Creative Management Partners (collectively, “Agencies”)—largely abandoned this  
25 compensation model in favor of “packaging fees.”

26 5. Agency compensation via packaging fees is possible because, after substantial  
27 consolidation within the industry, the Agencies now control access to all of the key talent  
28 necessary to create a new television show or feature film, including not only writers but also

1 actors and directors. The Agencies leverage this control to enter into agreements with television  
2 and film production companies wherein they negotiate “packaging fees” that are paid directly by  
3 the production companies from a program’s budget or revenues to the Agencies simply because  
4 the Agencies represented the writers, directors, and actors who will be employed by the  
5 production companies in producing the show. The packaging fees paid by production companies  
6 to the Agencies are unrelated to their own clients’ compensation and generate hundreds of  
7 millions of dollars in revenue for the Agencies each year.

8           6.       Packaging fees create numerous conflicts of interest between writers and the  
9 Agencies serving as their agents. Unlike in a commission-based system, the economic interests  
10 of the agents at the Agencies that represent writers and other creative talent are no longer aligned  
11 with those of their writer clients. Rather than seeking to maximize how much writers are paid  
12 for their work, the Agencies seek to maximize the packaging fee they will be paid for a particular  
13 project or program. Because the Agencies’ packaging fee is generally tied to a show’s revenues  
14 and profits, the Agencies have an incentive to *reduce* the amount paid to writers and other talent  
15 for their work on a show. Further, the Agencies seek to prevent the writers they represent from  
16 working with talent represented by other Agencies in order to avoid having to split the packaging  
17 fee with other Agencies—even where the project would benefit by drawing from a larger talent  
18 pool. The Agencies also pitch writers’ work to the production companies they believe will pay  
19 the most lucrative packaging fee, rather than to the companies that will pay the most to their  
20 writer clients.

21           7.       Packaging fees have caused tremendous financial harm to the Guilds and their  
22 members, including the Individual Plaintiffs. The fees have depressed the compensation paid to  
23 writers, as money that would otherwise be paid to the writers is instead paid to the Agencies as  
24 part of the packaging fee or left on the table. Because of the conflicts of interest created by  
25 packaging, writers have also been required to retain other professionals (such as lawyers and  
26 personal managers) to monitor the Agencies, protect the writers’ interests, and provide conflict-  
27 free services that agents would otherwise provide. Packaging fees have harmed the Guilds by  
28 requiring them to devote substantial resources to monitoring the Agencies’ packaging fee

1 practices, attempting to help writers protect their interests, and developing a comprehensive  
2 campaign to eliminate the harms and abuses associated with packaging fees.

3 8. Plaintiffs bring this lawsuit to end the Agencies' harmful and unlawful practice of  
4 packaging fees. The Agencies' packaging fees violate the fiduciary duty that agents owe to their  
5 writer clients and deprive them of the conflict-free representation to which they are entitled. For  
6 these reasons, and because the payments made from production companies to Agencies as part of  
7 any package constitute unlawful kickbacks from an employer to a "representative of any of his  
8 employees" prohibited by Section 302 of the federal Labor-Management Relations Act, 29  
9 U.S.C. §186(a)(1), packaging is an unlawful or unfair business practice for the purposes of the  
10 California Unfair Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.* Packaging fees  
11 should therefore be declared unlawful and enjoined, Plaintiffs should be awarded disgorgement  
12 of unlawful profits, and the Individual Plaintiffs should be awarded restitution and damages.

### 13 **PARTIES**

14 9. Plaintiff Writers Guild of America, West, Inc. is, and at all material times was, a  
15 labor union representing approximately 10,000 professional writers who write content for  
16 television shows, movies, news programs, documentaries, animation, and new media. Writers  
17 Guild of America, West serves as the exclusive collective bargaining representative for writers  
18 employed by the more than 2000 production companies that are signatory to an industrywide  
19 collective bargaining agreement negotiated by the Guilds and the Alliance of Motion Picture and  
20 Television Producers, Inc. ("AMPTP"). Writers Guild of America, West is a California  
21 nonprofit corporation headquartered in Los Angeles, California. Writers Guild of America, West  
22 brings this action for injunctive and declaratory relief under California's law of fiduciary duty in  
23 its representative capacity on behalf of all writers it represents, and brings this action under  
24 California's Unfair Competition Law on its own behalf.

25 10. Plaintiff Writers Guild of America, East, Inc. is, and at all material times was, a  
26 labor union representing over 4,700 professional writers who write content for television shows,  
27 movies, news programs, documentaries, animation, and new media. Writers Guild of America,  
28 East serves as the exclusive collective bargaining representative for writers employed by the

1 more than 2000 production companies that are signatory to an industrywide collective bargaining  
2 agreement negotiated by the Guilds and the AMPTP. Writers Guild of America, East is an  
3 unincorporated association headquartered in New York, New York. Writers Guild of America,  
4 East brings this action for injunctive and declaratory relief under California’s law of fiduciary  
5 duty in its representative capacity on behalf of all writers it represents, and brings this action  
6 under California’s Unfair Competition Law on its own behalf.

7 11. The Individual Plaintiffs in this action are as follows:

8 (a) Patti Carr is a television writer who resides in Studio City, California and  
9 works in Los Angeles County. She has written for television shows including *Life Unexpected*,  
10 *Mixology*, *Private Practice*, *Reba*, and *‘Til Death*, and served as showrunner for *90210*. She is a  
11 member of Writers Guild of America, West. From January 2018 until April 2019, defendant  
12 International Creative Management Partners, LLC served as her talent agency. From  
13 approximately 2001 to January 2018, defendant Creative Artists Agency, LLC served as her  
14 talent agency. Carr has written or served as showrunner for packaged shows, including *90210*,  
15 *Mixology*, *Private Practice*, *Reba*, and *‘Til Death*, and was injured by the payment of packaging  
16 fees to Agencies on those packaged shows.

17 (b) Ashley Gable is a television writer who resides in Los Angeles, California  
18 and works in Los Angeles County. She has written for television shows including *Buffy the*  
19 *Vampire Slayer*, *Bull*, *Designated Survivor*, *Magnum PI*, and *The Mentalist*. She is a member of  
20 Writers Guild of America, West. From approximately 2006 until April 2019, defendant Creative  
21 Artists Agency, LLC served as her talent agency. Prior to 2000, defendant International Creative  
22 Management Partners, LLC served as her talent agency. Gable has written for packaged shows,  
23 including *Magnum PI* and *Designated Survivor*, and was injured by the payment of packaging  
24 fees to Agencies on those packaged shows.

25 (c) Barbara Hall is a television writer who resides in Santa Monica, California  
26 and works in Los Angeles County. Her work as a television writer includes serving as the  
27 showrunner for *Madam Secretary* for each of its five seasons and creating the television shows  
28 *Judging Amy* and *Joan of Arcadia*. She is a member of Writers Guild of America, West. From

1 approximately 2012 until April 2019, and before 2000, defendant United Talent Agency, LLC  
2 served as her talent agency. From approximately 2000 until approximately 2012, defendant  
3 Creative Artists Agency, LLC served as her talent agency. Hall has written, created, or served as  
4 showrunner for packaged shows, including *Madam Secretary* and *Judging Amy*, and was injured  
5 by the payment of packaging fees to Agencies on those packaged shows.

6 (d) Deric A. Hughes is a television writer who resides in Sherman Oaks,  
7 California and works in Sherman Oaks. He has written for television shows including *Arrow*,  
8 *The Flash*, *Beauty and the Beast*, and *Warehouse 13*. He is a member of Writers Guild of  
9 America, West. From approximately 2009 until April 2019, defendant Creative Artists Agency,  
10 LLC served as his talent agency. Hughes has written for packaged shows, including *Arrow*,  
11 *Black Samurai*, *The Flash*, and *Beauty and the Beast*, and was injured by the payment of  
12 packaging fees to Agencies on those packaged shows.

13 (e) Chip Johannessen is a television writer who resides in Pacific Palisades,  
14 California, and works in Century City. He has written for television shows including *Homeland*,  
15 *24*, *Moonlight*, and *Beverly Hills 90210*, was the showrunner for season five of *Dexter*, and also  
16 created the miniseries *Saints and Strangers*. He is a member of Writers Guild of America, West.  
17 From approximately June 2006 until April 2019, defendant International Creative Management  
18 Partners, LLC served as his talent agency. Johannessen has written for or created packaged  
19 shows, including *Homeland* and *Saints and Strangers*, and was injured by the payment of  
20 packaging fees to Agencies on those packaged shows.

21 (f) Deirdre Mangan is a television writer who lives in Los Angeles, California  
22 and works in Los Angeles County. She has written for television shows including *Midnight*  
23 *Texas*, *The Crossing*, *iZombie*, and *Do No Harm*. She is a member of Writers Guild of America,  
24 West. From approximately 2013 until March 2019, defendant United Talent Agency, LLC  
25 served as her talent agency. Mangan has written for packaged shows, including *iZombie* and *Do*  
26 *No Harm*, and was injured by the payment of packaging fees to Agencies on those packaged  
27 shows.

28 (g) David Simon is a television writer who works and resides in Baltimore,

1 Maryland. His work as a writer includes creating and running the shows *The Wire* and *The*  
2 *Deuce*, as well as writing *Homicide: Life on the Street* (which was based on an earlier book  
3 published by Simon), and writing and producing *The Corner*, *Treme*, *Generation Kill*, and *Show*  
4 *Me A Hero*. He is a member of Writers Guild of America, East. From approximately 1992 until  
5 April 2019, defendant Creative Artists Agency, LLC served as his talent agency. Simon has  
6 written for a packaged show, *Homicide: Life on the Street*, and was injured by the payment of  
7 packaging fees to Agencies on that packaged show.

8 (h) Meredith Stiehm is a television writer who resides in Santa Monica,  
9 California and works in Los Angeles County. Her work as a writer includes writing for *NYPD*  
10 *Blue* and *ER*, creating *Cold Case* and *The Bridge*, and serving as executive producer and writer  
11 on *Homeland*. She is a member of Writers Guild of America, West. From approximately 2011  
12 until April 2019, defendant William Morris Endeavor Entertainment, LLC served as her talent  
13 agency. Prior to then, defendant Creative Artists Agency, LLC served as her talent agency.  
14 Stiehm has written, created, or served as showrunner for packaged shows, including *Homeland*,  
15 *Cold Case*, and *The Bridge*, and was injured by the payment of packaging fees to Agencies on  
16 those packaged shows.

17 12. Defendant William Morris Endeavor Entertainment, LLC (“WME”) is, and at all  
18 material times was, a limited liability company existing under the laws of the State of Delaware,  
19 with its principal place of business in Los Angeles County, California.

20 13. Defendant Creative Artists Agency, LLC (“CAA”) is, and at all material times  
21 was, a limited liability company existing under the laws of the State of California, with its  
22 principal place of business in Los Angeles County, California.

23 14. Defendant United Talent Agency, LLC (“UTA”) is, and at all material times was,  
24 a limited liability company existing under the laws of the State of Delaware, with its principal  
25 place of business in Los Angeles County, California.

26 15. Defendant International Creative Management Partners, LLC (“ICM”) is, and at  
27 all material times was, a limited liability company existing under the laws of the State of  
28 Delaware with its principal place of business in Los Angeles County, California.

1 16. Each of the defendant Agencies is a talent agency comprised of numerous  
2 individual talent agents, who as partners, principals, or employees of the Agency, render services  
3 on behalf of the defendant talent agency. In rendering such services, each individual agent acted  
4 on behalf of his or her respective Agency, which at all times remained liable for the acts or  
5 omissions of the individual agent.

6 17. The true names and capacities of defendants sued herein as Does 1 through 10 are  
7 unknown to plaintiffs, who therefore sue these defendants by fictitious names. Plaintiffs will  
8 amend the complaint to allege these Doe defendants' true names and capacities when they are  
9 ascertained.

10 **JURISDICTION AND VENUE**

11 18. The Superior Court of the State of California has jurisdiction in this matter  
12 because the Agencies regularly conduct business in California. Venue is proper in in the Superior  
13 Court for Los Angeles County because each of the defendant Agencies has its principal place of  
14 business in Los Angeles County, California. Venue is proper in the West Division of the  
15 Superior Court for Los Angeles County because one or more of the defendants and one or more  
16 of the plaintiffs resides in the West Division and the causes of action set forth herein arose in the  
17 West Division.

18 **FACTUAL ALLEGATIONS**

19 **The WGA and the Role of Talent Agents**

20 19. Writers are responsible for producing the literary material that forms the basis for  
21 thousands of television episodes and films produced every year (many in California) which  
22 generate billions of dollars in annual revenue. The literary material provided by writers includes,  
23 among other things, stories, outlines, treatments, screenplays, teleplays, dialogue, scripts, plots,  
24 and narrations. This literary material forms the heart of every television show and film; without  
25 it, the shows and films could not be made.

26 20. The Individual Plaintiffs' work as writers is exemplary of the work performed by  
27 all writers in the television and film industry. They have written for hit shows including *24*,  
28 *Beverly Hills 90210*, *Buffy the Vampire Slayer*, *Designated Survivor*, *Dexter*, *Homeland*,



1 *Homicide: Life on the Street, Moonlight, The Mentalist, Reba, Private Practice, iZombie, and*  
2 *NYPD Blue.* They also ran and/or created shows including *90210, Cold Case, Hit and Run, Joan*  
3 *of Arcadia, Madam Secretary, Saints and Strangers, and The Wire.*

4 21. The Guilds and their predecessor organizations have represented writers in the  
5 American film and television industries since the 1930s. The Guilds serve as the exclusive  
6 collective bargaining representative for writers in negotiations with film and television producers  
7 to protect and promote the rights of screen, television, and new media writers. The Guilds' long-  
8 term efforts on writers' behalf have resulted in a wide range of benefits and protection for  
9 writers, including minimum compensation, residuals for reuse of a credited writer's work,  
10 pension and health benefits, and protection of writers' creative rights.

11 22. The Guilds also administer the process for determining writing credits for feature  
12 films, television, and new media programs.

13 23. The Guilds sponsor seminars, panel discussions, and special events in order to  
14 educate its members about their rights and the steps they can take to protect their own interests.  
15 The Guilds also conduct legislative lobbying and public relations campaigns to promote their  
16 members' interests.

17 24. Approximately 2000 television and film production companies are parties to the  
18 industrywide agreement known as the Writers Guild Theatrical and Television Basic Agreement  
19 ("MBA"), negotiated between the Guilds and the AMPTP. The AMPTP serves as the collective  
20 bargaining representative of the major studios and production companies, while the Guilds  
21 jointly serve as the exclusive representative for all of the writers employed under the MBA. The  
22 MBA establishes minimum terms for the work performed by writers for the MBA-signatory  
23 employers, including the minimum compensation that writers must be paid for such work.

24 25. The MBA expressly permits writers to negotiate "overscale" employment terms—  
25 that is, compensation and other employment terms that exceed the minimums set forth in the  
26 MBA. Although the Guilds are the exclusive collective bargaining representatives for writers  
27 employed by MBA-signatory companies, the Guilds have chosen to allow writers to negotiate  
28 directly with the companies regarding overscale compensation and other terms of employment.

1 At all times relevant to this action, Article 9 of the MBA has provided:

2 The terms of this Basic Agreement are minimum terms; nothing herein contained shall prevent  
3 any writer from negotiating and contracting with any Company for better terms for the benefit of  
4 such writer than are here provided, excepting only credits for screen authorship, which may be  
5 given only pursuant to the terms and in the manner prescribed in Article 8. The Guild only shall  
6 have the right to waive any of the provisions of this Basic Agreement on behalf of or with  
7 respect to any individual writer.

8 26. The film and television production industry now operates almost entirely on a  
9 freelance basis. Writers are generally hired by production companies to work on individual  
10 projects for the duration of those projects, rather than working for the company on a long-term  
11 basis across multiple different projects. In order to find employment, negotiate for overscale  
12 employment terms, obtain career guidance, and protect their professional interests, writers  
13 traditionally retained agents (and the agencies with which those agents were associated) to  
14 represent them in their dealings with the production companies. The Agencies (through the  
15 individual agents associated with each of them) agree to provide such representation to their  
16 clients. In doing so, the Agencies exercise authority delegated to them by the Guild, the writers'  
17 exclusive collective bargaining representative.

### 18 **The Mechanics of Packaging**

19 27. Historically, the agents retained by writers (and other creative professionals) were  
20 compensated for representing their clients by being paid a percentage (generally ten percent) of  
21 the amount paid to clients for work procured while the agent serves as their representative. This  
22 traditional arrangement aligned the economic interests of the writers and their agents, because  
23 any increase in the compensation received by the writers resulted in a corresponding increase in  
24 the agents' compensation. The same arrangement persists in film and television industries in  
25 other countries, such as Canada, where the system of packaging fees does not exist.

26 28. Over time, conditions in the television and film industry changed dramatically in  
27 a manner that has had significant negative consequences for writers, while drastically increasing  
28 the profits of the Agencies and their agents.

1           29. First, there has been overwhelming consolidation within the market for talent  
2 agents. Because of this consolidation, the four defendant Agencies now represent the  
3 overwhelming majority of writers, actors, directors, and other creative workers involved in the  
4 American television and film industries. By virtue of this consolidation, the Agencies exert  
5 oligopoly control over access to almost all key talent in the television and film industries.

6           30. Second, the Agencies have moved away from the commission-based model of  
7 compensation described above. Instead, the Agencies have shifted to a “packaging fee” model  
8 whereby the Agencies negotiate and collect payments directly from the production companies  
9 that employ their writer-clients and that are tied to the revenues and profits of the “packaged”  
10 program, rather than receiving a percentage of their clients’ compensation. Approximately 90%  
11 of all television series are now subject to such packaging fee arrangements.

12           31. In television, the packaging fee for a particular project normally consists of three  
13 components: an upfront fee of \$30,000 to \$75,000 per TV episode, an additional \$30,000 to  
14 \$75,000 per episode that is deferred until the show achieves net profits, and a defined percent of  
15 the TV series’ modified adjusted gross profits for the life of the show.

16           32. Packaging fees are generally based on a “3-3-10” formula, with the upfront fee  
17 defined as 3% of the “license fee” paid by the studio for the program, the deferred fee also  
18 defined as 3% of the “license fee” paid by the studio for the program, and the profit participation  
19 defined as 10% of the program’s modified adjusted gross profits. The “license fee” used to  
20 determine that portion of the packaging fee is an amount set by the production company or  
21 negotiated between the Agency and the production company as part of the packaging fee  
22 agreement.

23           33. Each of the Agencies uses this formula for packages including writers and other  
24 talent it represents. Packaged programs on which the Individual Plaintiffs worked include, but  
25 are not limited to, *90210* (CAA); *Beauty and the Beast* (CAA); *The Bridge* (WME); *Cold Case*  
26 (CAA); *Designated Survivor* (CAA); *Do No Harm* (UTA); *Homeland* (WME); *Homicide: Life*  
27 *on the Street* (CAA); *iZombie* (UTA); *Judging Amy* (CAA); *Madam Secretary* (UTA and CAA);  
28 *Magnum PI* (CAA and ICM); *Private Practice* (CAA); *Reba* (CAA); and *‘Til Death* (CAA and

1 ICM).

2 34. Packaging fees generate hundreds of millions of dollars per year in revenue for  
3 the Agencies—far more than they would earn from a traditional 10% commission from their  
4 clients. The Agencies have used the income generated through packaging to raise private capital,  
5 and their business has become so lucrative that some Agencies are now planning to become  
6 publicly held corporations.

7 35. The packaging fees paid to the Agencies often exceed the amount their clients are  
8 paid for work on a particular program. On *Cold Case*, for example, CAA was entitled to a  
9 packaging fee of \$75,000 per episode, an amount that exceeded Meredith Stiehm’s per episode  
10 pay for at least the first two years of the series.

11 36. With almost all television series being packaged, the Agencies now earn much of  
12 their revenue from representing their own economic interests, rather than from maximizing the  
13 earnings of their clients.

14 **Harm Caused by Packaging**

15 37. The packaging fee model of Agency compensation harms writers in multiple  
16 respects.

17 38. Because the first component of any packaging fee is part of a TV episode’s  
18 budget, payment of that amount diverts financial resources away from the Agencies’ clients and  
19 the projects on which they are working and to the Agencies themselves. Even where the  
20 Agencies are paid a lower end upfront packaging fee of, for example, \$25,000 per episode, that  
21 represents the cost of hiring approximately one additional high-level writer or two additional  
22 lower-level writers for the program. Where a studio or network insists that the budget for a  
23 program be limited or reduced, showrunners cannot reduce the amount paid to the Agencies as a  
24 packaging fee, and must instead cut resources from other portions of the program’s budget.

25 39. Likewise, because the third component of the packaging fee is based on defined  
26 gross profits, the payment of the packaging fee to an Agency has the effect of reducing the profit  
27 participation of the Agency’s own clients, including writers, as the writers’ share of the profit  
28 points is correspondingly reduced. Worse, the Agencies in many instances negotiate more

1 favorable profit definitions for themselves than for their own writer clients. Many of the  
2 Individual Plaintiffs are entitled or would have been entitled but for the Agencies' malfeasance  
3 to profit participation for their prior work on packaged shows including, but not limited to,  
4 *90210*; *Cold Case*; *Homicide: Life on the Street*; *Saints and Strangers*; and *Judging Amy*. As a  
5 result of the fact that packaging fees are frequently paid to the Agencies before the profits that  
6 determine writer's profit are calculated, because of the Agencies' higher priority profit  
7 definitions, the ongoing amount paid to those Individual Plaintiffs is substantially reduced.  
8 Indeed, even though CAA has not performed any work in connection with *Cold Case* since the  
9 show was originally purchased by CBS approximately two decades ago, CAA is presently being  
10 paid almost exactly the same amount for that successful show that Meredith Stiehm is paid in in  
11 profit participation for having created the show and served as showrunner for seven years.  
12 Likewise, although David Simon has never received any profit distributions for *Homicide: Life*  
13 *on the Street* because his agency, CAA, negotiated a profit definition for Simon that was based  
14 on net rather than gross profits, on information and belief, CAA to this day continues to receive  
15 profit from that show because it secretly negotiated a far more favorable profit definition for  
16 itself, without Simon's knowledge or consent. Indeed, Simon had strenuously objected to  
17 CAA's negotiation of an unfavorable net profit definition for Simon, and had sought to improve  
18 his profit definition in further negotiations; however, when Simon's attorney sought to amend his  
19 original net profit definition, Simon learned that CAA had represented to the production  
20 company that Simon had already agreed to that profit definition and that the production company  
21 and NBC had already invested substantial sums in preproduction. CAA further represented to  
22 Simon that if he did not agree to the original, unfavorable net profit definition, he would not only  
23 lose the option payments and other monies that were due him under the contract, but would also  
24 be liable to the production company and NBC for the preproduction costs. It was not until many  
25 years later that Simon learned not only that CAA had simultaneously represented the director and  
26 the head of the production company in the negotiations, but also that all other profit participants  
27 in *Homicide*, including CAA and the director, had profit definitions based on gross rather than  
28 net profits.

1           40.     Because the Agencies' compensation in a packaging arrangement is tied to the  
2 budget for and profits generated by a particular program, rather than to the amount paid to their  
3 clients working on that program, the Agencies' financial incentive to protect and increase their  
4 clients' pay is eliminated. Agencies receive packaging fees whether their client's pay increases  
5 or decreases, and even if their client no longer works on a particular program. Indeed, Agencies  
6 actually have a *disincentive* to advocate for greater pay for their clients, because the Agencies'  
7 share of profits would be at risk of being reduced.

8           41.     For Deirdre Mangan's work on *iZombie*, *The Crossing*, and *Midnight Texas*, for  
9 example, UTA refused to negotiate a title and compensation commensurate with Mangan's  
10 experience, insisting that "studio policy" precluded her from receiving a better title or salary.  
11 She subsequently learned that was not true, and her lawyer was sometimes able to negotiate  
12 better terms even after UTA refused to do so. On information and belief, UTA refused to  
13 negotiate a title and compensation commensurate with Mangan's experience in order to protect  
14 its own profit participation. Mangan's experience with packaging is typical of writers in the  
15 early and mid-stages of their careers. Indeed, Agencies routinely refuse to negotiate greater  
16 salaries for staff writers, instead taking the first offer made by the studio in order to protect the  
17 Agencies' packaging fee.

18           42.     The Agencies also have little incentive to protect the pay their clients have  
19 already earned. For example, when Chip Johannessen's script for *Saints and Strangers* was  
20 produced by National Geographic, his Agency ICM pressured him to accept a reduced profit  
21 participation and to forgo a series sales bonus that he had been entitled to under his original  
22 contract, informing Johannessen that there was not sufficient money in the budget for the show  
23 to be made unless Johannessen agreed, which he reluctantly did. After legal fees, Johannessen's  
24 expenses on the show nearly equaled his compensation, such that Johannessen's net earnings  
25 were close to zero on that project. Johannessen only learned several months later that ICM had  
26 extracted a substantial packaging fee with a more favorable profit definition for itself from *Saints*  
27 *and Strangers*, thus deliberately enriching itself at Johannessen's expense.

28           43.     The Agencies themselves recognize that their interests are no longer aligned with

1 those of the writers they represent, but are instead aligned with the production companies that  
2 employ their clients. The head of WME has stated publicly, for example, that his most important  
3 client is now a head executive at Warner Brothers.

4 44. Packaging fees also distort agents' incentives when seeking employment  
5 opportunities for their clients.

6 45. In order to avoid splitting a packaging fee with other agencies, the Agencies  
7 pressure their clients to work exclusively on projects where the other key talent is also  
8 represented by the client's Agency. The Agencies exert this pressure even where the client and  
9 the agent know that the project will be best served by involving someone from another Agency.  
10 Many of the Individual Plaintiffs have found that their Agency presents them with opportunities  
11 to work only on projects involving other talent from the same Agency. Their ability to obtain  
12 work and compensation commensurate with their experience has been severely hampered by the  
13 Agencies' failure to present them with other work opportunities.

14 46. The Agencies also choose not to sell packaged programs to the production  
15 companies willing to pay the most for the programs, or that will be the best creative partner for  
16 the programs. Instead, the Agencies choose to sell packaged programs to the companies willing  
17 to pay the largest packaging fee.

18 47. Agencies use popular writers as leverage to secure packaging fees, even where  
19 doing so does not serve the economic or creative interests of those writers. Indeed, Agencies  
20 have at times actively suppressed the wages of their own clients to secure packaging fees, in one  
21 case offering to secure a writer's work for a studio for \$14,000 an episode, instead of the \$20,000  
22 he had previously earned.

23 48. The consequences of packaging for television writers have been profound.  
24 Despite growing demand for television series, driven in part by the entry of companies like  
25 Netflix, Amazon, Apple, and Facebook into the production and distribution business, and despite  
26 the unprecedented profitability of the entertainment industry as a whole, overscale compensation  
27 for writers has been stagnant over the last 15 years. When inflation is accounted for, writers are  
28 now being paid *less* than they were more than a decade ago. This is true even for top-level

1 writers, show creators, and showrunners.

2 49. While the practice of packaging has its historical roots in television, the Agencies  
3 now also extract packaging fees on feature film projects, particularly on independent productions  
4 not financed or produced by a major studio. On packaged feature projects, the Agencies are paid  
5 a fee from a film's budget or financing, in addition to taking a 10% commission from their  
6 clients. Agencies also use their leverage to steer film projects to their own clients or affiliated  
7 companies to function as financiers or distributors of the finished film.

8 50. While the economics of film packaging differs in some respects from packaging  
9 agreements in television, the conflict of interest is the same. The Agencies leverage their access  
10 to high profile clients for their own benefit, and negotiate compensation for themselves,  
11 undisclosed to their clients and unrelated to what their clients earn.

12 51. Feature film packaging has a direct detrimental effect on writers. As the feature  
13 film business has contracted, increasing pressure on screenwriters, the Agencies have not  
14 advocated against declining screenwriter pay or unpaid work because the Agencies make most of  
15 their money on packaging fees paid by production companies for television and film projects,  
16 and have little incentive to fight for clients from whom they are simply paid a commission. As  
17 in television, the effect of these conflicts has been to exert downward pressure on writer  
18 compensation.

19 52. In addition, because packaging fees are based in part on gross profit, the payment  
20 of the film's packaging fee may, depending on the profit definition, have the effect of reducing  
21 the profit participation of the Agency's own clients, including writers. And because a portion of  
22 the packaging fee comes out of a film's budget, payment of the fee diverts financial resources  
23 away from the Agencies' clients and the projects on which they are working and to the Agencies  
24 themselves.

25 53. Film packaging fees also distort agents' incentives when seeking employment  
26 opportunities for their clients. In order to avoid splitting a packaging fee with other agencies, the  
27 Agencies pressure their clients to work exclusively on projects where the other key talent is also  
28 represented by the client's Agency. The Agencies exert this pressure even where the client and



1 the agent know that the project will be best served by involving someone from another Agency.

2 54. The Agencies also choose not to sell packaged programs to the production  
3 companies willing to pay the most for the film, or that will be the best creative partner for the  
4 film. Instead, the Agencies choose to sell packaged films to the companies willing to pay the  
5 largest packaging fee.

6 55. Agencies use popular writers as leverage to secure film packaging fees, even  
7 where doing so does not serve the economic or creative interests of those writers.

8 56. Packaging fees have deprived writers of conflict-free and loyal representation in  
9 their negotiations with production companies. By depriving writers of conflict-free and loyal  
10 representation, packaging reduces the compensation paid to writers for their work on particular  
11 programs. Agencies receiving a packaging fee do not negotiate on their clients' behalf with the  
12 same vigor they would if they were being paid a portion of their clients' compensation, and their  
13 financial interest in the program creates an incentive for them to hold down or reduce the amount  
14 paid to their clients. The Guild's members, including the Individual Plaintiffs, have seen their  
15 writing wages stagnate or decrease over the last decade, particularly on shows packaged by their  
16 Agencies, despite the substantial expansion of the television market in recent years.

17 57. Because of the Agencies' breaches of their fiduciary duties, writers—including  
18 each of the Individual Plaintiffs—have been forced to retain and pay other professionals,  
19 including lawyers and talent managers, to protect their interests, frequently paying as much as  
20 15% or 20% in additional commissions to these other professionals to secure the services that  
21 talent agencies alone once provided. Because writers' agents no longer represent their clients  
22 vigorously and without conflicts, writers, including the Individual Plaintiffs, rely upon their  
23 talent managers to identify employment opportunities and upon their lawyers to negotiate the  
24 terms of their contracts with production companies. These are services that the agents  
25 themselves should be providing to the writers they represent. That writers must pay others for  
26 these services further reduces their take-home pay.

27 58. Barbara Hall's situation is typical in this respect. Although she was represented  
28 by UTA until April 2019, to protect her interests, she also had to retain a business manager,

1 talent manager, and lawyer, who collectively receive a total of 20% of her income. The end  
2 result of these additional payments Hall must make is that the per episode payment to UTA for  
3 *Madam Secretary* is approximately equal to Hall's post-commission payment per episode for her  
4 work as showrunner on that program. A second agency, CAA, also receives a separate per  
5 episode packaging fee for *Madam Secretary*.

6 59. Packaging also denies writers employment opportunities. The Agencies are  
7 resistant to placing their clients with programs or films that are already connected to talent from  
8 other Agencies, because doing so will reduce or eliminate any packaging fee they might be paid  
9 for the clients' work. Many potential projects have been delayed or killed solely because of a  
10 dispute between an Agency and a production company over the packaging fee. Programs are  
11 sold to the production companies willing to pay the largest packaging fee, rather than those  
12 willing to provide the Agencies' writer clients with the greatest compensation or those that will  
13 serve as the best creative partners for the programs.

14 60. The Agencies routinely fail to disclose the conflicts of interest inherent in  
15 packaging. The packaging agreement, including the profit definition, is negotiated directly  
16 between the Agency and production company, with no notice or disclosure to the writer-clients.  
17 Indeed, virtually no writer has ever seen a packaging agreement. The Individual Plaintiffs were  
18 never provided with the specific details of the packaging agreements applicable to the packaged  
19 programs on which they worked.

20 61. Agencies have never obtained their writer-clients' valid, informed consent to the  
21 Agencies' flagrant conflicts of interest. Such a valid, informed consent would require the  
22 disclosure not just of the existence of the conflict but also of all of the specific details of any  
23 packaging agreement between the Agency and the production company. The Agencies,  
24 however, not only fail to disclose the material terms of the packaging agreements to their writer-  
25 clients, but in many instances deliberately conceal the existence of the conflict of interest by  
26 informing their writer-clients that packaging benefits the client because they will not pay  
27 commission, when in fact the Agencies' packaging fees exceed the 10% commission the  
28 Agencies are forgoing.

1           62. In fact, the Agencies sometimes do not even disclose the fact that packaging has  
2 occurred. For example, David Simon was not informed that the show *Homicide: Life on the*  
3 *Street*, which was based on a book Simon had previously published, had been packaged by his  
4 Agency, CAA. Indeed, CAA purported to represent Simon both as the seller of his intellectual  
5 property and as a writer on the show, while simultaneously representing the purchaser of  
6 Simon's IP, thus deliberately suppressing Simon's compensation and profit participation.

7           63. Packaging also causes substantial harm to the Guilds. In order to protect their  
8 members' interests, the Guilds have devoted substantial resources to monitoring packaging (to  
9 the extent possible given the Agencies' failure to provide the Guilds or their writer-clients with  
10 clear information about the terms of their packaging arrangements); to educating members about  
11 packaging, the risks and harms created by agents' conflicted representation, and the steps they  
12 can take to protect themselves; to engaging in political advocacy and public outreach to increase  
13 awareness of the harms resulting from packaging; and to preparing a comprehensive campaign to  
14 end packaging's harms and abuses. The Guilds have also incurred additional expenses in  
15 enforcing writers' contractual rights because the Agencies, conflicted by their packaging  
16 practices, are reluctant or unwilling to defend writers' interests in the face of contract violations.  
17 Finally, packaging has reduced the Guilds' revenue from member dues, because dues are  
18 dependent in part upon writers' compensation.

19           64. Packaging fees have harmed the market for writers' work by draining money from  
20 television and film production budgets, and by diverting to the Agencies funds that could  
21 otherwise be used to finance production and the employment of writers.

22           65. Because of packaging, writers face a less competitive market for their services,  
23 with the Agencies generally attempting to place writers only with projects tied to other clients of  
24 the Agency, rather than with all available projects, and failing to negotiate the best possible  
25 compensation for their clients.

26           66. Likewise, the Agencies use their oligopoly control over key talent to pressure  
27 writers whose agents are not affiliated with the Agencies to fire those agents and retain a  
28 defendant Agency in order to have access to employment on the Agency's packages.



1 which constituted a breach of the duty of loyalty. CAA further willfully breached its fiduciary  
2 duty to Carr, Gable, Hall, Hughes, Simon, Stiehm, and other members of the Guilds by  
3 proceeding with the representation under numerous conflicts of interest without obtaining valid,  
4 informed consent to those conflicts of interest from Carr, Gable, Hall, Hughes, Simon, Stiehm, or  
5 other members of the Guilds.

6 73. UTA willfully breached its fiduciary duty to Barbara Hall, Deirdre Mangan, and  
7 other members of the Guilds represented by UTA by placing its own interests above that of its  
8 clients Hall, Mangan, and other members of the Guilds, and by increasing its own profits at the  
9 expense of Hall, Mangan, and other members of the Guilds, which constituted a breach of the  
10 duty of loyalty. UTA further willfully breached its fiduciary duty to Hall, Mangan, and other  
11 members of the Guilds by proceeding with the representation under numerous conflicts of  
12 interest without obtaining valid, informed consent to those conflicts of interest from Hall,  
13 Mangan, or other members of the Guilds.

14 74. WME willfully breached its fiduciary duty to Meredith Stiehm and other  
15 members of the Guilds represented by WME by placing its own interests above that of its clients  
16 Stiehm and other members of the Guilds, and by increasing its own profits at the expense of  
17 Stiehm and other members of the Guilds, which constituted a breach of the duty of loyalty.  
18 WME further willfully breached its fiduciary duty to Stiehm and other members of the Guilds by  
19 proceeding with the representation under numerous conflicts of interest without obtaining valid,  
20 informed consent to those conflicts of interest from Stiehm, or other members of the Guilds.

21 75. As a result of ICM's willful breaches of its fiduciary duty to Carr and  
22 Johannessen, they suffered significant damages, including but not limited to lost wages, lost  
23 employment opportunities, and other economic losses.

24 76. As a result of CAA's willful breaches of its fiduciary duty to Carr, Gable, Hall,  
25 Hughes, Simon, and Stiehm, they suffered significant damages, including but not limited to lost  
26 wages, lost employment opportunities, and other economic losses.

27 77. As a result of UTA's willful breaches of its fiduciary duty to Hall and Mangan,  
28 they suffered significant damages, including but not limited to lost wages, lost employment

1 opportunities, and other economic losses.

2 78. As a result of WME's willful breaches of its fiduciary duty to Stiehm, she  
3 suffered significant damages, including but not limited to lost wages, lost employment  
4 opportunities, and other economic losses.

5 79. As a result of the Agencies' willful breaches of their fiduciary duties to the  
6 Guilds' members, the Guilds' members suffered significant harm, including but not limited to  
7 lost wages, lost employment opportunities, and other economic losses.

8 80. Plaintiffs are informed and believe that Defendant Agencies, and each of them,  
9 committed the aforementioned acts maliciously, fraudulently, and oppressively, with the  
10 wrongful intention of injuring Plaintiffs, from an improper and evil motive amounting to malice,  
11 and in conscious disregard of Plaintiffs' rights. The Individual Plaintiffs are therefore entitled to  
12 recover punitive damages from Defendants in an amount according to proof.

13 **SECOND CAUSE OF ACTION**

14 **Unfair Competition, Cal. Bus. & Prof. Code §17200 *et seq.***

15 **(brought by the Individual Plaintiffs on their own behalf, and by the Guild on its own**  
16 **behalf, against all Defendants)**

17 81. Plaintiffs re-allege and incorporate by reference the allegations set forth in the  
18 foregoing paragraphs.

19 82. California's Unfair Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.*  
20 ("UCL"), prohibits "unlawful, unfair or fraudulent business act[s]."

21 83. The Agencies' packaging practice violates the UCL in three respects.

22 84. First, packaging fees are an "unlawful" or "unfair" practice because they  
23 constitute a breach of the Agencies' fiduciary duty to their clients.

24 85. Second, packaging fees are an "unfair" practice because they deprive writers of  
25 loyal, conflict-free representation; divert compensation away from the writers and other creative  
26 talent that are responsible for creating valuable television and film properties; and undermine the  
27 market for writers' creative endeavors.

28 86. Third, packaging fees are an "unlawful" or "unfair" practice because they violate

1 Section 302 of the federal Labor-Management Relations Act (“LMRA”), 29 U.S.C. §186, the so-  
2 called “anti- kickback” provision of the Taft-Hartley Act.

3 87. Subsection (a) of LMRA Section 302 makes it unlawful for “any employer or  
4 association of employers ... or who acts in the interest of an employer to pay, lend, or deliver, or  
5 agree to pay, lend, or deliver, any money or other thing of value ... to *any representative of any*  
6 *of his employees* who are employed in an industry affecting commerce.” 29 U.S.C. §186(a)  
7 (emphasis added). The same section makes it unlawful for “any person to request, demand,  
8 receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or  
9 other things of value prohibited by subsection (a).” *Id.* §186(b).

10 88. The television and film industries are industries that affect commerce. Indeed,  
11 those industries generate hundreds of millions of dollars of national and international revenue  
12 each year.

13 89. The production companies that produce the television shows and films on which  
14 the Individual Plaintiffs and other Guild-member writers work are employers for the purposes of  
15 LMRA Section 302.

16 90. The Agencies are representatives of the production companies’ employees for the  
17 purposes of LMRA Section 302. Indeed, the very reason Agencies are retained by writers is to  
18 represent those writers in procuring employment opportunities and negotiating wages in excess  
19 of the minimums established by the MBA. The Agencies exercise authority delegated to them  
20 by the Guild (which otherwise has the exclusive right to negotiate on behalf of the represented  
21 employees) when representing their writer clients in negotiations with the production companies.

22 91. The key feature of any packaging fee agreement is the payment of a negotiated  
23 fee by the employer production company to the employee representative Agency. Such  
24 payments are expressly prohibited by and unlawful under LMRA Section 302, and therefore  
25 constitute an unlawful business practice for the purposes of California’s UCL.

26 92. The Individual Plaintiffs and the Guilds have lost money or property as a result of  
27 the Agencies’ packaging fee practices. As noted above, the Individual Plaintiffs have been  
28 required to spend money to retain other professionals to provides services their agents should

1 have been providing; have seen their compensation reduced by virtue of packaging fees; and  
2 have been denied employment opportunities because of the misalignment of incentives that  
3 results from the Agencies' packaging fee practices, as alleged in more detail above. The Guilds  
4 have been required to expend their own resources monitoring the Agencies' packaging fees,  
5 educating members about the Agencies' packaging fee abuses, preparing a comprehensive  
6 campaign to address those abuses and end packaging fees, and enforcing their members'  
7 contractual rights after the Agencies failed to do so. The Guilds have also lost dues revenue due  
8 to packaging fees.

9 93. As a result of the Agencies' unlawful and unfair business practices, Plaintiffs are  
10 entitled to injunctive relief, and disgorgement of agency profits, and the Individual Plaintiffs are  
11 entitled to restitution. Cal. Bus. & Prof. Code §17203.

#### 12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiffs respectfully request that the Court:

14 1. Declare that packaging fees constitute a breach of the Agencies' fiduciary duty to  
15 their writer clients;

16 2. Declare that packaging fees constitute an unfair and/or unlawful practice under  
17 California's UCL because they either breach the Agencies' fiduciary duty to their writer clients;  
18 violate LMRA Section 302; deprive writers of loyal, conflict-free representation, divert  
19 compensation away from the writers and other creative talent that are responsible for creating  
20 valuable television and film properties, or undermine the market for writers' creative endeavors;  
21 or all of the above;

22 3. Enjoin each defendant Agency from entering into new packaging fee agreements  
23 in which one or more writer clients of the Agency works as a writer, or from receiving any  
24 monetary payments or other things of value from any production company that employs any  
25 writer client of the Agency;

26 4. Order the Agencies, and each of them, to provide an accounting of all moneys  
27 received by the Agencies in connection with projects or programs for which Individual Plaintiffs  
28 or other Guild members were employed as writers;



