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18 *Attorneys for Defendants-Counterclaimants*

19 **UNITED STATES DISTRICT COURT**  
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 WILLIAM MORRIS ENDEAVOR  
22 ENTERTAINMENT, LLC, *et al.*,

23 Plaintiffs and Counterclaim  
24 Defendants,

25 v.

26 WRITERS GUILD OF AMERICA,  
27 WEST, INC., *et al.*,

28 Defendants and Counterclaimants,  
and PATRICIA CARR, *et al.*  
Counterclaimants.

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Case No. 2:19-cv-05465-AB-AFM

**DECLARATION OF DAVID  
SHORE IN OPPOSITION TO  
PRELIMINARY INJUNCTION  
MOTIONS**

Hearing Date: Dec. 18, 2020  
Hearing Time: 10:00am  
Location: Courtroom 7B  
Judge: Hon. André Birotte, Jr.

1 I, David Shore, hereby declare as follows:

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

4 2. I have been a member of Writers Guild of America, West  
5 continuously since 1996, and have written for multiple television series, including  
6 *NYPD Blue*, *Family Law*, *Hack*, *House*, *Sneaky Pete*, *Battle Creek*, and *The Good*  
7 *Doctor*. I have served as a showrunner/executive producer on the television  
8 programs *Family Law*, *Hack*, *House* (which I ran for eight seasons), *Sneaky Pete*,  
9 *Battle Creek*, and *The Good Doctor* (which is currently airing). Taking into  
10 account all of the programs on which I have served as a showrunner, I have “run”  
11 over 15 seasons of television.

12 3. While a showrunner has both writing and production responsibilities,  
13 the primary job of a showrunner is fundamentally to write, and writing occupies  
14 the vast majority of my time as a showrunner. What studios hire me to do, and  
15 what I am paid to do, is be the head writer; to deliver up to twenty-four scripts per  
16 season that are written to my caliber of screenwriting. My job is to ensure that, on  
17 a program that I am running, every single script is of the quality that I demand  
18 from my own writing work and that a studio expects when it hires a writer like me  
19 to run a television program. To deliver a season’s worth of scripts that meets these  
20 expectations I must be directly involved in the writing of every single episode, as  
21 discussed in greater detail below. This is the reality for virtually all showrunners,  
22 not just me.

23 4. On every show that I have run, showrunning is often a 70-hour-a-  
24 week job and I would estimate that at least 60 of those hours are spent engaged in  
25 writing, under any plausible definition of that word. These tasks that are  
26 indisputably writing include developing and fine tuning character arcs (i.e. the  
27

1 season-long outline of the program’s plot), developing, writing, and fine tuning  
2 story ideas, developing, writing, and fine tuning “beat sheets” (the basic map of an  
3 episode’s plot structure) and outlines, and developing, writing, and fine tuning the  
4 actual scripts for each episode.

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

9 6. But the fact that I am credited as a writer or co-writer on a couple of  
10 episodes each year does not mean that I am not just as involved in the final script  
11 of every single other episode. I have been the showrunner for over 250 hours of  
12 television. I have either written or rewritten every single one of those episodes.  
13 By “writing” or “rewriting” I mean sitting in front of a computer with the script  
14 open, restructuring the script, restructuring its scenes and writing lines of dialog or  
15 other aspects.

16 7. Although another writer on a television program may be assigned in  
17 the first instance to draft a script from scratch, I am nonetheless involved in every  
18 single step of the writing process of that episode. No outline is published (sent to  
19 network, studio, cast or crew), no script is published, and no script amendment is  
20 published without it first passing through my keyboard. When the writer of the  
21 script turns in his or her “final” draft to me, moreover, I nearly always end up  
22 having to rewrite significant portions of the script, and sometimes have to do the  
23 proverbial “Page 1 rewrite,” where I end up rewriting the entire episode. I am this  
24 involved in writing individual episodes because, as mentioned, the core of my job  
25 is ensuring that every single script meets my expectations for my own writing.  
26 This is what I’m paid for, not my managerial skills.

1           8.     On all the shows that I have run, my practice is to take a credit as a  
2 writer (or co-writer) only on those episodes that I write in the first instance from  
3 scratch. Even when I perform a “Page 1 rewrite” on someone else’s script I do not  
4 take a writing credit, even though it would be perfectly permissible for me to do so  
5 under the Writers Guild of America credit system. As I indicated, I view these re-  
6 writes as being my job – the most fundamental part of my job. Again, virtually all  
7 the showrunners I know share this attitude.

8           9.     If I did not perform the dozens of hours of writing work that I perform  
9 each week when running a show it would be necessary to hire additional writers to  
10 perform that work. That is, if I did not spend my time developing story arcs,  
11 developing beat sheets, writing scripts from scratch, giving feedback on other  
12 writers’ draft scripts, and rewriting scripts that were initially drafted by other  
13 writers on the staff, other writers, possibly from within my current staff, possibly  
14 from outside, would need to take on those duties to replace my writing role. Were  
15 that to happen, those writers, if from within, would be entitled to higher pay and  
16 other members of the writers’ room below them would be required to take on  
17 additional duties that the writers just below me used to handle. That, in turn,  
18 would require the project to hire additional writers to pick up the resulting slack in  
19 the writers’ room.

20           10.    Although a very small number of non-writers in the television  
21 industry call themselves showrunners, they are an exceedingly small percentage of  
22 the showrunners working at a given time on television programs. In addition,  
23 those non-writing showrunners are generally not WGA members. And more  
24 fundamentally, I don’t believe it really is possible to be a showrunner without  
25 being a writer. The key attribute of a showrunner is being capable of creating the  
26 scripts that are the blueprint for every single episode. To perform that role, a  
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1 showrunner must be able to both oversee the writing process *and* step in and  
2 correct things in that process when they go wrong. If a showrunner is not a writer  
3 then they cannot play that role.

4 11. It is true that as a showrunner I also take on certain “producing”  
5 duties, by which I mean duties that fall outside the scope of writing work defined  
6 in the WGA’s collective bargaining agreement. But those tasks have occupied no  
7 more than 10% of my work time on the shows that I have run.

8 12. Moreover, the producing tasks that I perform as a showrunner are  
9 inextricably linked with, and an extension of, the writing tasks described above. I  
10 perform my producing duties in order to ensure that the vision of the script that I  
11 have written is successfully implemented during production.

12 13. For example, I attend production meetings because I want to ensure  
13 that the production team is prepared to implement the vision of the script with the  
14 proper intent and tone. If a certain episode is overbudget, I often need to make  
15 rewrites to the script to address the shortfall. If a certain location is unavailable or  
16 unsuitable for filming, I often need to make changes to the script to address that  
17 reality. I will attend casting sessions to ensure that the director is thinking of the  
18 characters in the same way I intended in the script. But also hearing the lines  
19 spoken will often inspire me to make additional changes to the script. Similarly,  
20 the cast read through is conducted specifically so that I can hear the script read  
21 and, again, make the changes I think will improve the episode. The most extensive  
22 part of my job that is not, strictly speaking, writing is the editing process. But  
23 again, I attend these sessions because these are my scripts, no one knows them  
24 better (as alluded to below), and I want to make sure the final product meets the  
25 original promise. In short, writing is fundamental to, and inextricable from, my  
26 producing duties as a showrunner. While specifics may vary, I do not believe I am  
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1 in any way atypical in my approach to the job of showrunning.

2 14. One especially important production meeting that occurs for each  
3 episode is a “tone” meeting, which involves the director of an episode and the  
4 showrunner. During this meeting, the showrunner walks the director (and the first  
5 assistant director and the editor) through the episode that the director has been  
6 hired to film. Notably, it is the showrunner who conducts every “tone” meeting  
7 (regardless of whether the showrunner is credited as a writer on the script for that  
8 episode), not the member(s) of the writing staff who are credited as having written  
9 the script for that episode. I conduct every “tone” meeting because, as discussed, I  
10 am ultimately responsible for every single script and, by the end of the writing  
11 process, I should be the writer on staff most knowledgeable about the vision for  
12 that script, even if another writer wrote earlier drafts of the script in the first  
13 instance.

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

19 16. Based on my own experience as a showrunner and my knowledge of  
20 the day-to-day tasks of fellow showrunners, Dr. Snyder’s description of what  
21 showrunners do is glaringly inaccurate. As discussed in this declaration, the  
22 primary duties of showrunners are *writing* duties rather than managerial functions.

23 17. Other contentions in Dr. Snyder’s report do not describe my  
24 experiences as a showrunner or what I know to be the practice of other  
25 showrunners in television. Dr. Snyder asserts, for example, that showrunners are  
26 “principally responsible for decisions to hire and fire creative talent.” Dkt. 157-5  
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1 at ¶23. In fact, I do a vanishingly small amount of hiring and firing as a  
2 showrunner. In the last six months, for example, I have had one or two phone calls  
3 on the subject of writer staffing and a dozen or so phone calls dealing with  
4 budgetary issues. On the other hand, in the last week, I have spent at least fifty  
5 hours dealing with story documents, outlines and scripts.

6 18. In addition, Dr. Snyder asserts that “the writing budget for a typical  
7 one-hour non-pilot episode is generally between \$100,000 and \$175,000.” Dkt.  
8 157-5 at ¶27. The per-episode writing budget on the programs that I have run are  
9 usually *three to four times* Dr. Snyder’s figure. Dr. Snyder’s figure is  
10 approximately the amount of budget allocated on my programs to the lowest level  
11 writers in the writers’ room (those credited at or below the Co-Producer title). On  
12 my programs, there are numerous writers above those lowest level writers but  
13 below me, whose salaries Dr. Snyder has for some reason excluded from his  
14 estimate about episodic writing (not to mention my own).

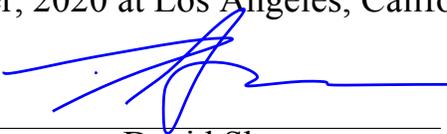
15 19. Finally, Dr. Snyder asserts that showrunners are often able to  
16 negotiate a part of the “profits” of a program and are thus rewarded for reducing  
17 costs for a show, including costs associated with compensation for other members  
18 of the writing team. *See* Dkt. 157-5 at ¶48. In fact, while I am never directly  
19 involved in the negotiations of writers’ contracts, I am inevitably fighting to  
20 *increase* my writing budget and I believe that other showrunners do the same. This  
21 is so because the quality of the show reflects directly on me and thus my interest is  
22 in having as much money as possible available to attract quality writers who can  
23 ensure that my project is as good as possible. In addition, the capabilities of the  
24 writers’ room on my project directly affects my quality of life, because the better  
25 the drafts delivered to me the less re-writing I have to do.

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

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

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David Shore

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