

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BARBARA KEILER, MONA GAY THOMAS,
and LINDA BARRETT, on behalf of
themselves and all others similarly situated,

Plaintiffs,

12 Civ. 5558 (WHP)

v.

HARLEQUIN ENTERPRISES LIMITED, a
Canadian corporation; HARLEQUIN BOOKS
S.A., a Swiss company; and HARLEQUIN
ENTERPRISES B.V., A Dutch company,

Defendants.

**AFFIDAVIT REGARDING (A) MAILING OF THE
NOTICE; (B) WEBSITE AND TELEPHONE HELPLINE; AND
(C) REPORT ON REQUESTS FOR EXCLUSIONS RECEIVED TO DATE**

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

JOSE C. FRAGA, being duly sworn, deposes and says:

1. I am a Senior Director of Operations for Garden City Group, LLC (“GCG”) located at 1985 Marcus Avenue, Suite 200, Lake Success, New York 11042. Pursuant to this Court’s Order Preliminarily Approving Proposed Settlement, Scheduling Hearing for Final Approval Thereof, and Approving the Proposed Form and Program of Notice to the Class dated April 5, 2016 (the “Preliminary Approval Order”), GCG was authorized to act as the Settlement Administrator in connection with the settlement of the above-captioned action (the “Action”).

MAILING OF THE NOTICE

2. Pursuant to the Preliminary Approval Order, GCG disseminated the Notice to potential Class Members.¹ A copy of the Notice is attached hereto as Exhibit A.

¹ Capitalized terms used and not otherwise defined herein shall have the meaning given to them in the Class Action Settlement Agreement, dated March 11, 2016 (the “Agreement”).

3. On or about April 14, 2016, GCG received from Class Counsel the unique names and mailing addresses and/or email addresses of 1,175 potential Class Members. GCG then loaded these 1,175 records into a database that GCG created and maintains for the purposes of administering this Settlement (the "Settlement Database").

4. On April 20, 2016, GCG sent the Notice via email to 912 potential Class Members for whom email addresses were provided. GCG also mailed by first-class mail, postage prepaid, a Notice to 263 potential Class Members for whom email addresses were not provided.

5. On or about May 25, 2016, GCG received from Class Counsel the names and mailing addresses of 3 additional potential Class Members. GCG loaded these 3 records into the Settlement Database and on June 3, 2016, GCG mailed by first-class mail, postage prepared, a Notice to these 3 potential Class Members.

6. In the aggregate, to date, GCG mailed by first-class mail, postage prepaid, or emailed 1,279 Notices to potential Class Members. This number includes 86 emailed Notices that were returned as undeliverable and to which Notices were subsequently mailed to potential Class Members and 15 previously mailed Notices that were remailed to updated addresses provided by the U.S. Postal Service.

7. Individual Notice was sent to all potential Class Members identified with the following exception. In two instances an author pseudonym was associated with two royalty co-recipients, but Harlequin provided contact information only for one co-recipient and, therefore, notice was only sent to one of the co-recipients in those two instances.


WEBSITE AND TELEPHONE HELPLINE

8. In coordination with Class Counsel, GCG designed, implemented, and maintains a website dedicated to this Action. The Settlement website is located at

www.harlequinsettlement.com. The homepage of the Settlement website contains a general overview of the Action. The Settlement website contains links to the Notice, Settlement Agreement, and Preliminary Approval Order. These links became accessible on April 20, 2016. The Settlement website is accessible 24 hours a day, seven days a week. Additionally, on May 5, 2016, a copy of Class Counsel's Application for an Award of Attorneys' Fees, Service Awards, and Reimbursement of Expenses, the Memorandum of Law in support thereof, and the Declarations of Michael J. Boni and David B. Wolf in support thereof were added to the Settlement website. Beginning on or about April 20, 2016, GCG established and continues to maintain a toll-free telephone number (1-800-231-1815). GCG also established an email address, info@harlequinsettlement.com, to allow potential Class Members to obtain information about the Settlement.


REQUESTS FOR EXCLUSION

9. The Notice informs potential Class Members that they may elect to exclude themselves from the Class. Written requests for exclusion must have been postmarked by June 6, 2016 and submitted to *Harlequin Class Action Settlement*, c/o GCG, P.O. Box 9349, Dublin, Ohio 43017-4249 or emailed by June 6, 2016 to info@harlequinsettlement.com. As of June 14, 2016, GCG has not received any requests for exclusion.



Jose C. Fraga

Sworn to before me this
15th day of June, 2016



Notary Public

VANESSA M VIGILANTE
Notary Public, State of New York
No. 01VI6143817
Qualified in Nassau County
Commission Expires April 17, 2018

EXHIBIT A

ATTENTION HARLEQUIN AUTHORS

A federal court has authorized this notice. This is not a solicitation from a lawyer.

- A proposed settlement of a class action lawsuit has been reached between Plaintiffs Barbara Keiler, Mona Gay Thomas, and Linda Barrett (“Plaintiffs”) and Defendants Harlequin Enterprises Limited, Harlequin Books S.A., and Harlequin Enterprises B.V. (“Defendants” or “Harlequin”). **Your legal rights may be affected whether you act or do not act. Read this notice carefully.**
- The lawsuit alleges that Defendants breached a material provision in the class members’ book publishing contracts with Harlequin, thereby depriving class members of a portion of the royalties to which they are entitled for the publication by Harlequin of their romance novels as e-books. Defendants deny all wrongdoing and liability, but have concluded that it is in their best interests to settle the litigation to avoid the expense, inconvenience, and interference with ongoing business operations.
- Under the Settlement, Harlequin has agreed to pay a total amount of \$4.1 million, which will be distributed to qualified Harlequin novelists, after payment for the costs of settlement administration, Plaintiffs’ attorneys’ fees and costs, and service awards to the three Plaintiffs, all as described further below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Automatic Benefits	You do NOT need to submit a claim form to obtain these benefits. They will be provided automatically.
Exclude Yourself	You may exclude yourself from the case and retain your rights to start or remain part of any other lawsuit against Defendants about the conduct challenged in this case.
Object	You may submit a written statement to the Court about why you don’t like the Settlement.
Go to Fairness Hearing	You may ask to speak in Court about the fairness of the Settlement.
Do Nothing	You will receive the full benefits of the Settlement, and will give up your rights to start or remain part of any lawsuit against Defendants about its conduct challenged in this case or related conduct.

**** These rights – and the deadlines to exercise them – are explained in this Notice. ****

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BASIC INFORMATION

1. Why is this Notice being provided?

Judge William H. Pauley of the United States District Court for the Southern District of New York authorized this Notice to inform you about a proposed Settlement of this class action lawsuit and about all of your rights and options before the Court decides whether to approve the Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

The case is known as *Keiler, et al. v. Harlequin Enterprises Limited, et al.*, Case No. 12-Civ-5558 (WHP). This Notice summarizes the Settlement, but you can view the complete Settlement Agreement at www.harlequinsettlement.com (the “Settlement website”).

2. What is this lawsuit about?

Plaintiffs filed a class action Complaint on July 19, 2012, which they amended on November 5, 2012, on behalf of authors who entered into book publishing agreements with Harlequin Books S.A. and Harlequin Enterprises B.V. between 1990 and 2004. This lawsuit is about the payment of royalties for the sale of e-books under those publishing agreements.

The publishing agreements at issue do not contain a specific term setting forth the royalty for e-books. Because there is no specific e-books royalty in those agreements, e-books are covered by an “All Other Rights” clause. That clause reads as follows (or in similar language):

On all other rights exercised by Publisher or its Related Licensees fifty percent (50%) of the Net Amount Received by Publisher for the license or sale of said rights. The Net Amount Received for the exercise, sale or license of said rights by Publisher from a Related Licensee shall, in Publisher's estimate, be equivalent to the amount reasonably obtainable by Publisher from an Unrelated Licensee for the license or sale of the said rights.

Plaintiffs contend that calculating the amount due to authors under this All Other Rights clause is complicated by the relationship between the various Harlequin entities. Authors entered into these publishing agreements with foreign subsidiaries, Harlequin Books S.A. or Harlequin Enterprises B.V (which, for simplicity, are referred to in this Notice as “Harlequin Switzerland”). The publishing agreements define Harlequin Switzerland as the “Publisher.” Harlequin Switzerland then licensed the works to Harlequin Enterprises (a “Related Licensee” under the publishing agreements), which in turn actually published the works as e-books. Thus, the royalties paid to authors for e-book sales has been calculated at 50% of the amount paid by Harlequin Enterprises to Harlequin Switzerland, which Plaintiffs contend is less than the amount reasonably obtainable from an unrelated licensee.

Plaintiffs claim that Defendants breached the publishing agreements because the licensing fees Harlequin Enterprises paid to Harlequin Switzerland did not comply with the contractual language quoted above.

Defendants deny Plaintiffs’ allegations, and deny any wrongdoing.

3. Why is this a Class Action?

In a class action, one or more people sue on behalf of other people who have similar claims. If allowed by a court, all of these other people become part of a “class” or “class members.” One lawsuit resolves the claims of all class members, except for any who exclude themselves from the class.

4. Why is there a Settlement?

The Court has not decided in favor of Plaintiffs or Defendants as to the merits of Plaintiffs' claims. Instead, both sides agreed to settle this case to avoid the burden, cost, and risk of further litigation. The Settlement does not mean that any law was broken or that Defendants did anything wrong. By settling, Defendants are not admitting any wrongdoing or liability. Defendants continue to deny all legal claims in this case. Plaintiffs and their lawyers believe the Settlement is in the best interests of all class members.

WHO IS INCLUDED IN THE SETTLEMENT**5. How do I know if I am part of the Settlement?**

You are a member of the Settlement Class if:

- You are a person or other entity, in the United States, Canada, the United Kingdom, the Republic of Ireland, Australia, or New Zealand;
- You entered into, or acquired the author's rights in, one or more standard form book publishing agreements with Harlequin Switzerland between 1990 and 2004;
- That publishing agreement includes an All Other Rights clause, with either this or similar language:

On all other rights exercised by Publisher or its Related Licensees fifty percent (50%) of the Net Amount Received by Publisher for the license or sale of said rights. The Net Amount Received for the exercise, sale or license of said rights by Publisher from a Related Licensee shall, in Publisher's estimate, be equivalent to the amount reasonably obtainable by Publisher from an Unrelated Licensee for the license or sale of the said rights;

- The written work published pursuant to that book publishing agreement has been published as an e-book;
- and
- You do not exclude yourself from the Settlement, as described in questions 10 and 11 below.

You should review any Harlequin publishing agreements that you have signed to determine whether you are a Settlement Class member. Because these terms were standard in Harlequin publishing agreement between 1990 and 2004, it is likely that if you signed a Harlequin publishing agreement during that time, it included these terms.

Additionally, you are a member of the Settlement Class if you are the heir of someone who was a class member or if someone who was a class member assigned you his or her rights. For example, if your deceased parent was an author who signed a Harlequin publishing agreement that satisfies the criteria listed above, and you inherited her right to receive royalties under that publishing agreement, then you are a class member. Similarly, if you are a corporation, and an author who signed a Harlequin publishing agreement that satisfies the criteria listed above assigned her rights to you, then you are a class member.

6. What if I signed multiple publishing agreements?

If you have signed multiple Harlequin publishing agreements for different works, you are a class member as long as at least one of those agreements satisfies the criteria listed in response to question 5, above. For example, if you signed a Harlequin publishing agreement for one work in 2002 that satisfies those criteria, and signed a separate publishing agreement publishing agreement for another work you wrote in 2007, you are a class member. This action and the Settlement would only relate, however, to your rights as to the 2002 publishing agreement.

7. What if I'm still not sure if I'm included?

If you are still not sure whether you are included in the Settlement, visit www.harlequinsettlement.com for more information. You may also send an email to info@harlequinsettlement.com, call 1-800-231-1815 or write to: Harlequin Class Action Settlement, c/o GCG, PO Box 9349, Dublin, OH 43017-4249.

THE SETTLEMENT – WHAT YOU GET AND GIVE UP IF YOU QUALIFY

8. What does the Settlement provide?

- A Settlement Fund in the total amount of \$4.1 million.
- The Settlement Fund, net of all settlement administration expenses, attorneys' fees and costs, and service awards, will be allocated to the Settlement Class members pro rata based on the amount of royalties they received from, or were owed by, Harlequin pursuant to the All Other Rights Clause for sales of e-books through December 31, 2015.
- **If you signed an amendment to any of your book publishing agreements that changed your e-book royalty from one based on the All Other Rights clause quoted above to a percentage of net digital receipts, only the sales of your e-books from prior to the effective date of the amendment will be included.**

9. What am I giving up if the Settlement is given Final Approval?

If the Settlement is given Final Approval, you and all other Settlement Class members will release certain claims defined in the Settlement as "Released Claims." In general terms, Settlement Class members (i.e., class members who do not timely and validly exclude themselves from the Settlement) will release all Defendants from any claims that have been or could have been asserted based upon the facts alleged in the complaint, as well as claims that may in the future arise out of, or relate to, author royalties claimed to be due in connection with the past or future publication of e-books pursuant to an All Other Rights Clause at or above the royalty rates made effective by Harlequin in 2012, which are equal to 50% of (a) intercompany royalties of 24% of NDR for series, and (b) 32% of NDR for single title works, or their equivalent. If the Settlement is given Final Approval, the claims that were asserted against Defendants in the lawsuit will be dismissed with prejudice.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to participate in this Settlement and you want to keep the right to sue Defendants about the dispute in this case, then you must take steps to get out of the Settlement. This is called asking to be excluded from-or "opting out" of-the Settlement. Class members who exclude themselves from this Settlement will not be entitled to any portion of the Settlement Fund.

10. If I do not exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Defendants for any of the claims that this Settlement resolves. You must exclude yourself from the Settlement to start your own lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants relating to the "Released Claims" described in the Settlement Agreement.

11. How do I exclude myself from the Settlement?

To exclude yourself from the Settlement, you must send a letter by email or postal mail clearly stating that you want to be excluded from the Settlement in *Keiler, et al. v. Harlequin Enterprises Limited, et al.*, Case No. 12-Civ-5558 (WHP). Include your name, address, telephone number, signature, and date.

You must send your request for exclusion by e-mail at info@harlequinsettlement.com, or by postal mail postmarked by **June 6, 2016** to:

**Harlequin Class Action Settlement
c/o GCG
PO Box 9349
Dublin, OH 43017-4249**

You cannot exclude yourself on the phone. If you exclude yourself, you will not be legally bound by any judgment in this lawsuit.

OBJECTING TO THE SETTLEMENT**12. How can I tell the Court I don't like the Settlement?**

You can object to the Settlement if you do not like some part or all of it. You must give reasons why you think the Court should not approve the Settlement. You may also object to Plaintiffs' Counsel's request for attorneys' fees, reimbursement of expenses, and Plaintiffs' service awards. To object, send a letter to the addresses below, explaining why you object to the Settlement in *Keiler, et al. v. Harlequin Enterprises Limited, et al.*, Case No. 12-Civ-5558 (WHP), and file your objection with the Court. Be sure to include any papers or briefs that support your objections.

You must file your objection with the Court no later than **June 6, 2016** and mail your objection to these two addresses postmarked no later than **June 6, 2016**:

PLAINTIFFS' COUNSEL	COUNSEL FOR DEFENDANTS
David B. Wolf (DW-2077) DAVIDWOLFLAW PLLC One Grand Central Place 60 East 42nd Street, Suite 4700 New York, NY 10165	Jay Cohen Daniel J. Leffell Jesse S. Crew PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP 1285 Avenue of the Americas New York, New York 10019-6064

13. What is the difference between objecting and asking to be excluded?

Objecting is telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court you do not want to be part of the Settlement. If you exclude yourself, you cannot object to the Settlement because the Settlement no longer affects you.

14. What happens if I object and the Settlement is approved?

If the Settlement is finally approved and you did not request to be excluded from the Settlement, you will remain a Settlement Class member regardless of whether you objected. You will remain bound by the terms of the Settlement and will not be able to sue Defendants about the claims in this case.

THE LAWYERS WHO REPRESENT YOU**15. Do I have a lawyer in this case?**

The Court appointed DavidWolfLaw PLLC and Boni & Zack LLC to represent the Settlement Class. These firms are called "Plaintiffs' Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your own expense.

16. How will the lawyers in the case be paid?

Plaintiffs' Counsel will ask the Court for attorneys' fees and reimbursement of the expenses they incurred in this case. Plaintiffs' Counsel's application for attorneys' fees and expenses will be filed with the Court by May 5, 2016 and posted on the Settlement website. Plaintiffs' Counsel will request \$1,025,000 in fees, and reimbursement of \$28,091.56, which are the litigation expenses they have incurred up until the Execution Date of the Settlement Agreement. In addition, Class Counsel will ask the Court for reimbursement of the costs they accrue from the Execution Date to the date of the Fairness Hearing, up to a maximum reimbursement of \$1,000.

Plaintiffs' Counsel will also ask for service awards of \$5,000 for each of the three Plaintiffs, for their services on behalf of the Settlement Class.

The Court may award less than the amounts requested by Plaintiffs' Counsel.

THE COURT'S FAIRNESS HEARING

17. How will the Court decide whether to approve the Settlement?

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider Plaintiffs' Counsel's request for attorneys' fees and expenses and Plaintiffs' service awards. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the Settlement and how much to award for fees, expenses and service awards.

18. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Fairness Hearing at 11:00 a.m., on June 30 2016, at the United States Courthouse, 500 Pearl Street, New York, New York 10007-1312, in Courtroom 20B. A motion for final approval of the Settlement will be filed by Plaintiffs' Counsel by June 16, 2016. The motion will also be posted on the Settlement website.

The Fairness Hearing may be moved to a different date or time without additional notice, so it is recommended that you periodically check the Settlement website, www.harlequinsettlement.com, for updated information.

19. Do I need to come to the hearing?

No. Plaintiffs' Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send in a written objection, you do not have to come to the Fairness Hearing to talk about it. As long as you filed your written objection on time, the Court will consider it. You also may pay your own lawyer to attend the Fairness Hearing, but his or her attendance is not necessary.

20. May I speak at the hearing?

You may speak at the Fairness Hearing if you submitted an objection as described in the answer to question 12 and stated in your objection that you wish to be heard at the Fairness Hearing. You cannot speak at the hearing if you exclude yourself from the Settlement.

If you choose to appear in person at the Fairness Hearing, you can appear yourself or by retaining an attorney at your own expense to appear on your behalf. If the attorney is appearing on behalf of more than one Settlement Class member, he or she must identify each of those members.

OTHER INFORMATION

21. How do I get more information?

This notice summarizes the Settlement. More details are in the Settlement Agreement, which is available at www.harlequinsettlement.com. If you still have questions, please send an email to info@harlequinsettlement.com or write to Harlequin Class Action Settlement, c/o GCG, PO Box 9349, Dublin, OH 43017-4249.

Please do not contact Defendants, their counsel, the Court or the Clerk's office.