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### **Good News and Not So Good News in ERDC-Canwest Settlement: Electronic Rights Recognized, But Compensation to Be Less Than Hoped**

The Electronic Rights Defence Committee (ERDC) wishes that its settlements with parts of the Canwest communication empire would result in a lot more money in the pockets of freelance writers, but is pleased that the settlements include explicit recognition of the importance of protecting electronic rights and the need to compensate writers fairly for the use of their material.

The Honourable Justice Eva Petras of the Quebec Superior Court approved the settlements June 18, 2010. In March 2009, she had authorized the ERDC to proceed with a \$33 million class action, originally begun in 1997, on behalf of freelance writers. At issue was work published in The Gazette that was being used electronically without permission and/or adequate compensation. For the last several years writer and translator David Homel has been the designated representative of the class which includes several hundred writers who produced thousands of articles.

The ERDC's settlements are with Canwest Publishing Inc./Publications Canwest Inc. (which is the legal successor through amalgamation of Montreal Gazette Group Inc, Canwest Interactive and Infomart Dialog Limited) and Canwest Global Communications Corporation. Both are in protection-against-creditors proceedings before Ontario courts. This means that the actual amount of the settlements is undetermined because the creditors' claims against the corporations are still being processed.

The ERDC's claim against Canwest Publishing has been valued at \$8,500,000 for voting and distribution purposes in respect of arrangements being worked out between Canwest Publishing and its creditors. The ERDC's claim with Canwest Global Communications is valued at \$500,000. In both cases the amounts that the ERDC will eventually receive on behalf of members of the class are likely to be very substantially less as the protection-against-creditors procedures are wound up. The ERDC will hold the money and/or stock in trust until the class action is completely settled and a formula for distribution of the settlement to class members is approved by the courts.

“We are pleased that freelance writers will eventually receive some compensation for their work used electronically, and that the other side explicitly acknowledges “the importance of protection of electronic rights and fair compensation for the electronic

dissemination of content,” said ERDC President Mary Soderstrom. “But we regret strongly that it has taken 13 years to get to this point, and that, because of the protection against creditors proceedings, freelancers will receive amounts much less than the face value of the settlements.”

She added that the ERDC also continues to maintain that contracts which freelancers have been forced to sign with The Gazette and Canwest are unfair.

The settlements themselves and the announcement of the class action can be found on the ERDC’s website <http://www.erd.ca>

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