

# The Authors Guild, Inc.

*Corporate Member of the Authors League of America, Inc.*

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Assemblyman Rory Lancman  
Member of Assembly, 25<sup>th</sup> District  
77-40 170<sup>th</sup> Street  
Fresh Meadows, New York 11366

Dear Assemblyman Lancman:

On behalf of the Authors Guild, the nation's largest society of published authors with more than 9,000 members (including more than 2,500 published authors from New York), we write to enthusiastically support and applaud your efforts and those of Senator Dean Skelos to introduce and pass S.6687/A.9652 ("Libel Terrorism Protection Act") (the "Bill").

A founding principle of our democracy is that the public is well-served by a vigorous and open marketplace of ideas. That increasingly global marketplace now faces a threat -- "libel tourism" -- that our founders never imagined. Wealthy individuals who find fault in the work of U.S. authors can take advantage of incidental overseas sales of U.S. literary works to bring libel suits in foreign courts. Typically, these suits are groundless, and would be quickly dismissed in the U.S., where authors have strong free speech protections. In foreign courts, however, the disgruntled claimant avoids our First Amendment, and may, as in the recent case against Rachel Ehrenfeld, win a default judgment when the defendant doesn't risk showing up in court. When Ms. Ehrenfeld then tried to avail herself of her First Amendment rights by filing a declaratory judgment action in New York, she found her way blocked by the limitations of New York's long-arm statute.

The Bill would protect New York authors through modest changes to the Civil Practice Law and Rules relating to long-arm jurisdiction and the enforcement of foreign judgments. These modest changes, however, would have an important effect: allowing Ms. Ehrenfeld and other New York authors to challenge foreign judgments rendered in jurisdictions that have no

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legitimate connection to the challenged publication and provide free speech and free press protections less robust than New Yorkers enjoy. Under the Bill, a New York resident could obtain judgment from a New York Court holding the foreign judgment unenforceable even if the foreign plaintiff takes no overt actions to enforce a default judgment. By limiting jurisdiction over declaratory judgment actions only if they are brought by New York residents who have assets in New York and whose works are published in New York, we believe the Bill strikes the proper balance between protecting New York authors and publishers and not opening our courts to declaratory judgment actions with insufficient ties to the state.

The matters addressed by the Bill directly affect our members' ability to investigate and write about important issues, such as the financing of terrorist networks, and other concerns of great interest to the public. Rachel Ehrenfeld's work, Funding Evil: How Terrorism is Financed—and How to Stop It, was published in this spirit. By passing this legislation, New York State would support authors' First Amendment right to speak freely without a crippling fear of foreign judgments obtained without this protection.

The Court of Appeals, in Ehrenfeld v. Bin Mahfouz, 2007 WL 4438940 (N.Y. Dec. 20, 2007), held that the long-arm statute as currently written does not provide jurisdiction over a foreign libel plaintiff. In Ehrenfeld, the Court of Appeals acknowledged the problem of libel tourism but stated that the "arguments regarding the enlargement of CPLR 302 (a)(1) to confer jurisdiction upon 'libel tourists' must be directed to the Legislature." The Bill is a direct and balanced response to that invitation. The Authors Guild urges the New York State Assembly to quickly pass the Libel Terrorism Protection Act.

Respectfully,



Paul Aiken  
Executive Director

cc: Assemblywoman Helene E. Weinstein  
Chair, Assembly Judiciary Committee