

Theaterweek Studio v. Actors' Equity

by Anthony Chase



It seems unlikely that Kathleen Gaffney, artistic director and chief executive officer at Studio Arena, was unaware that she was cruising for a bruising battle with Actors' Equity Association over two non-Equity productions announced for her 2007-2008 season. In fact, one might suspect that she was working to determine exactly what sort of battle she wanted to fight. As of this writing, she has gained some concessions that would have been hard to imagine this time last year.

Actors' Equity is the labor union representing actors and stage managers in this country. Specifically, Actors' Equity Association, which is often referred to as "Equity" or as "AEA," was founded in 1913, and "is the labor union that represents more than 45,000 actors and stage managers in the United States. Equity "seeks to advance, promote and foster the art of live theatre as an essential component of our society. Equity negotiates wages and working conditions and provides a wide range of benefits, including health and pension plans, for its members. Actors' Equity is a member of the AFL-CIO, and is affiliated with FIA, an international organization of performing arts unions."

Not-for-profit arts institutions have arrived at a fascinating and dramatic crossroads. In particular, mid-sized regional theaters across the country are facing dire financial straights. Institutions like Coconut Grove Playhouse in Florida and Charlotte Rep in North Carolina have folded. Business as usual too often means going out of business.

The pattern is familiar. It begins with a watering-down of artistic product, an abundance of one-person shows, two-handers and familiar titles. It ends with audiences who have little investment in the theater, mounting debt and sometimes closures.

Gaffney, who does not come from the traditional mold of regional artistic directors, does not seem interested to drift down that path. Last year, after it was revealed that Studio Arena had racked up \$1.4 million in debt in the years previous to her administration, she cut the budget by a million and let a horde of valued employees go. Then, when she announced her 2007-2008 season, it included the musical *Batboy* and the popular dramatization of *To Kill a Mockingbird*. It was later revealed that these would be "co-productions" with local producers MusicalFare and Road Less Traveled, and that they would be non-Equity. In other words, Studio Arena was looking to save money with the face-saving additional benefit that it would strengthen connections to the local theater community.

The non-Equity aspect of all this confused everyone in the theater community. As a member of the League of Regional Theaters, or LORT, Studio Arena must conform to the LORT contract that is negotiated between the LORT member theaters and the union. The contract specifies the use of Equity actors, while allowing certain exceptions. The rules are complicated and sometimes open to interpretation. Last season Gaffney had cleverly populated her production of *The Fourth Wise Man* with Buffalo State College students because, she learned, Equity has no jurisdiction over improvisation. If the students had no scripted lines, she could put a hundred of them on stage if she cared to.

The rumor began to circulate that the LORT contract allowed for two non-Equity productions in the season.

Oh really? Actors' Equity apparently begged to differ.

Exactly at press time, the official joint-announcement from Actors' Equity Association and Studio Arena Theatre became available. While many questions remain, the document states:

ACTORS' EQUITY ASSOCIATION REACHES AGREEMENT WITH

STUDIO ARENA THEATER FOR BAT BOY AND TO KILL A MOCKINGBIRD

Shows Will Be Under Union Contract

Actors' Equity Association (Equity) has reached an agreement with Studio Arena Theater to put the theater's presentations of *BAT BOY* and *TO KILL A MOCKINGBIRD* under Union contract.

The agreement reached for both productions calls for a minimum weekly salary of \$544 plus health and pension payments.

"We are pleased that Equity and Studio Arena reached a mutually beneficial agreement," said John P. Connolly, Executive Director of Actors' Equity Association. "Studio Arena has a long standing relationship with Equity and this will provide more job opportunities for Equity actors, who are vital members of the Buffalo community."

A dispute arose when Studio Arena made presenting arrangements with two local area theaters to mount MusicalFare's *BAT BOY* and The Road Less Traveled production of *TO KILL A MOCKINGBIRD*.

"Together Studio Arena, MusicalFare, The Road less Traveled and Actors' Equity Association have crafted an agreement that works for all parties involved," said Studio Arena Artistic Director Kathleen Gaffney. "Most importantly, our theater goers will have the opportunity to see these wonderful shows as part of our season."

Studio Arena is one of the oldest resident theaters in the nation and is a member of the League of Resident Theaters, a network of professional Equity theaters. Over the past four decades, Studio Arena has distinguished itself nationally and internationally with more than 298 productions, including 44 world or American premieres. Studio Arena's mission is to celebrate a common bond and shared experience through the creation of and appreciation of professional theater of the highest quality.

As of this writing, neither Studio Arena nor Actors' Equity is willing to talk about the compromise that has been worked out. There will be, I am told, a joint announcement from Studio Arena Theater and Actors' Equity at any moment. (See sidebar.)

Still, an email sent to the approximately 40 union members in Buffalo and Rochester indicates that *Batboy* will be required to employ nine Equity actors in its cast of 12, and that *To Kill a Mockingbird* will employ seven. The concession to Studio Arena is that they will be allowed to do so under a LORT D, rather than a LORT B contract.

Status as a LORT A, B, C or D theater refers to the seating capacity of a theater and its box-office revenue over a period of years. Studio Arena is, officially, a LORT B. The minimum salary for an Equity actor at a B house is \$728 per week; the minimum salary for the same actor at a LORT D house is only \$544 per week. This is a large concession—huge, in view of Equity's notorious unwillingness to concede anything—and one that might not have happened had Gaffney not forced the issue.

Reading between the lines, it appears that in effect, Studio Arena said, "We're \$1.4 million in debt and in danger of closing. This is the season we've announced and to pull it off we need to partner with non-Equity theaters. Okay, Equity, do you want to be the bad guy who shuts us down, or are you willing to play ball?"

Equity played ball. We can only speculate how begrudgingly. Still, all's well that ends well, and the message to local Equity members stated:

"As you are no doubt aware, Studio Arena Theatre was planning to engage two non-Equity productions, *Bat Boy: The Musical* from MusicalFare Theatre and *To Kill a Mockingbird* from Road Less Traveled Productions, as part of their subscription season. Actors' Equity has insisted that these productions must be on contract. On June 8, 2007, Equity filed for arbitration under the provisions of the LORT Agreement.

"Without going to arbitration, LORT agreed that it would be inappropriate for these productions to be done without contract at an Equity theatre. And, in recognition that the productions are being done in collaboration with non-Equity theatres, Equity has agreed that *Bat Boy* and *Mockingbird* may be produced under a LORT D agreement. All other productions in SATs 2007-2008 season will remain in the LORT B category.

"Specifically, *Bat Boy* will be required to have a minimum of 9 AEA Actor contracts, and *Mockingbird* will have a minimum of 7 AEA Actor contracts. The Actor minimum is \$544, with full health and pension benefits. This fully complies with the required LORT D Equity, non-Equity ratio."

I am reminded of events earlier this year when the Albright-Knox Art Gallery decided to hide their decision to sell their antiquities until it was too late for meaningful dissention. The venerable and beloved institution seemed to have decided that the sale provided advantages that far outweighed the black eye they would sustain by doing so.

The sale brought in \$67.2 million. The black eye will heal.

The Albright-Knox is trying to maintain international prominence as a modern and contemporary art museum at a time when work by living artists is going for truly breathtaking sums. Just last week, *Lullaby Spring*, a stainless-steel cabinet filled with 6,136 painted, bronze cast pills, by living artist Damien Hirst, sold for \$19.2 million in London. This is a record-breaking price, but one that illustrates a trend. The Albright-Knox decided that unless they were willing to give up their status as an international player, it was time to ignore public sentiment in favor of blistering market realities. The arrogant manner in which the decision was handled, the lack of public engagement and the public relations debacle that ensued will soon seem like a long time ago. The gallery hopes to endure forever.

Though the circumstances are different, Studio Arena faces some similar dilemmas. Unlike the Albright-Knox, Studio Arena has already lost its national profile and has never had international acclaim. They are, moreover, in danger of going bankrupt. This agreement allows Studio Arena to save cost and to populate its stage with large productions, a priority for Gaffney, who loathes the tendency to water down product as theaters ignore artistic goals in favor of financial goals.

Many questions remain. Most immediate among them, at least among the actors to whom I have spoken, Equity and non, is "Will the non-Equity actors who were cast in *Batboy* and *To Kill a Mockingbird* now be replaced with Equity actors, or will they be asked to join the union?" At press time, the word on the Rialto was that the non-Equity actors in place would be given one-time contracts with an option to join the union if they paid the \$1,100 initiation fee. There is reluctance among Buffalo's actors to become Equity members because union actors are not allowed to take non-union jobs. There is even some resentment among local union members who do not see the union as attending to the part of its mission that "seeks to advance, promote and foster the art of live theatre as an essential component of our society." Often, Equity status prevents artists from engaging in the art more often than it promotes those opportunities. The current agreement over *Batboy* and *To Kill a Mockingbird* may prove to be an exception. In the meanwhile, both sides are putting on a happy face.

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