

THE BUSINESS OF FILMMAKING: HOW TO BE AN ATTORNEY TO THE STARS

I. Presenters

A. Robert Ramsey, Esquire, Garden State CLE Senior Instructor

B. David Rubenstein, Esquire

1. Business attorney licensed to practice in Illinois, New Jersey, New York, and Florida.
2. Film producer.

II. Entertainment Law

A. Review and draft contracts for filmmakers, directors, producers, writers, actors, etc.

B. Negotiate contracts with financiers.

C. On-call during filming for any issues that may come up.

D. Television and music contracts.

III. Movies

A. Producers are concerned with all things artistic. Executive, or assistant, producers focus on the business aspects.

B. Actors will either be paid a higher salary or a lower salary with points, *i.e.*, a percentage of box office proceeds.

C. David Rubenstein's involvement in the film *1917*.

D. Conflicts of interest.

E. Everything must be covered in operating agreements.

F. Addressing budgetary issues.

G. When some or all of the filming occurs outside the U.S., choice of law must be identified in a contract. Note that an easy compromise may be international arbitration.

H. The attorney must advise the client of tax advantages and disadvantages when choosing a filming venue, *i.e.*, inside or outside the U.S., or if in the U.S., which state. Between 40 and 50% of states offer a tax credit or a rebate.

I. The attorney's duty is to protect the client from liability, not to advise on the soundness of the investment.

J. Attorney must advise the client as to the type and amount of insurance necessary to lessen potential liability.

IV. Impact of COVID-19 on the financing and income streams of movies.

A. Films are not coming out in theaters at nearly the same rate as they were before. Some studios are releasing to theaters and companies like HBO Max at the same time. Others are selling their films directly to HBO Max, Showtime, Amazon, Netflix, Hulu, etc.

B. What happens when theaters are open again is unclear. Will people accept the risk and go back to crowded movie theaters?

C. In an effort to prevent monopolies, laws were enacted that prohibited studios from owning theaters. Those laws have been repealed so that we may see Amazon, Netflix, Disney, etc. theaters just showing their own films.

D. Attorney must identify the filmmaker's goals before contracting with an entity through which the production will be released.

V. Unions

A. In the filmmaking industry, there are multiple unions.

B. Best to hire someone who specializes in the concerns presented by these unions to work with the attorney before negotiating and drafting any agreements.

VI. Attorneys wanting to get involved in the film business should find mentors and offer to intern for free.

VII. Contact information for Mr. Rubenstein.

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