



ENTERTAINMENT LABOR LAW

Leading Role

Those who work in the entertainment, videogame and music businesses understand that their industries are highly labor-intensive, particularly the creation of audiovisual entertainment product such as motion pictures, television, new media, videogames, live theatrical presentations and music. That creative or technical labor is frequently unionized, with complex collective bargaining agreements that can impact production and encumber the final product.

The lawyers in Barnes & Thornburg's entertainment labor practice provide guidance to producers, investors and financiers who are involved with the creation of entertainment product, and to those who distribute and exploit that product in traditional markets and new media.

We have intimate and detailed knowledge of the main agreements with:

- Writers Guild of America (WGA)
- SAG-AFTRA
- Directors Guild of America (DGA)
- American Federation of Musicians
- International Alliance of Theatrical Stage Employees (IATSE)

Our attorneys have been the principal negotiators of the SAG and AFTRA Interactive Media Agreements and the IATSE Low Budget Theatrical Agreement.

Our entertainment labor attorneys also assist clients with complex matters related to:

- The negotiation and drafting of project-specific collective bargaining

Why Barnes & Thornburg?

Finding new ways to help clients identify solutions and new business opportunities, across industries, is at our core. We are, at times, more than lawyers, we are advisers bringing new ideas to light. We understand what keeps you up at night and work collaboratively to find practical and creative solutions, at the heart of business.

RELATED PRACTICES

Entertainment

agreements

- Analyzing and providing guidance on the application of collective bargaining agreements
- Analyzing the risk/cost attendant to exploiting property produced subject to those agreements
- The defense of claims, both in arbitration or judicial forums, based on alleged violation of those agreements

We advise clients on:

Pre-Production

- Review and arbitration of WGA separation of rights issues
- Identification of potential labor issues based on production locations (domestic or foreign) and planned activity
- Staffing requirements
- Guidance on financial assurance issues with the SAG-AFTRA, DGA and other labor organizations
- Negotiation of labor agreements and/or their modification

Production

Working relationships on the set can be unpredictable. Our attorneys provide advice on unexpected labor issues that arise during production, including:

- Union grievance claims
- Unplanned events such as illness, safety issues and weather that can influence production schedules and locations

Post-Production

Union claims relating to post-production work, including editing, sound or special effects and music including:

- WGA credit determination issues
- DGA cutting rights issues including -final cut - disputes

Representation in connection with investigations by state or federal agencies concerning:

- Workplace safety (OSHA)
- Wage and hour compliance (FLSA or state law)
- Employment discrimination (NLRB, EEOC)
- Union claims related to post-production work, including editing, sound or special effects and music

Initial Exhibition/Marketing

Our attorneys provide counsel on compliance with provisions of guild and union agreements concerning screen credits and credits in advertising material, as well as the use of excerpts from visual entertainment product for marketing and exploitation purposes.

Continued Exploitation

We provide guidance and/or help resolve residual claims relating to the exploitation of motion pictures and/or soundtracks in both original markets and new use claims for exploitation in secondary markets.

Labor Litigation and Arbitration

Although we are often able to help our clients resolve their issues amicably, when dealing with unions and their trust funds that is not always possible. Among the types of disputes that we have successfully handled through arbitration or litigation are:

- Obtaining the reversal of a WGA writing credit determination for the pilot episode of a network television series
- Obtaining a federal court dismissal of claims that a motion picture producer did not own the separated theatrical rights in a classic television series and successfully defending that judgment on appeal to the Ninth Circuit
- Representing of a major television network in connection with a defensive lockout of its technical employees following a -quickie strike, - including defense of unfair labor practice charges and prosecution of state court injunction litigation
- Establishing through arbitration the right of a producer to take away -final cut - previously granted a feature film director
- Representing producers in connection with attempted reacquisition of literary material by a writer
- Defeating a union organizing campaign for a broadcaster involving a unit of 100 employees; work included the formulation of campaign strategy and tactics and litigation of an NLRB representation hearing
- Establishing through NLRB proceeding that numerous freelance animation workers were independent contractors and not employees
- Litigating trust fund contribution disputes over allocations of payments under international license agreements
- Defending a major entertainment company in a high-profile sexual harassment case brought against one of its star performers

Practice Leaders



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