



The Law Office of Deborah Gonzalez, Esq.

IP: Art, Music, Entertainment, Digital

Atlanta – New York

www.dgonzalezsq.com

Filmmaking and the Law

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When does a filmmaker need to work with an attorney?

At the very beginning. For some that may be before the beginning when you want to secure the rights for the actual story - for example, if the film will be based on a published novel, unpublished manuscript, lyrics in a song, or the life of a person in a recent news story. The attorney can also help you once you secured the source material on putting together the team - including above the line talent (actor, director, etc.); below the line talent (crew, makeup, etc.); outside the line (distributor, etc.) and others. Most of these are done through contracts - whether for production or employment. Your attorney can also help you with contracts for locations, tax incentives, and clearances.

The Three C's: Contracts, Copyrights, and Clearances

Just about everything you do to make the film and then have it distributed is documented through contracts. They are your friends and will provide a certain amount of security in terms of having resources. But they also imply that you have some responsibilities to fill. Getting the rights to the source material is not the only clearance you need to be concerned about in making a film. Even documentary filmmakers have to be careful not to misappropriate trademarks or images that belong to others. Don't forget about publicity and privacy rights either. A good entertainment attorney will help steer you as you proceed in the filming so you don't have to throw away footage or edit out those important scenes just because you didn't put it in your budget the royalty fee to use "Happy Birthday."

Other Issues to Remember

E&O insurance is extremely important - especially for your investors and distributors. The ratings that your film will have may seem to you to border on censorship, but you need to be aware of the criteria and how it affects the final editing of your film. Also keep in mind ancillary rights such as merchandising or "tying" in with product placements such as McDonald's Happy Meals, etc.

Additional Resources

Learn as much as you can. Talk to other filmmakers and meet with an experience entertainment attorney. There are books and websites with information, but it is always best to leave the law to the professionals. It will save you money in the long run. Happy filmmaking!