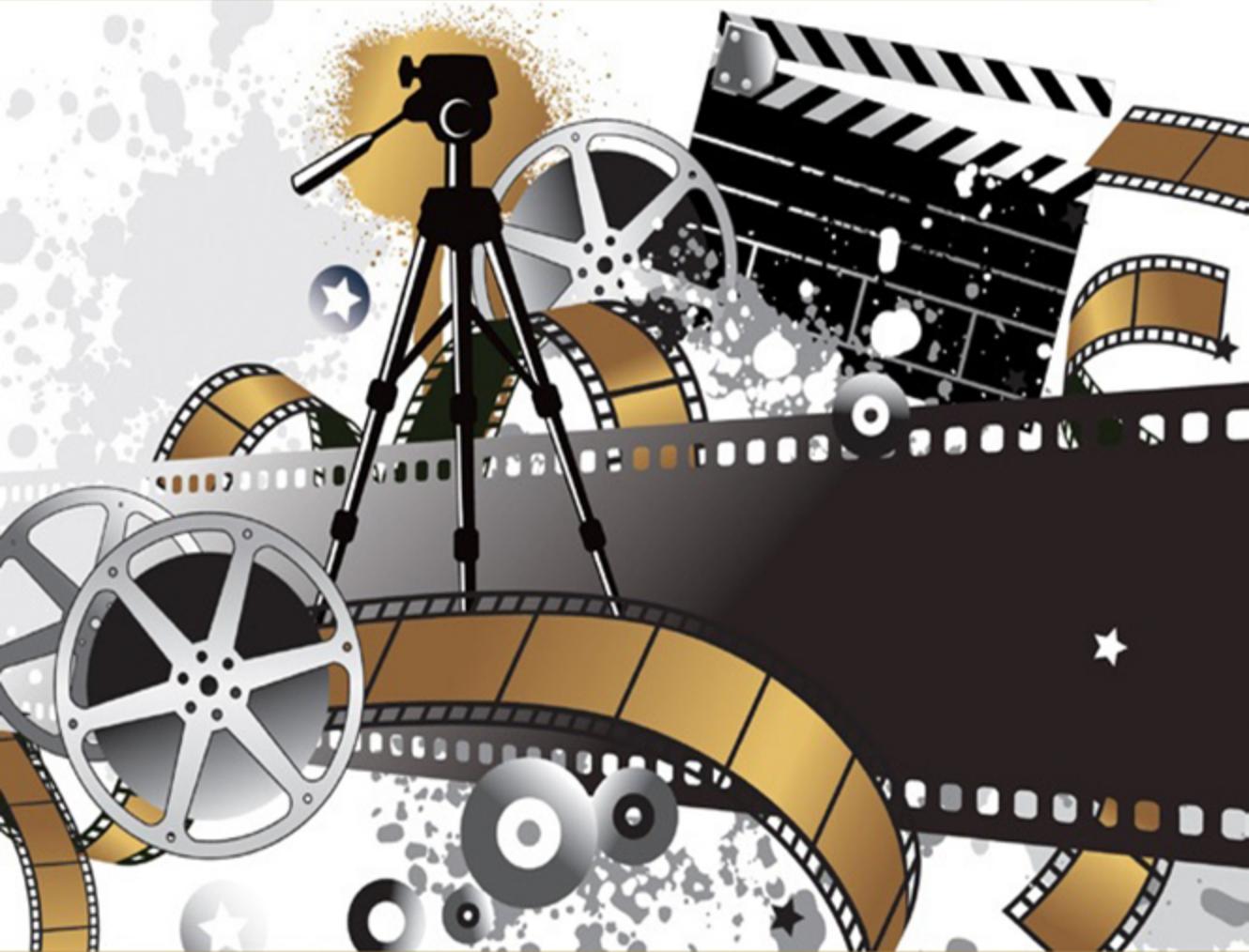


HOLLYWOOD STUDIO PRODUCTION TECHNIQUES



WINNIE WONG

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HOLLYWOOD STUDIO PRODUCTION TECHNIQUES

Theory and Practice

Winnie Wong



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New Delhi

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*To my parents, Bob and Flora, who nurtured me and
encouraged me to be more than I can be.*

*To my husband, Stan, who loves and supports me
unconditionally.*

*To my son, Trevor, who is my source of inspiration and pride.
Believe in your abilities and keep reaching for the stars!*

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PROLOGUE

To the readers, making a film does not only entail a good story, good directing, good acting, but ultimately good business practices. These practices include understanding the process, gaining the necessary knowledge, and working with experienced filmmakers and advisors.

Filmmaking requires a lot of hard and arduous work but in the end it is worth it because your film has the potential to impact and influence an unlimited audience for years...even decades from now.

Knowledge is power...Knowledge is safety ...Knowledge is happiness.

(Thomas Jefferson, letter to George Ticknor, November 25, 1817)

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This book opportunity and discovery of my writing talents were made possible because of a series of blogs titled, “Lights, Camera, Insurance,” that were posted on the Web site of the film association, Film Independent. Lucky for me, Gerald Everett Jones read them and contacted me. I wrote a book outline and the rest, as they say, is history. Thank you!

My analogy...Filming takes a village of artisans also applies to this book as well. Its completion required the contributions of the following experts: Peter Shaner, Liz Amzden, Ted Gerdes, Paul Holehouse, Paula Marie Duncan, Marie Frick, Tom Shell, Greg Krutilek, and Dean Chely. Thank you for your advice and invaluable support!

CHAPTER 1

EVOLUTION OF STUDIO WORK METHODS—A HUNDRED YEAR OLD SYSTEM

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- History of Film Studios
- Big Five Studios
- Advancements That Increased the Popularity of Film
- Assembly Line Filming
- How Were Studios Organized?
- End of the Studio System
- Studios of Today
- Studio Management

History of Film Studios

On your path to becoming a great filmmaker, you must reflect on the evolution of how the studio system was established. The world of film all started with the first projection of a movie by the Lumière Brothers on December 28, 1895. Soon silent films consisting of romance, comic sketches, slapstick, westerns, and narratives increased in popularity and “picture palaces” were created. As this media became a preferred form of entertainment, theater admissions, and revenues reached record levels.



FIGURE 1.1 Silent Film—Couple in Passionate Embrace.

In order to accommodate this demand and the possibility of making MONEY the *studio system* was born. In this system, the studio owned and managed the buildings and contracted the performers and other filmmaking personnel.

To take advantage of the revenues, Hollywood studios were formed in rapid succession:

- 1912—Carl Laemmle established **Universal Pictures**.
- 1914—W. W. Hodkinson established **Paramount Pictures Corporation** to be later purchased by Adolph Zukor and Jesse Lasky.
- 1915—William Fox established **Fox Film Corporation** later to be known as **20th Century Fox** after a merger in 1935.
- 1919—Mary Pickford, Charles Chaplin, Douglas Fairbanks, and D. W. Griffith established **United Artists**.
- 1923—Jack, Sam, Albert, and Harry Warner formed **Warner Brothers**.
- 1924—Jack and Harry Cohn founded **Columbia Pictures**.
- 1928—David Sarnoff created **RKO (Radio-Keith-Orpheum)**.
- 1935—Darryl Zanuck established **Metro Goldwyn Mayer (MGM)**.

Big Five Studios

Thanks to the studio system, films were being produced at breakneck speed, however only the studios that had the foresight to own their own theaters and distribution divisions became wealthy film conglomerates. It was soon discovered that owning your own chain of theaters made it effortless to attract a colossal “movie loving” audience and actually develop a consistent revenue stream. The five most successful studios were called the “Big Five” which were 20th Century Fox, RKO Pictures, Paramount Pictures, Warner Brothers, and Metro-Goldwyn-Mayer Studios. These studios had an efficient “well-oiled” operation in effect and could *monopolize* the industry.

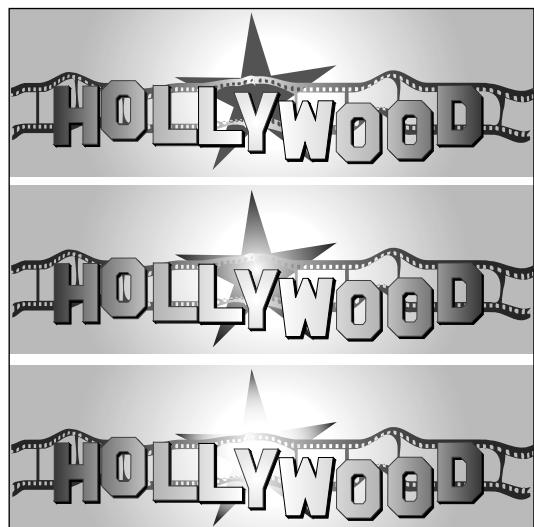


FIGURE 1.2—Hollywood Design

KEY TERM:

MONOPOLIZE To dominate; to corner the market; to assume complete possession or control.

The other studios, Universal, Columbia, and United Artists, were considered “major minors” because they did not own a large theater chain.

■ **Advancements That Increased the Popularity of Film**

Camera and Lighting Advancements

Besides the development of the studio system, innovations of camera and film techniques were being tested and developed. Techniques like stop motion, double vision, multi-camera use, insert shots, reverse-angle cutting, soft focus, and artificial lighting enhanced the quality of the films.



FIGURE 1.3—Vintage Film Camera

Sound Technology

Adding sound to film was very difficult for technicians to synchronize and achieve the right amplification. From middle to late 1920, sound technology in film was developed. The process was first called “sound on disc.”

In this instance, a sound track would be recorded on a photograph record. Eventually “sound on film” which means synchronizing sound with film was perfected.

Warner Brothers was the first studio to take a chance on this technology. This gamble played off and established the era known as the “Talkies.”



FIGURE 1.4—Young Lady Who is Worshipped by Three Suitors

Color in Film

Another enhancement was the addition of color in the film. Early film editors would hand paint negatives with stencils. Between 1900 and 1935, additive and subtractive color systems were invented and perfected. The vivid colors made films even more realistic. One truly cannot imagine the magical world of "The Wizard of Oz" without color.

■ Assembly Line Filming

To accommodate the increased demand, the studio system began to establish an *assembly line* process.

KEY TERM:

ASSEMBLY LINE An arrangement of machines, equipment, and workers in which work passes from operation to operation in direct line until the product is assembled.

This process is basically a template for how films are made today:

1. Purchase literary works.
2. Develop the scripts.
3. Assign a cast, directors, and film crew to shoot the film.
4. Hire the prop masters and costume designers to set the stage.
5. Shoot the film.
6. Edit and create a rough cut of the film.
7. Screening made for the studio executives who make changes.
8. Mix in the originally composed music.
9. Screening of the film by the general public.
10. Release the film to the theaters the studios owned.

To make things easier, the studio would categorize the pictures by star quality and budget sizes (large, medium, and small):

- “A” pictures—top directors and cast and shot within 4–6 weeks.
- “B” pictures—less known cast and shot within 2 weeks.
- “C” pictures—cartoons and short subjects that were completed within a month.

How Were Studios Organized?

Cast

To maintain an unlimited supply of cast, the studios provide seven year contracts in which they would develop the talents of various individuals. They

would assign actors to various roles in films; provide acting, singing, or dancing lessons to help achieve stardom. Of course, there were stipulations to the agreement such as suspension or termination of the agreement if the studio executives saw fit. In addition, the studios would set up publicity situations like set up dates with leading stars or promote photo opportunities. Basically, if an actor was under contract, they were considered an “indentured servant” to the studio.

Film Crew

Besides actors, the studios managed the careers of directors, cinematographers, and writers. These individuals were given a chance to increase their experience and learn how to improve their skills. For the pleasure of this experience, they had to work long hours and deal with creative challenges as well as demanding studio executives.

End of the Studio System

By the 1940s, the established studio system underwent a series of rulings from the Supreme Court which subsequently ended the Golden Age of Studios:

- 1944, “de Havilland decision”—The Supreme Court ruled in favor of actress Olivia de Havilland and stated that studios could no longer hold an actor to their long-term contracts.
- 1947, “Block Booking”—The studios could no longer force theaters to release all their films.
- 1949—All studios were mandated to sell all their theaters.

These rulings accomplished the following:

- Enabled actors to pursue projects that suited them as well as negotiate their own contracts. Actors could now negotiate percentages of the film’s gross.
- Allowed theater owners to choose the films they wanted. This opened up the world of film to independent features.

Ultimately, these events significantly changed the way studios are managed and operated today.

Studios of Today

The six major studios of today, Warner Brothers, Paramount Pictures, Columbia Pictures, 20th Century Fox, Universal Studios, and The Walt Disney Company, have evolved into management structures in all the stages of filming: development, pre-production, production, post-production, and distribution. The slate of films the studios produce are no longer voluminous due to the increased costs for directors, cast, locations, stunts, pyrotechnics, and special effects in a film. Many studios limit the number of studio films to 4 to 6 a year. The studio's main objective is to operate efficiently and remain profitable.

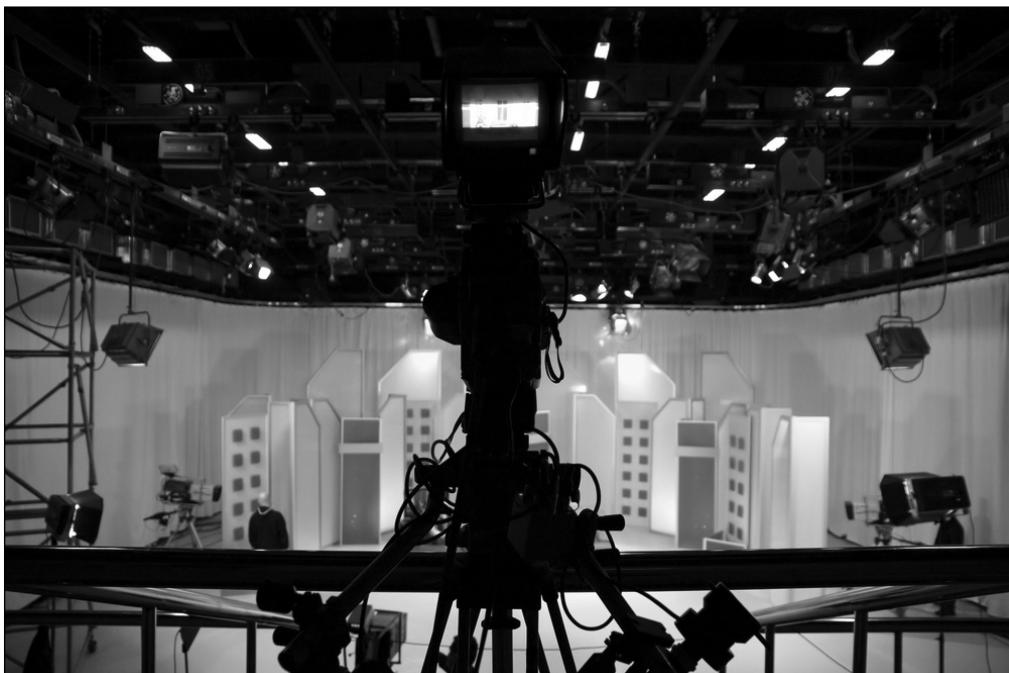


FIGURE 1.5—Film Studio—Lights, Camera, and Sets

Key Executives

To ensure the success of a studio, it must rely on a number of key operation executives. Those individuals are:

Chief Operating Officer—Oversees the operations of the studio such as legal and business affairs, human resources, facilities, and planning.

Head of Production—Motion Pictures Group—Oversees all the aspects of production.

Chief Financial Officer—Oversees all financial activities of the studio including budgets, financial reports, and development of future business.

Business Affairs—Oversees the business aspects of the studio's worldwide operations as they pertain to development, production, and distribution of theatrical films.

Human Resources—Oversees the management of the human resources department, recruitment, employee training, compensation, and benefits.

General Counsel—Oversees staff and is responsible for all negotiations, litigation, copyright and trademark, intellectual property, and employment law.

In addition to these individuals, there are other important divisional department heads that oversee marketing, international distribution, domestic and digital distribution, home entertainment, and television.

Stages of Filming

Development

The filming process starts with story, idea, and script. The majority of the time stories come to the studio through literary agents or through story ideas presented to a studio executive. If the studio creative team is interested, they will need to have the approval of the head of production. The head of production oversees the creative team and the development of the movies. Once approval is made, the creative team will have their attorneys acquire the rights of the story or book and hire a script writer to do a screen play. Next in the development stage, the heads of development, production, and distribution do an extensive film forecasting to determine the marketing potential of the movie before consideration.

The forecast starts with the genre of the film which are as follows:

Action	Adventure	Animation	Comedy
Crime	Documentary	Drama	Family
Fantasy	Historical	Horror	Musical
Mystery	Romance	Sci-Fi	Sports
Supernatural	Thriller	War	Western

The studio executives do a forecast of sales over a 10 to 15 year period to determine if the film would be profitable. They look at the quality of the script, past box office receipts of other similar films, anticipated release date, targeted audience, and the popularity of the cast and director. In addition, the forecast includes other revenue sources like foreign and domestic DVD sales and cable and television broadcasts. As with all films, it is hard to predict if a film will be successful.

Film Financing

If calculations show the possibility the film would make a profit, the chief financial officer and his department proceeds to film financing. Film financing is simply putting together funding sources to enable the production of a film. Unlike independent filmmakers, studios have established sources for funding such as:

Banks and financing entities—Banks, investors, and lenders establish film funds in the millions/billons for the studio's slate of films.

Tax shelters—Allows investors in another country to take an immediate tax deduction on their film investments.

State tax incentives—Tax credit provided when a part of a film is produced in a selected state.

Pre-sales foreign or television—Studio sells the rights to distributors in other countries before the film is produced.

Pre-production

Once fully financed, the film gets the *green-light* by the head of production and his department set the principal photography date (start of film).

KEY TERM:

GREEN-LIGHT Give permission to move forward with a project.

This stage is known as pre-production, depending upon the film the following takes place in the following succession:

1. The production budget is fine-tuned and finalized by the finance department.

2. The script is broken down into scenes and a schedule is put in place by the production department.
3. Directors and cinematographers are interviewed and selected.
4. Casting department contacts talent agent and sets up auditions for key actors for the director and producers to hire.
5. Film crew members such as location manager, art director, set designer, costume designer, and special effects supervisor are hired. These individuals start securing locations, props, sets, and costumes.
6. Stunt coordinators and pyrotechnics are hired and start planning the various stunt activities.

Production

This is the stage where the actual filmmaking happens. Usually the departments of physical production and risk management will oversee all aspects of filming. Additional crew members are hired to assist with management of the production office—producer managers, coordinators, assistant directors, script supervisors, picture editor, and sound editors. In addition, established safety requirements for filming at locations, stunts, and pyrotechnics are mandated to ensure production can finish on time without incidents that could halt the production. The period of principal photography can last as long as 6 to 8 weeks.

Description of a Day at the Set

A day of filming usually goes as follows:

- Film crew and actors arrive at their assigned *call times*.
- Set construction, camera, lighting, makeup, and dressing departments and personnel start preparing for shooting.
- Actors rehearse the script and do staging with the director.
- Actors have their hair and makeup done and put on their costumes.
- Before camera rolls, “Quiet on the Set” is announced. Then the sound mixer and camera operator will start the equipment and a *marker* will be set. Then the director will cue the actors by saying “Action.”
- The director takes over and starts filming. If he wants to stop the action he calls “Cut.” He can stop or request another take if necessary. In addition, the film crew will take various camera angles of the scene.

- Once shooting is finished, the crew will dismantle or *strike the set* and start and prep for the next scene.
- At the *end of the day* the director sets up the schedule for the next day. *Call sheets* for the next day are distributed to cast and crew.
- Director and other department heads review the *dailies*.

KEY TERM:

CALL TIMES Establishing the start times for the director, actors, and film crew on a particular shoot day.

MARKER Utilizing a clap board, it establishes the scene number and the number of times a scene was shot.

STRIKE THE SET Dismantle and take down the set.

CALL SHEETS A form that outlines the scenes, personnel, and equipment that will be required on a particular shoot day.

DAILIES The unedited footage of film shot on a particular day.

Post-Production

This stage starts when filming has been completed or “wrapped” and editing of the film begins. The director and head of production assist with the vision of the film. They rely on a team of in-house editors that accomplish the following tasks:

- Editing the film.
- Create visual effects with computer generated imagery (CGI).
- Create sound effects for the film.
- Automatic dialogue replacement (ADR)– looping actors dialogue into a scene.
- Adding music into the sound track.

This process can take up to 4 to 6 months depending on the film.

Distribution

Once the film is completed, test screenings are conducted to determine if particular scenes need to modified, deleted, or added. When the final film print is achieved, the marketing department will start implementing advertising, promotion, and publicity campaigns for the studio's release of the film. Trailers, commercials, interviews, and press releases are now considered standard expenses for a studio film.

In addition, the studio's heads of distribution will oversees all matters relating to the release of the film both domestically and abroad. The distribution team will work extensively with their established exhibitor and trade relationships to achieve a successful release.

The distribution date is determined by the marketing department and domestic and international distribution departments. All departments will do financial calculations and utilize actuarial data to determine the right time to release the film.

Will This Film be a Hit?

Once a film is released by a studio, one would assume they will make millions or billions. They have all the appropriate ingredients to make it big:

- Huge Budget—Ranging from \$100 million and up
- *A-list* director and cast members
- Spectacular stunts and pyrotechnics
- Experienced film crews

KEY TERM:

A-LIST The most bankable stars in the movie industry.

EXAMPLES: Will Smith, Johnny Depp, Brad Pitt, Tom Hanks, George Clooney, Will Ferrell, Meryl Streep, Angelina Jolie, Nicolas Cage, Leonardo DiCaprio, Russell Crowe

Studio executives ask the same question as independent filmmakers everywhere “Will it make MONEY?” A domestic theatrical release does not guarantee a studio financial success. The following items that can reduce the profitability of a film:

- Poor attendance, both domestically and internationally.
- *Production overruns* due to production setbacks, i.e., weather.
- Advertising/marketing and distribution costs.

KEY TERM:

PRODUCTION OVERRUNS The additional costs or expenses that the production company incurs should a setback or delay occur.

There have been films in a studio’s history that end up losing millions or just *break even*. Luckily for studios, they can rely on additional revenue from domestic and foreign sales to cable, television, DVD, and on the Internet.

FILM EXAMPLE

SIDE NOTE

Universal Studios’ film “Waterworld” (1995) was “green-lit” by the studio with a budget that started at \$100MM.

Due to production setbacks such as hurricane damage to its multi-million dollar set in Hawaii, stings by jellyfish to cast members, and illness of stunt personnel. These occurrences lead to major overruns. The final budget was \$175MM.

To make matters worse, the film did not do well domestically making only \$88MM. However, the film did well at the foreign box office making \$176MM. Of course this was a relief to the Universal Studios executives.

Studio Management

The studio system works because of a combination of management and financial structures. This system enables studio staff to work concurrently and seamlessly within their assigned production disciplines, each role from pro-

curing rights, scheduling, budgeting, and hiring employees to marketing all result in the completion of a film and ultimately the success of a studio.

Predictability of Schedules and Budgets

The two essential ingredients when it comes to a filmmaking are:

- Schedule—This document breaks down the scenes of the film into an organized action plan. The purpose of scheduling is to minimize the production time on scenes and minimize costs.
- Budget—This document establishes the anticipated costs for above the line (creative costs, including cast), below the line (production costs), post (editing), and other costs (bonds, insurance, and contingencies). It provides the parameters in which accountants can manage production expenditures. (See Chapter 10—*The Budget*.)

Efficiency on the Set

As in any business, maintaining efficient operations is important to remain productive. The simple equation is you must manage your cost and time to achieve effective operations. In film, the production management team's whole objective is to complete the film within the allotted time and budget.

This is accomplished by:

- Hiring experienced and conscientious staff who work well together.
- Establishing procedures in acquiring equipment, locations, props, and vehicles.
- Creating a production schedule that allows for flexibility. This allows for “**shoot around possibilities**” due to delays because of bad weather or cast illness.

KEY TERM:

SHOOT AROUND POSSIBILITIES Film alternative scenes if the crew is unable to shoot at the original location.

- Establishing production meetings to discuss concerns, answer questions, and communicate the objectives of the day.
- Prepping locations and facilities 5 days ahead of the film crew. This prevents delays with location permits and moves the production process along.

Professionalism and Safety

Professionalism is important in the world of film because the attitudes and personalities of any filmmaker will either further your film career or require you to look for another career.

The film world is made up of independent contractors who do not have any vested interest in a company and do not have the motivation to treat others respectfully. Unfortunately, this is an industry that has had its share of sexual harassment and discrimination lawsuits. To mitigate these types of lawsuits film studios have established *standards of business conduct* that applies to employees and directors. The business affairs, human resource, and legal departments want to establish good leadership to foster better teamwork.

Safety on the set is another way studios can avoid lawsuits from third parties and employees before they happen. A studio's risk management department establishes an injury and illness prevention program and provides safety checklists for locations, electrical lighting equipment, generator use, and vehicles.

In addition, they provide loss control personnel to conduct safety meetings and assist with *staging, rehearsal* on stunt and pyrotechnics activities. Establishing a safety plan lessens the probability of injury.

SUMMARY

The overall purpose of this chapter is to give you both a historic and present day view of the studio system. The main reason the studio system has lasted for many years is because we are avid filmgoers. We need films to escape the world we live in and explore new worlds through a visual art form. Besides the popularity of film, the studio system has flourished due to the establishment of management and financial structures in all stages of filming: development, pre-production, production, post-production, and distribution.

Thanks to the portability of cameras, digital cameras, improved technology for post production equipment, and editing systems, the independent (indie) filmmakers can produce films that do obtain distribution. The next chapters will provide valuable information that will enable you to apply this information to your own independent film.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Select 3 of the highest grossing films and explain why they did so well in the United States.
2. Which genre of film do you think is the most successful and why?
3. In your opinion which distribution makes the most money—domestic, foreign, or direct to DVD sales?
4. Why do you think finding distribution for an independent film is so difficult?

RESEARCH/LAB/FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Individual or Small Group Exercise:

Prepare a synopsis or script of a short film that you would like to produce. This short film will be utilized in various exercises throughout this book.

A short film should include the following elements:

- Three act structure.
 - Beginning: Establish characters
 - Middle: Develop the story
 - End: Climax and conclusion of the film
- One plot line or story line. There is less time to develop the story and characters.
- Limit the number of characters.

CHAPTER 2

FILMING TAKES A VILLAGE: WHO'S WHO IN THE FILM WORLD

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Who Does What in the Production
- Production Executives
- Support Crew
- Camera Department—“*Roll ’em*”
- Electrical /Lighting—“*Let There Be Light*”
- Grip—“*Hold Everything*”
- Transportation Department
- Production Sound—“*Testing 123*”
- Wardrobe Department—“*What Should I Wear?*”
- Hair and Make Up—“*You Look Marvelous*”
- Post Production—“*We’ll Fix It In Post*”
- How and Where Do You Find Your Crew?

Who Does What in the Production

Just as the success of any village is due to hunters and craftsmen who perform individual tasks to support each other and sustain life, the same analogy applies to studios or independent filmmakers. The success of a film requires the joint efforts of artisans and technicians who work together like a team. A film crew is composed of a number of categories and specialties which are:

- Production executives
- Director
- Support crew
- Locations
- Art
- Camera
- Electrical/lighting
- Grip
- Transportation
- Sound
- Wardrobe
- Hair and makeup

Production Executives

The Producers—“The Big Cheese”

No studio or independent film can begin without the inspiration of a *producer*. The **Producer** is the reason there is a film and they handle a myriad of jobs.

- Discover the book or story and *secures the rights* and hire the script writer to write the screenplay.

KEY TERM:

SECURES THE RIGHTS Obtain rights to a copyrighted book, screenplay, and/or a person's life story.

- Secure the funds for the film through banks, private individuals, or established film fund.
- Hire the key production crew such as the director and actors.
- Assist in solving on going issues throughout the production to keep the film on track.
- Seek out distribution avenues such as theatrical, television, cable, and DVD release.

A producer may be employed by a film studio or work independently.

An **Executive Producer** is usually the CEO of a film studio or, in the independent world, they are the main investor. They arrange and oversee the financing of the film.

Director—“Lights, Camera, Action”

Director makes a script/screenplay come to life and they handle the following:

- Improves the screenplay.
- Auditions the key actors for the film by doing a read through.
- Works to perfect the hired actor's performances by conducting rehearsals.
- Works with the film crew on staging, blocking, and positioning the cameras.
- Edits makes rough and final cuts of the film.



FIGURE 2.1—Director Reviewing Film Footage Courtesy of Trevor Wong

First Assistant Director: tracks the progress of the film, sets up the shooting schedule, prepares the daily call sheets, directs extras, and rehearses the actors. In addition, they act as a safety coordinator for the production.

Second Assistant Director: assists the first assistant with call sheets and manages the cast schedules for hair, makeup, and costume.

Support Crew

Co-producer: assists with financing the film and assists the producer.

Associate producer: shares financial, creative responsibilities with the producer and assists the producer with securing funding and with hiring crew or cast members. Usually, this title is granted as a courtesy to someone who provides a financial or creative contribution to the production.

Line producer (non-union) and/or unit production manager (union): hires key members of the crew, negotiates deals with *vendors*, and is considered the head of production on the set. Their job is all about logistics; getting people, services, and equipment to the right place and at the right time. This individual prepares cost reports and cash flow reports and works closely with the production accountant to ensure that the film does not go over *budget*. In addition, they are considered the safety program director who is responsible for implementing and administrating a safety program.

KEY TERM:

BUDGET A film budget is typically divided into four sections: above-the-line (creative talent), below-the-line (direct production costs), post-production (editing, visual effects, etc.), and other (insurance, general expense, publicity).

VENDORS Companies that provide services or products for filmmaking. This includes equipment, vehicles, props, wardrobe, locations, and catering. This list can be endless.

Production manager: manages the day to day operations of the film. This individual is responsible for managing all issues of production below the actual directing of the film. They keep the production moving along according to the established schedule.

Production coordinator: acts as the office manager, and assists the production manager.

Production assistants (PA): acts as personal assistants who do office work and errands.



FIGURE 2.2—Production Office Personnel Courtesy of Trevor Wong

Stunts/Special Effects/Pyrotechnics

The performance of stunts and pyrotechnics can be difficult because there is a higher probability that something can go wrong even if the all safety standards are in place. An experienced crew is needed to breakdown the stunts or pyrotechnics step by step and establish safety procedures.

Stunt coordinator: designs and choreographs the performance of stunt scenes. He/she hires the stunt players and choreographs the stunt sequence. **Stunt players** and stunt doubles perform the stunts.

Special effects coordinator: designs and supervises the use of mechanized and optical effects. Examples: pyrotechnics, green screen, scale models, creating wind, rain, fog, snow, clouds, etc.

Pyrotechnician: responsible for the creation of explosives, flashes, smoke, flames, fireworks, or pyrotechnic devices.

Locations Department—“Location, Location, Location”

The location is important in the world of film. If the story requires the two main leads share their first kiss at the Eiffel Tower, you definitely have to film there. It is hard to duplicate the scene with a studio sound stage and props.

Location managers: selects the most ideal places to film. They secure the *permits* from the city or state by completing applications and obtaining approval from governmental officials.

KEY TERM:

PERMITS Mandatory if you are filming on property owned by the state or city, historical sites, public streets, highways, performing stunts, or pyrotechnics. The production company needs to complete applications and pay a fee in order to receive a permit.

Location scouts: provides a listing of possible locations to film. They assist with securing permission of home owners and building and facilities owners.

Art Department—“Art for Art’s Sake”

Without scenery, *set dressings*, *props*, and *greenery*, a film would be very bland. The art department is needed to bring the artistic vision of the film to life. So when are set dressings considered a prop? Simple, props are handled by an actor. For example, a vase of flowers are considered set dressing if they are sitting on a table but if an actor carries that vase in with him, it is considered a prop.

KEY TERM:

SET DRESSINGS Property used to decorate a movie set.

PROPS Articles or objects used by the actor on the movie set.

GREENERY Artificial and real plant life that is used to dress the set. If extensive use of plant life is necessary, a greensman (plant expert) is hired to assist the production designer.

Production designer: designs the sets and locations and implements the vision of the producer and director.

Art director: transforms the production designs into authentic or realistic sets. They are in charge of scheduling and budgeting.

Set designer: drafts the plans to build the set.

Construction coordinator: supervises the carpenters or builders.

Set decorator: locates the props and furnishings.

Camera Department—“*Roll ‘em*”

A film cannot be made without the use of a camera. The camera captures the acting, scenery and translates it into a film. Thanks to technological advancements in film, cameras are now more portable and affordable than ever before. In addition, independent filmmakers are utilizing *digital DV cameras* because the editing process is less expensive and laborious and the quality is excellent. Thanks to success of “Slumdog Millionaire” and “The Curious Case of Benjamin Button” digital cinema is here to stay.

Director of photography (DP) or cinematographer: uses lenses, filters, lights, and camera techniques to achieve the desired look of the film. He works closely with the director, supervises the camera and lighting crews.

Camera operator: handles the camera and records the movie either on film, video, or digital.



FIGURE 2.3—Camera and Sound Crew in Action Courtesy of Javier Ruisanchez

Steadicam operator: handles the portable camera system that attaches to their body. This allows the production company film in closed-in spaces.

KEY TERM:

DIGITAL DV CAMERA Provides a digital recording format and plays back in digital video.

LENSES Optical device that transmits and refracts light which changes the films appearance.

■ Electrical /Lighting—“*Let There Be Light*”

A production company has a lot of lighting and equipment that needs power to operate. The electrical team must utilize *light fixtures*, bulbs, light stands, cables, and *generators* in order for a production company to function.

Gaffer: designs the lighting for the film as required by the director of photography.

Best Boy: assists the gaffer by setting up the electrical wiring.

Lighting technician: maintains and sets up the lights.

Generator operator: maintains the equipment to insure the proper voltage or power is provided to lights.

KEY TERM:

LIGHT FIXTURES Light sources that create a mood or effect.

GENERATORS Mobile power source for productions.

■ Grip—“*Hold Everything*”

Setting up camera and lighting requires skills with electricity, carpentry, and mechanical abilities.

Key grip: attaches cameras or lighting to *rigging hardware*. They utilize stands, frames, clamps, and clips. This individual works with the director of photography, camera men, and electricians.

Best boy: assists the key grip with rigging and wiring lighting or equipment.

Dolly grip: assembles the *dolly* and dolly track so the camera operator can move without disturbing the camera set up.

KEY TERM:

RIGGING HARDWARE The tools and machines used for putting camera and lighting equipment in place.

DOLLY A shooting platform that is often put on tracks to create smooth camera movements.



FIGURE 2.4—Dolly and Track in operation Courtesy of Javier Ruisanchez

■ Transportation Department

As a production company is nomadic and does not film purely at a studio sound stage, they need to move props, equipment, and people from one place to another. In order to do this more efficiently, a group of vehicles is rented or purchased. All of the individuals using the vehicles should hold a valid commercial driver's license. If your production is a union film, you need to hire a member of a film guild.

Transportation coordinator: manages and obtains *picture vehicles*, rental cars, rental vans, *cube trucks*, *honeywagons*, star trailers, trailers for equipment, lighting, camera, and wardrobe. They supervise transportation captains and drivers.

KEY TERM:

PICTURE VEHICLES Any car, truck, van, or vehicle that is shown or can be seen in the film.

CUBE TRUCKS Box trucks or straight trucks that have high ceilings and can haul a large volume of equipment or props. Some have storage containers built into the truck.

HONEYWAGONS A type of multi-room trailer used for remote office facilities, cast dressing rooms, makeup, and wardrobe.

Transportation captain: assists the coordinator with hiring the various production vehicles. They are responsible for hiring and supervising drivers.

Drivers/camera car operator: drives assortment of vehicles from trucks and trailers to rental vehicles.

■ Production Sound—“*Testing 123*”

Sound is necessary in a film because it not only conveys the dialogue of the actor but the sounds surrounding the whole film. Eventually in post-production additional sound effects and music will enhance the film even further.

Production sound mixer: monitors the recording of sound during filming.

Boom operator: captures the actor's voice with microphones.

Production soundman: records sound on the set.

Wardrobe Department—“*What Should I Wear?*”

Just as you would wear a suit to a job interview to convey that you are a professional, the same holds true for an actor in a film. They need to “look” their part and establish their characters.

Costume designer: creates the costumes for each actor.

Wardrobe supervisor: supervises the costumers organizes and maintains the wardrobe.

Costumer: assists with dressing the actors and extras.

Hair and Makeup—“*You Look Marvelous*”

Whether it is an Elizabethan hair style or a gruesome monster, these technicians can transform an actor or extra into a entirely different character.

Key hairdresser: designs hair styles for each actor.

Hairstylist: styles the actor's hair.

Key makeup artist: creates the makeup for each actor.

Makeup artist: applies makeup to the actors and extras.



FIGURE 2.5—Hair & Makeup Trailer Courtesy of Javier Ruisanchez

■ Post-Production—“We’ll Fix It In Post”

This is the step where all the filmed elements, sound, music, and special effects, are edited into a complete film.

Post-production supervisor: responsible for the post-production process and works with film, sound, music, and special effects editors.

Film editor: assembles the film elements into a film.

Assistant editor: aids the editor and director in organizing all the elements needed to edit the film.

Special effects editor: assembles visual effects and computer generated images into a film.

Music supervisor: supervises music clearance, selects the music, hires composer, and supervises recording the music.

Music editor: structures the sound track and works with music supervisor and composer.

Composer: writes music to suit the various scenes in a film.

Dubbing mixer: works with sound elements like dialogue, background, special effects, music and mixes them together.

■ How and Where Do You Find Your Crew?

An independent filmmaker has a lot more to contend with than a studio filmmaker because they are not well connected and money is tight. In the film industry, it's a "Who you know" business. Every person you meet can introduce you to another professional and if you continue **networking** you will eventually connect with the right person.

KEY TERM:

NETWORKING The exchange of information or services among individuals, groups, or institutions. This cultivates productive employment and business relationships.

The following are some networking arenas you should consider.

Film Associations

A film association is a non-profit organization that is dedicated to assisting their members within their chosen specialty. There are numerous organizations that you can join locally or nationally. These organizations can not only find your future employees but employers.

Networking Opportunities

These associations will host mixers, award shows and screenings. Before joining take a look at their Web sites and attend one of their seminars or mixers.

As all film associations want to increase their numbers, non-members are always welcome for a cost. Hopefully after talking to the members you feel comfortable in joining the association. Remember along with membership there will be opportunities to gain access to other filmmakers that would assist you with funding, editing, or distribution. You can increase your visibility by volunteering or participating on a committee. Inclusive of the membership are opportunities such as access to equipment, editing facilities, scholarships, internships.

SIDE NOTE

LISTING OF FILM ASSOCIATIONS

- American Film Institute (AFI)
- Film Independent (FIND)
- Independent Film & Television Alliance
- Independent Film Project
- International Documentary Association (IDA)
- National Association of Television Programming Executives (NATPE)
- Women In Film (WIF)
- Academy of Motion Picture Arts & Sciences (AMPAS)
- American Association of Producers (AAP)
- American Cinema Editors (ACE)
- American Film Institute (AFI)
- American Society of Cinematographers
- American Society of Composers, Authors, & Publishers (ASCAP)
- Artists Rights Foundation
- Association of Film Commissioners International (AFCI)
- Association of Independent Feature Film Producers (AIFFP)
- Association of Independent Video & Filmmakers (AIVF)
- Entertainment Resources & Marketing Association (ERMA)
- Film Independent
- Hollywood Radio & TV Society
- Independent Feature Project

Independent Film & Video Alliance
Independent Media Artists Group
Motion Picture Association of America (MPAA)
National Association of Television Programming Executives (NATPE)
Women in Film and Television
Resource: <http://www.producers.masterguide.com/globalmedia/org.html>

Seminars

There are unlimited opportunities to attend seminars regarding locating financing and distribution sources and advancements in technology, i.e., cameras, lighting, and post-production equipment. It is beneficial to attend these because you can meet the speakers and vendors to introduce yourself to other filmmakers. Whatever the topic, it is always good to stay well rounded and in tune with the latest information and advancements. Things change quickly in the film industry.

Newsletters/Magazines/Blogs

Each film association puts out some type of publication to all their members. Usually these publications come in the form of a newsletter, magazines, or blogs. These documents provide industry information and a classified section where job solicitations and postings can be found.

Now, thanks to the computer age, you can visit the various film association websites and get the latest information about upcoming events and seminars and the latest innovations and technologies. Set up e-mail accounts with these associations as this makes getting the information more efficient than mailers.

Film Schools

Film schools teach subjects in screenwriting, cinematography, directing, sound, editing, distribution, and production management. In addition, film schools can provide courses in acting, animation, television, and theater. The best thing about these schools is you get the opportunity to actually get

“hands-on” and technical training from filming with cameras, assembling lighting, and digital editing.

This gives you the experience and tools you need before venturing out into unchartered territory alone. Some people feel that “you can not teach art” and that you do not need any training. Granted this is true, however you are in for a “bumpy ride” when it comes to navigating the film world without an understanding of the business. Actively learning techniques and understanding the business is crucial to ones success as a filmmaker.

SIDE NOTE

ACADEMY AWARD WINNERS THAT WENT TO FILM SCHOOLS

Nicolas Cage, Academy Award winner

James Coburn, Academy Award winner

Francis Ford Coppola, five-time Academy Award winner

Martin Scorsese, Academy Award winner

Ang Lee, Academy Award winner

Oliver Stone, three-time Academy Award winner

Networking Opportunities

Attending a film school gives you the opportunity to collaborate with students who will eventually work in the industry. The nice part of working in the classroom setting is that you can actually determine who has the best abilities and proficiency within the classroom setting...no interview necessary.

Other recommendations for expanding your network would be as follows:

Attend lectures from visiting alumni or other professionals to make contact and gather information.

Set up internships with related businesses such as editing facilities and post production. Enlist the assistance of your guidance counselor for recommendations.

Screenings

Many film schools hold screenings or showcase a student's work. This gives you an opportunity to actually see how your work impacts your peers, instructors, and invited contacts in your network. Your work can eventually be used as a calling card or ***presentation film*** for future production companies. You can use it as a presentation to show your abilities to investors or pitch a show to a television network.

KEY TERM:

PRESENTATION FILM A short film that acts as a sample of what a feature film or television program would look like.

Film Festivals

The creation of film festivals is to support and showcase the works of filmmakers. It allows you the opportunity to see a large number of films before they actually obtain distribution.

To add prestige many festivals provide Jury Prize winners in a variety of categories like cinematography, dramatic, and documentary. The ultimate honor is to be awarded a prize as this will bring attention to your film and may assist in securing a film distributor.

NOTABLE FILM FESTIVALS

SIDE NOTE

Cannes Film Festival

Berlin International Film Festival

Toronto International Film Festival

Sundance Film Festival

Tribeca Film Festival

Networking Opportunities

Attending a film festival gives you a chance to meet film enthusiasts, such as investors, producers, directors, and distributors, from all over the world. How do you get access to these folks? Submit your short film into the festival. Once your film is selected, contact festival organizers and ask them to help set up interviews, provide introductions to sales agents and distributors.

Do your homework and find out who will be attending the festival. You can find out about panelists, filmmakers, and screenings through the film festival's Web site. Pinpoint an event you feel you have the best opportunity to have a conversation and introduce yourself. Ultimately, the best way to meet other filmmakers is to attend the festival mixers.

Screenings

Attending screenings will allow you a chance to observe and learn from other films. In addition, you will have access to the director and film crew as they are usually in attendance to do "question and answer" sessions at the end of the film. This is a good opportunity to meet the director and crew members. Some may be between jobs and could be interested in talking to you. These individuals can also introduce you to other crew members that they can recommend.

Panel Discussions

The purpose of panel discussions is to enlighten the filmmaker with knowledge. The panel is usually on new funding opportunities and new distribution avenues. The panelists are recognized members of the filming community and are there to help educate filmmakers. Have a conversation with the panelists, they can provide you with good advice and make an introduction for you. Whatever your interest, a panel is a great way to gain some knowledge and make contacts.

Social Networking

A social network is made up of a group of individuals who are connected together by a type of relationship, e.g., interests, organizations, family, and friendship. Web sites such as Facebook, Twitter, LinkedIn, and MySpace have been formed to provide tools to form a virtual community.

These Web sites enable you to do the following:

- Create your profile, add friends, and access profiles.
- Receive and send messages to your friends.
- Post, send, and retrieve pictures.

These features are now being extensively utilized in the film world. Many social networking groups have been established so that contacts can be made, questions can be answered, money can be raised, or job postings can be relayed. However, please remember to use discretion when utilizing these Web sites.

Here are some suggestions:

- Find out who maintains the Web site's security
- Do not post your script on the Web site. This information should not be released. Limit your contact information. Do not provide mailing addresses.
- Set up two different accounts for family and work connections. Create a members only account and establish a password to gain access.

SUMMARY

The overall purpose of this chapter is to provide you with an understanding of the types of departments and positions in the film world. Making a film requires a “village” of expert craftsmen and technicians. Of course we know that putting together a film requires a great script but ultimately requires a good film team to make it a reality. In order to put the right team together you need to make connections, build relations with your team, foster relationships with funders, vendors, and a distributor. In the end, the connections you make with the members in your networking group should be nurtured and maintained. This is because you never know when you will be in need of someone’s assistance. As they say in the film world “It’s who you know” that matters.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Why is the role of a film producer so important?
2. Name three (3) production positions outlined in this chapter and outline why they are so important.
3. Which networking method works best? Film associations, film schools, film festivals, social networking? Why?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Utilizing your short film, put together a chart itemizing the production positions you require for your project and outline their duties.

CHAPTER 3

WHAT'S IN YOUR DEAL...MEMO?

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Job Description
- Length of Employment
- Compensation
- Transportation/Accommodations/Expenses
- Termination and Suspension
- Granting Rights
- Closing Credits
- Signatures
- Legal Review
- What Type of Individual Are You Looking For?
- Interviewing Applicants
- Let's Make a Deal
- Let's Make a Film!

Now that you are acquainted with various crew positions and where you can locate these individuals, the next step is to establish a “*deal memo*” which outlines what a position will entail.

Deal Memo

TERMS OF AGREEMENT

“Success”

CANT GO WRONG PRODUCTIONS

NAME: John Smithers	DATE: 3/1/12
START DATE: 3/20/12	SS #: 123-45-6789
ADDRESS: 345 Happy Lane	PHONE: (310) 234-XXXX
CITY/STATE/ZIP Hollywood, CA 90028	CELL PHONE: (310)
LOAN-OUT CO: _____	EMAIL: ___jsmithers.com___
POSITION: Production Coordinator	HRLY/DAILY/WEEKLY RATE: _____
DEPARTMENT: _Management_____	SALARY: \$36,000
EMERGENCY CONTACT:	
NAME: Ida Smithers	RELATIONSHIP: Wife
PHONE: (310) 234-XXXX	CELL PHONE:
PAYROLL COMPANY: Entertainment Partners, Inc. WORK DAY: 5 days per week	

EMPLOYMENT: Company hereby employs Employee to render services for Company in the job capacity named above in connection with the above-named motion picture. The services to be rendered by Employee hereunder shall include all services usually and customarily rendered by and required of persons employed in this capacity in the motion picture industry, and such other services as may be required of Employee by Company from time to time. Employee hereby accepts such employment upon all the terms and conditions herein contained, and agrees to keep and perform all his obligations and agreements hereunder

TERM OF EMPLOYMENT: The term of employment hereunder shall commence on or about the Start Date shown above, as Company may elect, in Company's sole discretion, and shall continue thereafter for so long as Employee's services are required hereunder. Company shall notify Employee in advance of the exact starting date. Company shall be entitled to have Employee perform services hereunder during five (5) days of every week during the term of this Agreement. Company requires Employee's services in connection with the pre-production and principal photography of the Picture. However, upon Employee's receipt of one (1) day's written notice, Company shall have the right to terminate Employee's services. If this agreement and Employee's employment shall be terminated as provided herein, then Employee and Company shall each be relieved of any further obligations to the other hereunder, except as expressly provided herein.

SERVICES: During the term hereof Employee will render his services solely and exclusively for Company and will not render services of any kind whatsoever for any person, firm or corporation other than Company or for or on Employee's own behalf. During the post-production period, if so requested by Company, Employee will render his services for retakes or otherwise as requested by Company on a non-exclusive but first preference basis. Employee agrees to render his services hereunder as and when and wherever required by Company and pursuant to Company's direction and requests. Employee further agrees to advise Company of Employee's whereabouts so that Employee may be reached at any reasonable time. Such services will be rendered in a diligent and conscientious manner under the direction, supervision and control of and/or in collaboration with such person(s) as Company designates.

COMPENSATION: During the term on condition that Employee keeps and performs each and all his obligations and agreements hereunder, Company agrees to pay Employee and Employee agrees to accept as full compensation for all services and all rights granted hereunder, for services rendered by Employee the compensation outlined above.

PAYMENT OF WAGES: Wages shall be paid to Employee no later than Friday following the week in which services were performed. Pay date may be delayed by reason of an intervening federal or state holiday. Employee is responsible for submitting his/her time card at wrap time at the end of each work week to insure timely payment. No employee will be paid without fully completing a time card. Time cards submitted late or containing inaccuracies may delay payment. Employee's start time will be that time detailed on the production report. All hours worked in excess of the guaranteed hours must be recorded on the daily production report and require approval by the Producer before payment.

NIGHTS, WEEKENDS, HOLIDAYS, WORK-TIME: Unless expressly provided elsewhere in this deal memo, no increase or additional compensation shall accrue or be payable to employee for the rendering of services at night or weekends or holidays, or after the expiration of any guaranteed number of hours of service in any period.

OVERTIME: If authorized by the Producer or Production Manager, Employee will receive overtime pay at the hourly rate of the daily rate based on the daily rate from the 12th and 13th hours as straight time, the 14th and 15th hours as time and a half, and the 16th hour as double time. Overtime compensation will be paid the Friday following the end of the week when the overtime work was performed.

MEALS: The Employee's first meal period will commence within 6 hours following the Employee's call time (for set personnel only). Sit-down second meals will be off the clock. The Employee's Second Meal period will commence 6 hours following the end of the first meal. During pre-production and wrap, off-set meals will not be reimbursed by the Company.

TRANSPORTATION/GAS/MILEAGE/TICKETS: If a location is outside of the filming headquarters, all crew will be provided with round-trip transportation from and returning to a central pick-up point in Los Angeles. At the discretion of Company, transportation may be provided for other set locations. If Employee normally drives to set, then all fuel and other costs will be the sole responsibility of the Employee unless expressly stated otherwise. Company will not pay for mileage or reimburse Employee for gasoline used in a vehicle on Company's behalf without prior written approval of producer or production manager. Any requests for reimbursement of gas or mileage expenses must be accompanied by a log for such to be reimbursed by Company. Any parking tickets issued to any vehicle under Employee's control, whether Employee's own or a vehicle rented or owned by Company, are Employee's sole responsibility. In the event that unpaid parking violations are reported to Producer after Employee has concluded employment with Producer, Employee shall be responsible for any bail amount and/or processing fee with respect to such parking tickets. In the event that unpaid parking violations are reported to Producer after Employee has concluded employment with Producer, Employee shall be responsible for any bail amount and/or processing fee with respect to such parking tickets.

HOTEL ACCOMODATIONS: Not provided nor required for this film.

PETTY CASH: Notwithstanding anything to the contrary contained in this agreement, in the event that Employee receives any petty cash from Company, Em-

ployee's last payment hereunder shall not be due until all of Employee's petty cash receipts have been delivered to Company and accounted for in full. _____(initial)

CELL PHONE USAGE: Employee's use of Employee's personal cellular telephone for calls in connection with the Picture will not be reimbursed unless producer or unit production manager has authorized such calls in advance in writing. _____(initial). All telephone calls to be reimbursed by Company must be recorded on a telephone log and the log must accompany any request for reimbursement. No reimbursements for telephone calls will be made without this log.

CALL TIME: If Employee would like for his/her call time to be considered differently from that on the call sheet then it must be approved by the Producer.

USE OF EMPLOYEE'S OWN EQUIPMENT OR TOOLS: Where Employee will be using Employee's equipment or tools while employed hereunder, a detailed inventory is to be submitted to the production manager on commencement of employment. Producer assumes no responsibility for loss or damage unless loss and/or damage are due to Producer's negligence. Kit rental forms must be completed in accordance with instructions from the Accounting Department. _____(initial).

RECOVERABLES: Each Employee shall be responsible for all recoverable items, which must be inventoried and accounted for at the end of Principal Photography. These items should be organized, boxed, and returned to the Producer.

PURCHASES, RENTALS, EMPLOYMENT OF OTHERS: Employee acknowledges and agrees that Employee has no right or authority to, and that Employee will not, enter into any agreements for Company or on Company's behalf whereby Company may be required to perform any obligations or to pay any monies or other consideration including, without limitation, any agreement for the employment of any person or the purchase or rental of any article or material without Company's prior written consent.

RIGHTS: Company shall own, and Employee hereby transfers and assigns to Company, all rights of every kind and character throughout the world in perpetuity, in any and all languages and media, in and to any material and/or ideas written, suggested or submitted by Employee hereunder, and all results and proceeds of Employee's services hereunder. The work that is being created by Employee is a "work made for hire," at all stages of development, the Work shall remain the sole and exclusive property of the Company.

CONFIDENTIALITY: Employee hereby agrees not to disclose to any third party the terms of this agreement, including, but not limited to, the financial terms of this agreement without the consent of Company, except if required by law. Employee further agrees that employee will not divulge or make known to any person or entity any matters of a confidential nature pertaining to Company's business to a third party.

REMEDIES, WAIVER: It is specifically understood and agreed that the services to be rendered by Employee hereunder and the rights and privileges herein granted to Company by Employee are of a special, unique, unusual, extraordinary and intellectual character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated at law and that a breach by Employee of any of the provisions contained herein will cause Company irreparable injury and damage. Employee expressly agrees that Company shall be entitled to injunctive or other equitable relief to prevent a breach of this Agreement by Employee or to halt such a breach, but resort to such equitable relief shall not be construed as a waiver of any other rights or remedies which Company may have in the premises for damage or otherwise. No waiver by Company of any breach of any term or provisions of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other term or provision. Company's various rights and remedies hereunder shall be construed to be cumulative, and no one of them exclusive of any other or of any right or remedy allowed by law. Employee agrees that its rights and remedies with regards to Employee's services in connection with the Picture shall be limited to Employee's right, if any, to recover damages at law. In no event shall Employee have the right to any equitable remedy, including, but not limited to, the right to enjoin the development, production, distribution or exploitation of the Picture.

EMPLOYEE WARRANTIES: Employee represents and warrants that Employee is free to enter into this agreement, that Employee has, or shall timely obtain prior to the commencement of Employee's services hereunder, a valid labor permit to work on this Picture in the United States and/or such other countries in which Company requires Employee's services, and that Employee has not made and will not hereafter make any agreement or commitment in conflict with the provisions hereof or which could or might interfere with the full and complete use and enjoyment of any of the rights and services herein granted to Company.

COMPANY'S OBLIGATIONS: Company shall not be required to utilize Employee's services hereunder or to utilize in any manner any of the results and proceeds of Employee's services, or to produce, release, market, distribute or

otherwise exploit any motion picture, or any other production in connection with which Employee renders services hereunder. Nothing herein shall be deemed to relieve Company of its obligation to pay Employee the compensation payable to Employee for the period set forth above during which Employee is actually employed hereunder and renders services hereunder, subject, however, to such rights of suspension, extension and termination as are contained herein.

CREDIT: On condition that Employee fully performs all of his obligations and agreements hereunder, Employee may be entitled to receive credit on all positive prints of the Picture at Company's sole discretion in the end titles of the Picture. Company shall determine, in its sole discretion, the size, style, manner, position, prominence, mode and placement of presenting such credit, if any. Failure of persons or entities other than Company to comply with their agreements with Company shall not constitute a breach of this clause by Company. No casual or inadvertent failure to accord Employee the credit set forth herein shall be deemed a breach of this agreement. If there is a failure or omission by Company constituting a breach of its obligations under this or any clause herein, Employee specifically recognizes and agrees that the damage caused Employee by such breach is not irreparable or sufficient to entitle Employee to injunctive or other equitable relief, Employee therefore agrees that Employee's rights and remedies hereunder shall be limited to the right, if any, to obtain damages at law. Consequently, Employee shall have no right in such event to injunctive relief or to rescind this Agreement or any of the rights granted or assigned to Company hereunder.

Please print your name as you would like it to appear in the credit roll:

John Smithers
(Print Name)

PUBLICITY: Employee shall not directly or indirectly circulate, publish or otherwise disseminate any news, story, article, book or other publicity concerning the Picture, or employee's or others' services in connection with the Picture without Company's prior written consent, provided that Employee may issue personal publicity mentioning Employee's employment in connection with the Picture as long as such references are not derogatory.

TERMINATION: The termination of this Agreement for any cause, or the expiration of the term of Employee's employment hereunder, shall not affect Company's exclusive ownership of the results and proceeds of Employee's services

hereunder, or alter any of Company's rights, licenses, or privileges in connection therewith. If this Agreement shall be terminated under any of the provisions herein contained, then Employee and Company shall each be relieved of any further obligations hereunder, except that such termination shall not relieve Company of its obligation to pay to Employee any of Employee's compensation which accrues prior to such termination unless such termination was occasioned by Employee's failure, refusal or neglect to perform services or obligations hereunder, nor shall such termination relieve Employee of Employee's obligations pursuant to Employee's representations and warranties hereunder.

ALCOHOL & DRUGS: USE OF ALCOHOL OR ANY CONTROLLED SUBSTANCE DURING WORK HOURS OR WHILE IN A VEHICLE PROVIDED BY COMPANY IS CAUSE FOR IMMEDIATE DISMISSAL.

ADDITIONAL DOCUMENTS: Employee agrees to duly execute, acknowledge and deliver to Company any and all agreements and/or other documents necessary or expedient, Company's judgment, to carry out and effectuate the purposes and intent of this Agreement.

ENTIRE AGREEMENT: This Agreement contains the full and complete understanding between the parties with reference to the within subject matter, supersedes all prior agreements and understandings whether written or oral pertaining thereto, and cannot be modified except by a written instrument signed by the parties. Employee acknowledges that no representation or promise not expressly contained in this Agreement has been made by Company or any of Company's agents, employees or representatives. Any amendment must be in writing signed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of _____.

AGREED TO: _____ Date: _____
(“Employee”)

AGREED TO: _____ Date: _____

SAMPLE NON UNION DEAL MEMO

DEAL MEMO

TERMS OF AGREEMENT

Production Company: Can't Go Wrong Productions

Address: 123 Success Road, Hollywood, CA

Title: "Success"

EMPLOYEE: John Smithers

DATE: 3/1/12

POSITION: Line Producer

SS#: 123-45-6789

ADDRESS: 345 Happy Lane, Hollywood, CA

FED ID: _____

START: The employee's services shall commence on or about March 20, 2012.

COMPENSATION: In full and complete consideration for the services to be rendered hereunder, Employee shall be compensated the sum of \$36,000.

1) WORKDAY: Employee's services shall be rendered on a 5 day per week basis, with a 12 hour workday exclusive of lunch breaks. All partial weeks will be paid on a 1/5 pro-rated basis from the hourly rate. Holidays not worked are not paid, and no Saturday or Sunday work will be additionally compensated unless authorized in advance by the Producer, Line Producer, or Production Manager.

2) OVERTIME: Employee will receive overtime pay at the hourly rate of the daily rate based on 1/12th of the daily rate from the 12th and 13th hours as straight time, the 14th and 15th hours as time and a half, and the hour and after as double time. Overtime compensation will be paid the Friday following the end of the week when the overtime work was performed.

3) TRANSPORTATION/ACCOMMODATION/EXPENSE PROVISION, if any: If a location is outside of the filming headquarters, all crew will be provided with round-trip transportation from and returning to a central pick-up point in Los Angeles. At the discretion of Employer, transportation may be provided for other set locations. If Employee normally drives to set, then all fuel and other costs will be the sole responsibility of the Employee unless expressly stated oth-

erwise. All transportation except scheduled "Company Moves" will be considered "off the clock" and not be used as a part of any calculation of hours for any given day unless the duration of travel time from the central pick-up point to arrival at the location exceeds one hour, in which case the day shall be billed from the leave time.

4) MEALS: The Employee's first meal period will commence within 6 hours following the Employee's call time (for set personnel only). Sit-down second meals will be off the clock. The Employee's Second Meal period will commence 6 hours following the end of the first meal.

5) REST PERIODS: Rest Periods following dismissal from set shall be as follows:

- a) 10 hours per day
- b) 50 hours between work weeks
- c) 34 hours between work on Saturday and Monday, if schedule requires us to work a six-day week (from Monday through Saturday).

If producer requires Employee to render services in violation of the established rest period, Producer agrees to compensate Employee at one and one half times Employee's hourly rate for the invaded hours only.

6) SERVICES: During this engagement, Employee will render services whenever and wherever Producer may require, in a competent, conscientious, and professional manner, meeting the needs of the Producer in all matters, including those involving artistic taste and judgment. The Producer shall have no obligation to actually utilize the Employee's services, or to include any of Employee's work in the Picture, or to producer, release, or continue the distribution of the Picture.

7) RECOVERABLES: Each department shall be responsible for all recoverable items, which must be inventoried and accounted for at the end of Principal Photography. These items should be organized, boxed, and returned to the Producer.

8) KIT: Employee box or kit rentals and/or equipment are the responsibility of the Employee. Producer assumes no responsibility for loss or damage unless loss and/or damage is due to Producer's negligence. Box rentals and/or personal property rented to Producer must have a written inventory, which shall be attached to this agreement. Box and/or kit rentals totaling \$600 or more are subject to Form 1099 reporting at the end of the year. Box and/or kit rentals, or equipment will be pro-rated on a daily basis. Payment for car rentals is subject to withholding and taxed as wages.

- 9) SUSPENSION AND TERMINATION: Producer shall have customary rights of suspension and termination by reason of any event beyond Producer's control which materially hampers production of the Picture, including, without limitation, force majeure, labor strike, or the death, material default, illness or incapacity of the employer or the Director, Director of Photography, or any principal cast member.
- 10) RIGHTS: Work is being created by Employee for use in a Film and that each form of Work is being created by Employee as a "work made for hire" under the United States Copyright Act and, at all stages of development, the Work shall be and remain the sole and exclusive property of the Producer throughout the world of all the rights therein. Producer shall have the right to use and license the use of the Employee's name, photograph, likeness, voice and/or biography in connection with the Picture and the advertising, publicizing, exhibition and/or other exploitation thereof, including, without limitation, in connection with "behind the scenes" and "making of" films.
- 11) STATEMENT OF CONFIDENTIALITY: The Employee hereby covenants and agrees that he or she will at no time, during or after the term of employment, use for his or her own benefit or the benefit of others, or disclose or divulge to others, any confidential information about the Picture, the Picture's budget, or Producer to any third party.
- 12) EMPLOYEE'S REMEDIES: Employee recognizes that in the event of a breach by Producer of its obligations under this Agreement (including, without limitation, breaches of the Agreement arising out of credit obligations), the damage (if any) caused to the Employee thereby is not irreparable or sufficient to entitle Employee to injunctive or other equitable relief. Employee therefore agrees that Employee's rights and remedies shall be limited to the right, if any, to obtain damages at law, and that the Employee shall not have the right in such event to terminate or rescind this Agreement or to enjoin or restrain the distribution or exhibition of the Motion Picture. Neither the expiration of this Agreement, nor any other termination thereof shall affect the ownership by Producer of the results and proceeds of the services supplied by Employee, or any other rights granted herein to Producer, or alter any of the rights and privileges of Producer, or any warranty or undertaking on the part of Employee in connection with such results and proceeds.
- 13) CREDIT: Credit shall be accorded to Employee. All decisions with respect to credit, including without limitation the position, size, prominence, style, placement and form of any and all credits shall be determined by the producer in its

sole discretion. No failure by Company or its assignees or licensees to comply with the credit requirements hereof shall be deemed a breach of this Agreement, subject to distributors' customary exceptions and exclusions.

Please print your name as you would like it to appear in the credit roll:

(Print Name)

14) MISCELLANEOUS: This Agreement shall be deemed to be made in _California ____ and shall be in accordance with the laws applicable to contacts made and performed therein. Notwithstanding any other provision of this Agreement, Employee's sole remedy for breach by Producer of any provisions of this Agreement shall be the right to pursue an action at law for damages. In no event shall Employee seek or be entitled to rescission, or to injunctive or other equitable relief and the termination of this engagement or this Agreement for any reason shall not affect the Producer's right to the result and proceeds of Employee's services hereunder. Producer shall have the right to assign this Agreement to any person or entity, and the benefits of this Agreement shall inure to any such assignee. Employee shall, upon request, execute, acknowledge and deliver to Producer such additional documents as Producer may deem necessary to evidence and effectuate Producer's rights hereunder. Employee hereby grants Producer the right, as attorney-in-fact, to execute, acknowledge and record any and all such documents.

15) ADDITIONAL ITEMS:

a) CAR INSURANCE: Employee is responsible for liability and collision insurance and deductibles on her/his personal vehicle used in conjunction with their employment.

b) ALCOHOL/DRUGS: Use of alcohol or drugs during hours of employment will result in employee's immediate termination.

c) PURCHASES: Employee will be held personally responsible for purchases, rentals and expenses not approved in advance by Producer, Line Producer or Production manager.

- a) Petty Cash expenses must be accompanied by original receipts, not photocopies.
- b) Time cards must be turned in Friday for work executed the forthcoming week. Time cards submitted late may be paid late.

- c) All employees are subject to income tax withholdings, unless individual operates as a Loan-Out Company. All Loan-Out Companies must provide Producer with Federal Identification Number and proof of Workman's Compensation Insurance. Producer will not reimburse Employee/Loan-Out Company for Payroll Taxes.
 - d) If Employee would like for his/her call time to be considered differently from that on the call sheet then it must be approved by the Producer.
 - e) Parking tickets will not be reimbursed by Producer. In the event that unpaid parking violations are reported to Producer after Employee has concluded employment with Producer, Employee shall be responsible for any bail amount and/or processing fee with respect to such parking tickets.
 - f) During pre-production and wrap, off-set meals will not be reimbursed by Producer.
 - g) Producer will not accept or reimburse any receipts for cigarettes or alcohol.
 - h) Mobile phone charges will not be the responsibility of Producer without prior approval.
- 16) AGREEMENT: This Deal Memo constitutes the full agreement between both parties unless amended to the contrary in writing and signed by both parties.

AGREED TO: _____ Date: _____
(Employee Signature)

AGREED TO: _____ Date: _____
(Producer)

FIGURE 3.1—Deal Memo Sample

A deal memo is used by independent producers as employment contracts. The term “memo” may suggest to you that this is not a formal contract but it is legal and binding. Of course, deal memos for individuals who are signatories to a guild association (WGA, DGA, AFTRA, IATSE, and SAG) have different agreements and have terms of employment that are nonnegotiable. We will discuss this in more depth in Chapter 4.

With regards to the non-guild crew, each employment agreement must be customized to fit the position so establishing separate templates will be necessary. A deal memo is comprised of the following sections:

- Job Description
- Length of Employment
- Breaks
- Salary
- Overtime
- Equipment/Camera Kit Rental
- Transportation/Accommodations/Expenses
- Termination/Suspension
- Granting Rights
- Credit
- Signatures

Job Description

This section must provide a detailed listing of the specific tasks the position requires. In addition the description should detail how the position interacts with cast, crew members, and other departments. A concrete job description helps a supervisor make good hiring decisions and assess abilities.

**SAMPLE – PRODUCTION COORDINATOR
JOB DESCRIPTION:**

The Production Coordinator reports to the Production Manager.

- 1) Selects, sets up, and organizes the production office by obtaining necessary furniture and equipment, office supplies.
- 2) Arranges travel requirements for cast and crew, purchase tickets, obtains the necessary visas, and provides detailed written itineraries for the cast and crew.
- 3) Arranges the accommodations of the cast and crew, makes reservations and arranges payment for the necessary accommodation.
- 4) Is a liaison with the transportation department to determine and organize the transportation needs of the cast and crew, negotiates lease agreements with vendors and suppliers.
- 5) Organizes and administers production paperwork such as script revisions, compiling, typing and distributing call sheets, creating cast/crew personnel listing, providing daily progress reports, process paper work related to insurance certificates for rental cars, production equipment, props, wardrobes, location and building owners.
- 6) Establish and oversee communications to and from the set or locations. They are coordinate communication with all production personnel.
- 7) Organizes and arranges for the use of couriers and shipping companies to ship equipment, props, and wardrobes to and from the production locations.
- 8) Close accounts with vendors, coordinate the return of vehicles, equipment, return surplus supplies, updates office files and file all information so that the information can be easily accessed by production executives and accountants.

Length of Employment

This section outlines the length of time you will need the services of a specific individual. You must clearly outline when an individual will be working; weekly, daily, or the entire production. Defining the length of employment requires an understanding of the stage of production (pre-production, production, and post-production) and the type of position the individual is required to perform. Each of these stages has a variety of different job functions and time tables and must be carefully orchestrated.

Every position differs in obligations. For instance, the director is needed through each stage of production because he or she is responsible for the overall artistic vision of the film and makes the creative decisions. Dependent on the film, he or she may be required to work for 6–8 weeks and a number of weeks or months for post-production.

Other positions such as art directors, camera operators, grip, electrical, and transportation coordinators may work 4–6 weeks because their role is limited and only related to the production stage. While other positions such as film, sound, and music editors may work for 4–6 weeks or more because their role is limited and related to the post production stage. Meanwhile, there may be *day players* that have limited speaking roles and are hired on a daily basis without long-term contracts.

In addition, you will encounter a variety of issues that may require you to amend the length of employment or find another individual. For instance, your director may want to complete his job on a certain date so he can start another film or your lead actor may only be available during a hiatus from his television series. Besides setting the length of employment you should include a clause defining how many days prior to the start date you will notify someone of postponement or cancellation of your film. The loss of funding casting or vision changes occur and should not lead to any contractual or financial conflict. In addition, for the sake of continuity you may want to include a contingency clause in the deal memo for your actors if you feel the individual is needed to do *reshoots*, *pick up shoots*, or *dubbing/looping*.

KEY TERM:

RESHOOT To film scenes again to improve upon performance, lighting, or location.

PICK UP SHOOT To film minor shots to improve the already shot footage.

DUBBING/LOOPING The recording of dialogue in a sound studio after the film is already shot, where the actors watch the film and match the lip movements.

Breaks

Establish the times and length of all breaks throughout the day. You will need to provide two 10 to 15 minute breaks in the morning and afternoons. These breaks are usually used for coffee, snacks, smoking, or the use of the restroom. In addition, meal breaks lasting 60 minutes should be established for breakfast, lunch, and/or dinner. Overall these breaks allow everyone to regroup, refuel, and recharge.

Compensation

Salary

Before completing this section, you must be cognizant of how much you have allocated in budget. When working with salaries you will need to determine what your *Above the Line* and *Below the Line* costs are. A more in depth discussion will follow in Chapter 10—*The Budget*.

KEY TERM:

ABOVE THE LINE Film costs that are associated with the salaries for the screen-writers, producers, actors, directors, and assistants.

BELOW THE LINE Film costs that are composed of the salaries of the production staff, film crew, equipment, travel, transportation, and location costs.

It is important for you to determine the various film positions (use Chapter 2 as a reference) and earmark a salary range for each position. This salary range will give you some flexibility because there are a variety of variables that may justify a higher salary such as experience and education.

In addition to establishing the salary, you will need to determine the length of your work day. Will it be 8, 10, or 12 hours including lunch, dinner and breaks? The payment of overtime will be dependent upon this decision as well.

Guild/Union Association Crew

If you are hiring individuals who are members of a *guild* association you will be required to utilize their standard pay rates as well as agreements (deal memos).

KEY TERM:

GUILD Association of craftsmen or merchants formed for mutual aid and for the advancement of their professional interests.

When it comes to film crews, the most notable guilds are the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts (IATSE), and American Federation of Television and Radio Artists (AFTRA). There is a more in depth discussion about this subject in Chapter 4—*Unions and Guild Associations*.

If you hire an individual from a guild association you will be required to pay the individual a minimum salary based on their requirements. For an example of some of the guild salaries refer to Chapter 4—*Unions and Guild Associations*. To get an overview of what each guild requires, you can purchase The Showbiz Labor Guide (<http://www.showbizsoftware.com>) it provides you yearly updates of the union or guild hourly, daily, weekly, or flat rates along with guarantees and overtime provisions. This guide is a great tool for determining salaries while in the budgeting stage.

Non-Union Crew

If you are hiring individuals who are not part of a union, the salaries are not established so they can vary from film to film. You should consult with an entertainment accountant to determine the appropriate pay rates. According to my independent production clients, they base their salaries upon the experience of the individual and the size of the budget.

A production company has the daunting task of securing the right cast and experienced film crew all while staying within a budget. To give you an idea of estimated salary ranges, the following are the estimated salaries ranges for the following positions from the U. S. Department of Labor - Bureau of Labor Statistics:

SIDE NOTE

Entertainment Salaries

U. S. Department of Labor

Bureau of Labor Statistics

Annual Mean Wages

Subject to change

Occupation	May 2011
Writers and Authors - Originate and prepare written material, such as scripts, stories, advertisements, and other material.	\$68,060
Producer/Directors – Produce or direct stage, television, radio, video, or motion picture productions for entertainment, information, or instruction. Responsible for creative decisions, such as interpretation of script, choice of actors or guests, set design, sound, special effects, and choreography.	\$92,220
Camera Operators -Operate television, video, or motion picture camera to record images or scenes for various purposes, such as TV broadcasts, advertising, video production, or motion pictures.	\$49,430
Audio & Video Equipment Technicians - Set up, or set up and operate audio and video equipment including microphones, sound speakers, video screens, projectors, video monitors, recording equipment, connecting wires and cables, sound and mixing boards, and related electronic equipment.	\$46,010
Film & Video Editors - Edit moving images on film, video, or other media.	\$66,690

Entertainment Salaries

Subject to change

Occupation	July 2011
Producers	\$37,522-\$64,935

Coordinates various aspects of production such as script writing, audio, camera work, music.

Occupation	July 2011
Directors—Stage, Motion Pictures, TV	\$18,966–\$43,527
Interprets plays and scripts for production. Auditions and identifies performers for roles in specific productions and conducts rehearsals. May require an associate's degree or its equivalent and 2–4 years of experience.	
Actors	\$33,250–\$71,227
Portrays a role in a production to interpret a character or present characterization to audience.	
Set Designer	\$32,558–\$69,564
Designs motion picture or television production sets, signs, props, or scenic effects. Prepares scale drawings for use in construction, modification, or alteration.	
2–4 years experience.	

Independent films try to reduce costs. Some filmmakers defer payments of their fees or ask cast and crew to defer payments until additional funds are obtained or until profits are made on the film. *Deferring payments* is an alternative method whereby talent, crew, and contractors obtain payments when revenue is earned when the film is released. Another option is called *contingent compensation*, this means the producer pays a crew member a percentage of the profits from the film. Before putting either of the options into a deal memo, you should seek the counsel of an accountant or lawyer as this can be difficult especially if promised monies are not delivered.

Lastly, many filmmakers have reverted to relying on family and friends for their film crew. While this is considered a way to obtain “free labor” it may create problems as these individuals may have no knowledge of the creative process and may cause personality issue with other members of your crew. Before you implement this scenario, set up a meeting, establish ground rules (“Who’s the Boss”), and execute a deal memo.

Overtime

For a cast and crew who are a part of a guild association, overtime rates are already established. When dealing with a non-union film, you need to iden-

tify when overtime applies and establish who will need to approve or track the extra hours and when it will be paid.

■ **Transportation/Accommodations/Expenses**

The deal memo should outline transportation expenses as filming can occur in another city, state, or in another country. The usual assumption is that the production company will provide for all expenses so the following clarification is necessary to avoid disputes with your cast and crew:

- If the set or primary location is within an established radius the crew member should be responsible for all fuel and costs to drive to the set.
- If the set is outside of the radius all crew should be provided round trip transportation and returned to a specified location.
- In the case of transporting equipment and props, the expenses for gas, tolls, and parking should be paid by the production company.
- Round trip airplane tickets should be provided to each crew member if travel is required.
- A company move should be considered to be included in the calculation of work hours.

Accommodations

If necessary, hotel accommodations should be provided to the actors and crew. A statement should be included in the deal memo that states the rooms will be of good condition and private. This is important because one can not do his/her best work without rest. Everyone is entitled to some rest and relaxation.

Meals

Providing snacks and meals during appropriate times in a day are required. Usually meal service should commence within 6 hours following the crew's call time. Please note that guild associations can penalize the production company for delayed meals so hire a reliable craft service company and make sure they adhere to a schedule. Always serve good quality food, according to many filmmakers, the way to a production crew's "heart" is through their "stomachs."

Expenses

The deal memo should outline any expenses that a particular position may incur. The usual expenses would be rental cars, gas, mileage, parking, travel costs, messengers, and overnight couriers. You should try and consolidate these costs and establish discounts with various vendors, e.g., rental car agencies, parking lots, travel agents, airlines, and messenger services.

Equipment/Camera Rental

Occasionally, you may want to include a provision where you rent the equipment package or camera kit of the director of photography, cameraman, grip, and electrician you are hiring. Please request a schedule or inventory of the equipment, e.g., camera, lenses, filters, batteries, lighting, and grip, and request an estimated cost to replace these items. If this replacement cost is agreed to, the production company will need to include a weekly rental charge for the use of the equipment in the crew member's salary. The benefits for doing this is that the crew member is experienced in handling his/her equipment, and you save time looking for the equipment and save on rental costs from equipment vendors.

Please note, that even though the equipment is owned by the individual, the production company is ultimately responsible if the equipment is damaged, lost, or stolen. To properly protect this exposure, purchase equipment insurance to cover this type of loss. A more in depth discussion will follow in Chapter 8—*Equipment/Prop Rentals* and Chapter 13—*Insurance*.

Termination and Suspension

Not everyone is cut out to work in the film industry. The hours are long and the schedules can be demanding. A clause should be established in your deal memo where you outline grounds for termination. The following is a list of reasons why termination of a production executive, actor, or crew member should occur:

- Theft
- Insubordination
- Sexual harassment

- Verbal and physical abuse
- Working while intoxicated
- Excessive absences
- Poor job performance

In addition, you should include a statement when earned wages or a *severance package* will be provided.

KEY TERM:

SEVERANCE PACKAGE Earned wages and benefits (health insurance or vacation time) an employee receives when leaving the job.

In addition, due to the temporary nature of employment there are situations where film executives or crew members occasionally engage in alleged immoral actions. These actions may lead to employment related lawsuits such as wrongful termination, sexual harassment, hostile working environment, and discrimination lawsuits to name a few.

The usual recommendations to prevent these types of lawsuits are:

- *Create an employee handbook*—this should outline personnel policies and what the company's expectations are. This handbook should be given to the employees for review and have them sign an Employee Acknowledgement form stating they read the contents.
- *Production meetings*—request that all department managers hold meetings with their production crews request that everyone should be respected and treated in a professional manner throughout the filming process.
- *Create a Termination Agreement*—an agreement that the employee signs when terminated. This means the employee agrees to release the employer from any liability or claims at the time of termination.

In addition, you may want to consider purchasing Employment Practices Liability Insurance (EPLI). This can help protect you against lawsuits from your employees and independent contractors. This coverage will defend and possibly pay a claim on behalf of the production company. If you are interested in this coverage, please contact your entertainment insurance broker

for more information. This coverage is usually obtained by production companies who have bigger budgeted films however due to the poor economy more independent contractors are filing lawsuits. In the end, if a lawsuit arises, you should seek the advice of a human resource expert or an employment lawyer.

Suspension

In the world of independent film no one knows whether a production will actually be completed. This is because the film can be halted by events that are not in the filmmaker's control. A *strike*, weather, death, or illness of the actors or director can cause the suspension of the film. As stated previously, you should add a clause regarding payment of earned wages and priority notification if the production should resume.

KEY TERM:

STRIKE Work stoppage caused by the mass refusal of employees to perform work.

Granting Rights

This provision is to confirm that the producer owns the proceeds of the services rendered by the film crew and their name, likeness, voice, and biography with regards to the production. It is important for all employment agreements to state that all individuals providing services in connection with the film states that it is deemed a "*work for hire*."

KEY TERM:

WORK FOR HIRE Concept in intellectual property law which states that the work of an employee is considered to be owned by the employer.

This means that the any services rendered are “made for hire” and the employer is considered the owner. In addition, a “*statement of confidentiality*” should be included in your deal memo. A confidentiality statement or non-disclosure agreement restricts an actor or crew member from releasing information regarding the film to third parties and causing unnecessary publicity.

Closing Credits

Closing credits or *end credits* should be given to the actors and crew working on the film. The title, size, and placement will be determined by the producer.

KEY TERM:

CLOSING CREDITS OR END CREDITS List of the cast and crew members that appears at the end of a motion picture, television, cable, or video game.

Signatures

All deal memos must be signed by cast and crew and countersigned by the producer or production manager. The document will not be considered binding if it is not signed. If amendments are negotiated they can be crossed out, written in, and initialed and dated. If the language is complicated, addendums should be put in writing and signed. A copy of the agreement should be given to the producer and a copy retained by production manager.

Legal Review

As a deal memo is a contract, it is recommended that you have an entertainment attorney review the deal memo for clarity, legal loopholes, and guild requirements. An entertainment attorney may also help when you are dealing with lead actors. Many times, the attorney may be required to negotiate salary, contractual terms, and living accommodations.

■ What Type of Individual Are You Looking For?

Now that you have deal memo templates drafted you need to find the right crew members. The next step will be determining the number of film crew you will need. In order to make a successful film, it requires more than a good script, a great director, talented actors...you need a good reliable film crew that can effectively manage, organize, and create a film in the vision that the producer and director intends.

■ Interviewing Applicants

Before the interview process create an employment application that asks basic information, education, experience, and a listing of references.

Can't Go Wrong Productions

Employment Application

Applicant Information					
First Name	John	Last	Smithers	M.I.	Date 3/1/12
Street Address	345 Happy Lane,			Apartment/Unit #	
City	Hollywood,	State	CA	ZIP	90028
Phone	E-mail Address				
Date Available	ASAP	Social Security No.	123-45-6789	Desired Salary	\$35,000
Position Applied for Line Producer					
Are you a citizen of the United States?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	If no, are you authorized to work in the U.S.?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Have you ever worked for this company?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	If so, when?		
Have you ever been convicted of a felony?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	If yes, explain		

Education

High School	Hollywood High School	Address					
From	2003	To	2007	Did you graduate?	YES <input type="checkbox"/> NO <input type="checkbox"/>	Degree	High School Degree
College				Address			
From	To	Did you graduate?	YES <input type="checkbox"/> NO <input type="checkbox"/>	Degree			
Other				Address			
From	To	Did you graduate?	YES <input type="checkbox"/> NO <input type="checkbox"/>	Degree			

References

Please list three professional references.

Full Name	Celica Foster	Relationship	Producer
Company	Foster Productions	Phone	(XXX) XXX-XXXX
Address		345 Kane Street Email Address cfoster@.com	
Full Name	Leroy Lewis	Relationship	Producer
Company	Lewis Productions	Phone	(XXX) XXX-XXXX
Address		678 O'Brien Street Email Address llewis@.com	
Full Name	Madison Mullin	Relationship	Producer
Company	Mullin Productions	Phone	(XXX) XXX-XXXX
Address		8910 Sterling Drive Email Address mmullin@.com	

Previous Employment

Company	Foster Productions	Phone	(XXX) XXX-XXXX		
Address	345 Kane Street	Supervisor	Celica		
Job Title	Line Producer	Starting Salary	\$38,000		
Responsibilities	Was office manager and assisted the production manager				
From	2011	To	2011	Reason for Leaving	Production concluded
May we contact your previous supervisor for a reference?				YES <input type="checkbox"/> NO <input type="checkbox"/>	
Company	Lewis Productions	Phone	(XXX) XXX-XXXX		

Address	678 O'Brien Street		Supervisor	Leroy		
Job Title	Production Coordinator	Starting Salary	\$32,000	Ending Salary	\$33,000	
Responsibilities	Was office manager and assisted the production manager					
From	2010	To	2010	Reason for Leaving	New Job opportunity	
May we contact your previous supervisor for a reference?			YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
Company	Mullin Productions		Phone	(XXX) XXX-XXXX		
Address	8910 Sterling Drive		Supervisor	Madison		
Job Title	Production Assistant	Starting Salary	\$28,000	Ending Salary	\$28,000	
Responsibilities	Performed office work and did errands					
From	2009	To	2010	Reason for Leaving	New Job opportunity	
May we contact your previous supervisor for a reference?			YES	<input type="checkbox"/>	NO	<input type="checkbox"/>

Military Service

Branch	From	To
Rank at Discharge	Type of Discharge	
If other than honorable, explain		

Disclaimer and Signature

I certify that my answers are true and complete to the best of my knowledge.

If this application leads to employment, I understand that false or misleading information in my application or interview may result in my release.

Signature	Date
-----------	------

We are an Equal Opportunity and EEO/Affirmative Action Employer committed to excellence through diversity. Employment offers are made on the basis of qualifications and without regard to race, sex, religion, national or ethnic origin, disability, age, veteran status, or sexual orientation.

FIGURE 3.2—Employment Application

In addition, you should establish a standard list of questions that you will ask each applicant. The questions should draw upon the applicant's experience, skills, and background. The types of questions that you should avoid are ones that can be answered "yes or no." Ask questions that are thought provoking and enable you to learn how quickly they respond and how well they think on their feet. The following is a listing of questions you **SHOULD** ask:

- Tell me about your job history?
- What did you like or dislike about your previous job?
- Why did you become a (insert title of position here)?
- Describe a difficult work situation or problem? How did you handle it and what was the outcome?
- What do you expect from a supervisor?
- How do you establish a working relationship with new people?
- Do you prefer to work independently or on a team?
- How did you deal with a co-worker that was hard to get along with? How did you get along with them?
- What are your biggest strengths and weakness?
- Do you have any restrictions on your ability to travel? Ask them if they are working on another film, television project, commercial, or stage play.
- What elements do you think need to be in place to make a successful film?
- Why should we choose you for this job?
- Do you have any questions for me?

When putting your list of questions together please note that you **SHOULD NOT** ask questions that are personal in nature and avoid questions relating to:

- **Age**—Do not ask how old they are and when they graduated. If you are afraid that an individual applying for a position is underage, phrase your question as follows: "Are you at least 18 years old?"
- **Health or Disabilities**—You cannot ask if the applicant smokes, drinks, or has any preexisting conditions. In addition, you must not discriminate against any individual with disabilities. If you have

more than 15 employees, you are required by law to comply with the *Americans with Disabilities Act of 1990*.

KEY TERM:

AMERICANS WITH DISABILITIES ACT OF 1990 (ADA) This act provides a national mandate for the elimination of discrimination against individuals with disabilities. When enacting the ADA, Congress recognized that physical and mental disability in no way diminish a person's right to fully participate in all aspects of society.

- **Marital Status, Children, and Pregnancy**—You may not ask if an applicant is married, has children, or is pregnant. The only acceptable questions would be as follows: “Travel is an important part of the job. Would you be willing to travel as needed by the job?” “This job requires overtime occasionally. Would you be able and willing to work overtime as necessary?” This question is okay, as long as all applicants for the job are asked it.
- **Race, National Origin, and Gender**—It is not legal to ask questions regarding where an applicant was born or national origin such as “What is your ‘native tongue’?” If you are concerned as to whether an applicant is a U.S. Citizen you may ask “Are you authorized to work in the United States? What languages do you read, speak, or write fluently?” This question is okay, as long as this ability is relevant to the performance of the job, especially if the production company is filming in another country.
- **Religion or Sexual Orientation**—You may not ask if an applicant is Jewish or is gay. These types of questions are not legal and are not relevant to work experience or qualifications for a job.

All department heads should have an idea of the different types of attributes an applicant should possess. As with other employers, all department heads should be looking for applicants who:

- Team players—Works well with others.
- Multi-taskers—Can accomplish a couple tasks at one time.
- Organized—Can coordinate and manage his/her job.
- Detailed oriented—Pays attention to all details.

The interview should enable you to find out if the applicant exhibits these attributes.

When conducting an interview you must keep in mind the following:

- Do not do all the talking—Minimize the amount of information you provide to applicant. There is no need to give away too many details. All that is needed is a simple introduction and to start asking questions from your list of questions. Allow the applicant to do the talking so you can concentrate on the answers the applicant provides. If all goes well, you can provide more information at the end of the interview.
- Limit the humor, stories, and gossiping—Avoid telling jokes or anecdotes as they can be misunderstood and send the wrong message. In addition, you may recognize a film project or a filmmaker that the applicant may reference. Please refrain from telling any embarrassing stories or disparage or gossip about the filmmaker. You never know if this story and disparaging remarks will find its way back to the filmmaker. It is best to keep the communication professional.
- Focus on the job—Ask questions that pertain to the position the applicant wants to fill. Ask the applicants questions about his or her job history. Do they have the right experience for the job? Do they understand what is expected if he or she gets the job? Do they ask relevant questions? The questions you ask should enable you to find out if the applicant has the capacity to do the job.
- Body language—Check the body language of the applicant. Do they appear to be motivated and interested when you conduct the interview? Are they at ease, comfortable, anxious, or nervous? The following are examples of *body language*:
 - Eye contact—This means the individual respects the speaker and is actively listening.
 - Crosses arms across his or her body—This means the person is putting up an unconscious barrier.
 - Excessive blinking—This is a well-known indicator of someone who is lying.

KEY TERM:

BODY LANGUAGE A form of non-verbal communication. This consists of body posture, gestures, facial expressions, and eye movements. Humans send and interpret such signals almost entirely subconsciously.

Above all, when conducting an interview, remember the following phrase “Keep it Professional” and nothing will go wrong.

Post Interview

Immediately after your interview you should scribble down some notes about the applicant. Did they appear confident and comfortable? Do they have the right amount of experience? Did they understand the job? Did they ask the right questions? Make sure that you rank the applicants, i.e., 1, 2, or 3.

Check All References

If the interview goes well, ask the applicant to provide you with a resume listing the films and 3 to 4 professional references. The production company should verify the applicant's job history. This can be a bit difficult as most independent films will have been completed and moved on. However, thanks to the Internet Movie Database (IMDB), Netflix, YouTube, and Hulu you can at least check on the individual's experience. In addition, rent one of the films or watch a trailer. Is the film of good quality? Is the lighting and composition good? If all checks out, contact the professional references that are provided. In your discussions remember to ask about the individual's ability to work with others, work ethics, and overall job performance.

Let's Make a Deal

Please make sure you do not judge the individual by the first impression. You must choose the most qualified applicant for the job... don't judge a book by its cover. This means do not judge someone by their appearance. Ultimately, once you have decided on your crew member you will need to negotiate the salary. In addition, there may be other points you need to negotiate such as

accommodations or vacation days, so be flexible. As indicated earlier, please keep in mind you may need the assistance of an entertainment lawyer as some of the negotiations may get complicated. Remember, if the deal points become a hardship to the production company and the film...walk away.

Let's Make a Film!

Now that you have the film crew hired. You have to remember to keep the lines of communication open, treat everyone with respect, and lead by example. According to film crews, they want to work with producers who listen, solicit advice, foster team work, and treat their crew as humans, not robots. Remember, if you have the right film crew you can create a production company that is unstoppable.

SUMMARY

The overall purpose of this chapter is to provide you with an understanding of the elements of a deal memo. A comprehensive deal memo defines the job's expectations, length of employment, salary, types of expenses covered, and grounds for termination. The interview process gives you the opportunity to ask the questions so you can determine if the individual you are looking for is the right one. Keep in mind that every job function and its resulting performance impact the completion of your film. Ultimately to create a good film crew you need to find individuals that are experienced, team players and have a good work ethic.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. What are the most important sections of a deal memo? Why?
2. You are in the midst of interviewing an individual for a production position and think they are perfect for the position. However the interviewee indicates that they were terminated because of conflicts with their supervisor. What additional questions will you ask or what actions will you take in this situation?
3. Write down ten qualities you are looking for when interviewing a prospective crew member.

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Small Group Exercise. Take turns with another member of the class and conduct a mock interview for a director's position. Use some of the questions in this chapter and interview each other. Next, you should critique each other...who did a better interview and why?

CHAPTER 4

UNIONS AND GUILD ASSOCIATIONS

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- History of Film Guilds
- Formation of Film Guilds
- Genesis from Film Guild to Labor Unions
- Growth of Film Guild/Labor Unions
- Who Negotiates with the Guilds/Unions?
- Why Do I Need to Utilize a Guild?
- What Are Film Distributors Looking For?
- What's The Process?
- Guild/Union Contact Information

History of the Film Guilds

Who Are They and What Are Their Functions?

As discussed in Chapter 3, a guild is an organization that is united with common interest the advancement of their professional interests. In the early days of film (1910s–1920s), guilds were more like fraternal organizations where members shared a common craft or service such as the Friars Club (for actors), Screen Club, Reel Club, Static Club (for cameramen), and Actors' Equity Association. These were social groups whose objective was to maintain their standards of quality within their craft and learned ways to improve their craft.

The Friars Club still exists today where they honor or “roast” a celebrity with lavish dinners. In addition, The Friars Foundation raises money to help small performing arts groups and provides scholarship programs for the next generation of students studying the arts.

Formation of Film Guilds

By the 1930s, many organizations were formed for theatrical, electrical technicians, actors, and directors. The following are the oldest organizations:

- International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada (I.A.T.S.E.)
- Screen Actors Guild (SAG)
- Directors Guild of America (DGA)
- Writers Guild of America (WGA)

Genesis from Film Guild to Labor Unions

These guilds began to unite specific workers in the film industry. The early guilds fought to provide creative freedoms and improved work conditions.

Though their intentions were great, they had very limited power against the studio owners.

Everything changed in 1935, when the National Labor Relations Act (Wagner Act) was enacted. This Act prohibited employers from unfair labor practices, allowed workers to organize, and designated labor organization of their own choosing. For the first time, they were able to negotiate the terms and conditions of their employment. This act transformed these guilds to labor unions of who were able to do collective bargaining for their members. *Collective bargaining* means that the guild can negotiate terms for their membership such as wages, benefits, royalty payments, screen credits, and working conditions. The following is a description of how the guilds were formed and who they represent today:

International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada (I.A.T.S.E.)

IATSE was first established in 1893 and was originally called the National Alliance of Theatrical Stage Employees. It was affiliated with The American Federation of Labor (AFL), one of the largest unions in the United States.

KEY TERM:

AMERICAN FEDERATION OF LABOR (AFL) Formed in 1886 and was the first labor union in the United States.

At first this organization was formed for theater projectionists but soon included technicians, artisans, and craft persons in the theatre, motion pictures, and television. This was the first guild to successfully stand up to studio bosses who during the Great Depression insisted on pay cuts of 50 percent. In response to this pay cut, IATSE membership threatened to strike and the studios actually backed down. In 1995, the guild's name was officially changed to cover all the film activities they represented. The guild's long name reveals how the film industry has evolved over the course of 110 years.

Today, the guild has a membership of over 110,000 members and is the largest labor union in a wide array of entertainment industries.

SIDE NOTE

IATSE serves members of the following entertainment industries:

- Animation /Computer
- Generated Imagery
- Front of House
- Laboratory
- Makeup and Hair
- Motion Picture and Television Production
- Post-Production
- Projection and Audio-Visual
- Scenic Artists
- Stagehands
- Television Broadcast
- Trade Show/Exhibition
- Wardrobe

IATSE is a huge guild that is broken up into a vast number of regional unions called *Locals* and are organized into *Districts*. Each of these districts are categorized into different industries in the United States and Canada. IATSE has a basic agreement however each union has its own local agreements. These agreements cover occupations, wage scales, minimum schedules, overtime provisions and other work conditions. For example, in Los Angeles the following are the major groups:

- IATSE - Local IATSE unions covered under the basic agreement.
- Teamsters Local 399 – has a separate agreement that covers transportation personnel.
- Basic crafts unions – has a separate agreement that covers electrical, plumbers, laborers, plasterers, cement masons.

The following is an example of District No. 2 contact information and job classifications they represent:

SIDE NOTE

DISTRICT NO. 2

States: California, Nevada, Arizona, and Hawaii

10061 Riverside Drive, Suite 825 Toluca Lake, CA 91602

Phone: 818-303-4351

Web site: www.iadistrict2.org

District No. 2 represents 67 locals, reflecting approximately 37,000 members.

The following are the classifications: Art directors, story analysts, cartoonists, set designers, set decorators, costume designers, scenic artists, art crafts personnel, graphic artists and set painters. Grips, electricians, property persons, teachers, publicists, make-up artists and hair stylists, and costumers. Stagehands, lighting and sound technicians, ticket sellers, wardrobe personnel, makeup artists and hairstylists, cinematographers, still photographers, sound and sound effects technicians, editors, script supervisors, laboratory technicians, projectionists, utility workers and first aid persons, as well as booking, shipping, and distribution employees.

To find a complete listing go to the I.A.T.S.E Web site (<http://www.iatse-intl.org/home.html>) and chose Local Union Directory.

Screen Actors Guild (SAG)

Screen Actors Guild was founded in 1933 to protect actors from the movie studios multi-year contracts (outlined in Chapter 1) which resulted in long grueling hours, and control over the lives of actors who signed them. In 1937, the membership affiliated themselves with the American Federation of Labor and voted to strike.

According to founder Samuel Gompers, “pure and simple unionism,” was needed to hammer out the best arrangement it could under the existing system by using strikes, boycotts, and negotiations to obtain better work conditions and higher wages. The producers buckled and SAG signed their first contract that improved working conditions and wages. By the 1940s, the guild was able to abolish long-term contracts and improve the livelihood of its members. As the first SAG President, Ralph Morgan once said, “the greatest good for the greatest number.” This goes to show you that there is definite power in numbers. Effective March 30, 2012, SAG has merged with another union American Federation of Television and Radio Artist (AFTRA). The merger has developed a diverse membership skilled in a variety of media specialties.

SIDE NOTE

SAG-AFTRA REPRESENTS:

Actors

Announcers/Program hosts

Broadcast journalists,

Dancers

DJs,

News writers/directors,

Puppeteers

Recording Artists

Singers

Stunt Performers

Voiceover artists



FIGURE 4.1—Ronald Regan talking with Seven SAG members

The Directors Guild (DGA)

In 1936, the Screen Directors Guild was founded to “achieve proper recognition and creative freedom for all Directors.” By 1939, the guild was recognized by all the studios as a collective bargaining unit. This gave this guild the ability to negotiate on behalf of their members. In 1960, the Screen Directors Guild merged with the Radio and Television Directors Guild and changed their name to Directors Guild of America, Inc.

Through tireless negotiation, the guild was able to establish a contract with the studios that enabled directors to receive screen credits and establish minimum wages and better working conditions for Assistant Directors. Today the DGA represents more than 14,000 members throughout the United States.

SIDE NOTE

The DGA membership includes Directors, Assistant Directors, Unit Production Managers, Associate Directors, Stage Managers, and Production Associates.

Writers Guild of America (WGA)

The Writers Guild of America was first founded in 1921 for screenwriters to combat wage reductions that were imposed by the film studios. In 1933, the guild became affiliated with the Author League of America. By 1942, they established a Producer-Screen Writers agreement which tackled unfair practices and established arbitration procedures. Today, there are two branches of this guild, the WGAE (East—New York) and the WGAW (West—Los Angeles).

SIDE NOTE

The **WGA** supports writers in the areas of motion pictures, television, and new media.

Growth of Film Guild/Labor Unions

The establishment of these guild/labor unions encouraged many individuals in entertainment-related industries to voice their interests, unite workers with the same skills, and create a strong bargaining position with their employers. Many labor unions started spreading to other cities which meant increased membership and provided them with strength in numbers. In addition, many guild/labor unions established alliances with other unions which enabled labor unions to finance long strikes. Soon, the following unions were formed:

The Motion Picture Editors Guild (MPEG)

Established in 1937, this guild was originally known as the Society of Motion Picture Film Editors which represented picture, sound, and music editors. Within a year (1938), the Society was able to negotiate a ten percent wage increase. In 1944, the membership voted to become affiliated with the IATSE and become the Motion Picture Editors Guild. Today they have offices in Los Angeles and New York and have over 110,000 members.

SIDE NOTE

MPEG membership consists of editors in sound, dialogue, effects, and music. In addition, they support mixers and engineers.

The American Federation of Television and Radio Artists (AFTRA)

American Federation of Radio Artists (AFRA) was formed in 1937 and it was created for radio performers. By 1938, AFRA members negotiated an agreement with NBC and CBS and arranged a wage increase of 125%. On September 17, 1952, the Television Authority for Television Performers merged with AFRA and created the American Federation of Television and Radio Artists. Today, the newly formed SAG-AFTRA guild has 160,000 as opposed to 70,000 AFTRA members. Now thanks to the merger both unions believe they can increase their collective bargaining and organizational strengths. This enables them to negotiate the best wages, working conditions, health/pension benefits and expand work opportunities.

Who Negotiates with the Guilds/Unions?

When it comes time for *collective bargaining*, the guild/union conducts discussions with the *Alliance of Motion Picture and Television Producers* (AMPTP). This trade association was formed in 1982 and represents “350 motion picture, television producers, studios, and broadcast networks” in negotiations. Once negotiations are successful a legally binding contract or

agreement is put in place. This agreement defines conditions of employment such as:

- Wages
- Working hours and conditions
- Overtime payments, holidays
- Vacations
- Benefits
- Procedure for dispute resolution

KEY TERM:

COLLECTIVE BARGAINING The negotiation between organized workers and their employer or employers to determine wages, hours, rules, and working conditions.

This process sounds simple, right? Not quite, like all negotiations there is always a chance that discussions between the studios and the unions can come to a standstill and lead to a strike. Take for instance the Writer's Strike of 2007, talks stalled over issues regarding *residuals* for writing in *new media*.

KEY TERM:

RESIDUALS The term used to describe royalties paid to actors, directors, and writers for airing programs originally and in subsequent replays and re-runs, and for DVD rentals.

NEW MEDIA Describes digital computerized or networked information and communication technologies.

The Writer's Strike lasted 100 days and finally concluded on February 12, 2008. According to the Associated Press this strike cost the local Los Angeles economy \$2.5 billion. This total includes wages lost by writers, other entertainment industry companies and their employees, e.g., caterers, limousine services, and equipment and prop houses. It is best to keep the possibility of a strike in mind when scheduling your film. If there is a possible strike brewing while you are in preproduction of your film, it is best to request the various guilds you are working with to grant the production company an extension to use the actor or crew member. That way the guild member will be allowed to work with the production company and prevent the postponement of the film.

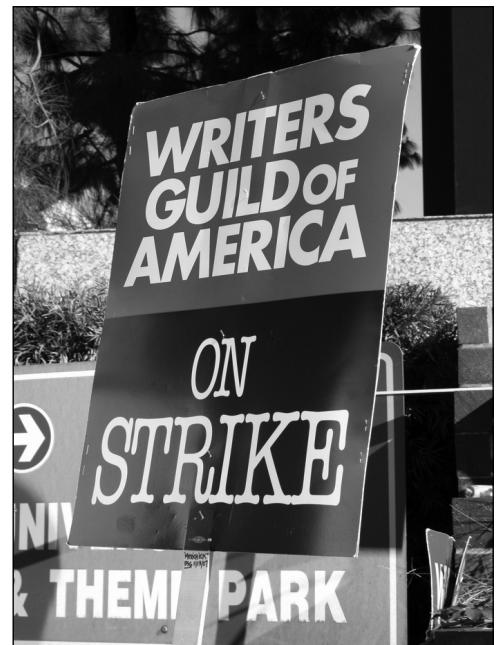


FIGURE 4.2—WGA Strike Sign

■ Why Do I Need to Utilize a Guild?

This is probably a question asked by all independent filmmakers. The primary reasons you utilize a guild are as follows:

- **Access to talented people**—This enables you to access professionals who are experienced and well trained. The use of the professional actors or crew members results in a more creative and more dynamic film.
- **Keeps your production on schedule**—There are less film delays due to lack of experience and poor leadership. There are far less injuries and equipment and location damages when union crews are on the job.
- **Marketable film**—Enables your film to have a greater probability of securing distribution. This is true if you utilize a named actor or director.

What Are Film Distributors Looking For?

According to various *distribution companies*, the following is a list of what they look for when selecting an independent film:

- A good story/script—Films with suspense, action, comedy, and horror are the most popular with distribution companies.

KEY TERM:

DISTRIBUTION COMPANIES Circulate a film in theaters, television, cable, direct to video, or the Internet.

- The story should appeal to a variety of different audiences—Before putting together a film you should already know your target audience and *demographics*. The production company must determine what group of people would want to see their film. For instance, women and teen girls assisted in making the film, “Twilight,” a success in the box office.

KEY TERM:

DEMOGRAPHICS The statistical characteristics of human populations to identify and target consumer markets. Examples would be age or income level.

- Film should feature a recognized actor(s) or director—Recognizable actors can increase your chances in attracting a distribution company. The actor does not always have to be notable. Many production companies hire a recognizable older actor or popular television actor who is on *hiatus* from their series.

KEY TERM:

HIATUS An interruption in time or a break.

- Characters to whom moviegoers can relate—The lead character should be someone that has redeeming qualities, an intriguing personality, or great comedic skills.
- Are there other avenues that the film can be released?—Many films have been successful in foreign territories. Many European and Asia markets are interested in films that depict the American way of life. Thanks to improved digital technology more films are being released on the Internet. We have the technology, so the possibilities are limitless.

What's The Process?

Decide Upon a Guild(s)

Many production companies utilize the amount of funding they have secured to determine what guild(s) they will employ. If there are limited funds the production company will use the services of just a SAG actor or an AFTA member. In this situation, filmmakers would rather spend a significant portion of their funds on at least one recognizable actor then spend their money hiring other guild members. It is their hope that if they hire a recognizable actor it would allow them to secure a distributor. On the other hand, if there are ample funds the production company could hire a number of recognizable actors and employ the services of a DGA director, a SAG actor, and/or IATSE film crew. Whatever the combination of guilds chosen the production company must allocate the costs and expenses into their budget.

Paperwork...Paperwork!

Become a Signatory

The first thing you will need is to become a *signatory* to the guild. Each guild will require that you complete an application. It is best to start completing the application as soon as possible because the process can take up to four weeks.

KEY TERM:

SIGNATORY An individual who signs and is bound by a document.

Dependent on the guild, they will require a preliminary application and the following basic information:

- Complete legal name and address of the production company
- Contact information: contact person, phone number, e-mail address
- Type of production (theatrical feature, movie for TV)
- Production details: title, story line, location, principal photography dates (start and completion dates)
- Budget
- Intended date the film will be released (if known)
- Name of the director
- Once the preliminary application is approved each guild will require you approve and abide by a standard service agreement (aka deal memo). IATSE, DGA, and AFTRA all have different types of theatrical and low budget agreements. You will have to choose the best agreement that fits the type and size of your film. These agreements will outline the “bells and whistles” that are built into the agreement.

In addition, you will be held accountable for all your actions as the guilds can request an inspection and audit your records.

Upon completion of the agreements, the production company will generally need to provide a final shooting script, budget, shooting schedule, a complete information sheet regarding sources of financing, and intended distribution. This information is used to verify financial viability of the production company and identify the working conditions that the guild member will encounter.

Below are examples of the elements of some of the guild agreements and their rates:

IATSE

Basic Agreement

As with each guild there is a basic agreement that outlines in detail the responsibilities and standards that production companies must assume when hiring IATSE members. All basic agreements outline the following information:

- The minimum wage “scale” and overtime pay for the number of hours the guild members work.
- Benefits such as pension, health benefits, payments for social security, disability, and state and federal taxes.
- Working conditions such as:
Rest periods between performances.
Number of meal breaks and penalties.
Travel and hotel accommodations.

Low Budget Theatrical Agreement

To meet the needs of independent films, IATSE has an agreement for low budget films produced in the United States or Canada. This agreement has three tiers based on the production costs which are outlined below:

Low Budget Theatrical Agreement Effective January 1, 2010		
TIER ONE	TIER TWO	TIER THREE
Production costs budgeted at no more than \$5,000,000	Production costs budgeted over \$5,000,000 and not more than \$8,500,000	Production costs budgeted over \$8,500,000 and at not more than \$12,000,000

In addition, there is an Ultra Low Budget tier available for films whose production costs do not exceed \$1,850,000 and have a principal photography term of fifteen days. In this tier, the wage rates for covered employees can be negotiated with an employee. However the rates shall not be less than federal or state minimum wage. In addition, overtime shall be computed and paid in compliance with applicable law. Please note, that if wage payments do not meet the guilds standards all the members wages will be adjusted to the Tier Two minimum wage rate.

Big Brother Is “Watching”

As with all guilds, IATSE has the right to inspect all records, documents, and information relating to the budget and the actual costs of the production. In addition, they have the right to audit budget records if a *grievance* is reported up to twelve months following the release of the film. IATSE may appoint a *job steward* to monitor and ensure the production company is in compliance with their regulations.

Grievance

In addition, a job steward can represent and defend a guild member should a grievance or allegation be made. They serve as a communication link between guild members and the guild. They are usually the first to report if a production company fails to pay wages earned by their members and fails to remit benefit contributions. Please note that if there is a lack of response or resolve, the union may pursue any and all remedies available in law.

Arbitration

If a grievance occurs and it cannot be resolved by the IATSE International President or his representatives and the production company, it will be required that the parties go to *arbitration*. If an arbitrator cannot be selected by both parties, one will be appointed from the American Arbitration Association (<http://www.aaamediation.com>).

Please note that all grievances need to be submitted to the other party within thirty (30) calendar days following an incident. If the grievance is more than a year old the incident is considered to be closed.

KEY TERM:

GRIEVANCE An actual or supposed circumstance regarded as a reason for a complaint.

ARBITRATION The submission of a dispute to an unbiased third person designated by the parties to the controversy, who agree in advance to comply with the award—a decision to be issued after a hearing at which both parties have an opportunity to be heard.

Work Week

The IATSE work week consists of seven (7) consecutive days with the sixth and seventh days off. This type of work week would apply to principal photography and *second unit* filming. Advanced notice must be provided to the guild if the work week changes. All shifts are required to provide a thirty-two (32) hour rest period. Please note that wages must be paid to the guild member no later than the Friday following the end of each week of production.

KEY TERM:

SECOND UNIT Filming consists of establishing shots, close-ups, cutaways, and filming locations.

Minimal Hours

- Pre-production—eight (8) hours excluding meals.
- Production—eight (8) hours excluding meals. Work time begins at the time of the set call and ends at the time of set dismissal.
- *Wrap day*—four (4) hours.
- Travel only day—four (4) hours and the maximum shall be eight (8) hours paid as a straight time allowance.
- Work and travel—all hours shall be considered work hours.

KEY TERM:

WRAP After principal photography has ended and the film goes into post-production.

Wages

The wage scale differs from the different production costs. Depending on the tier, state and the position, there are standard hourly “key wages” some rates are subject to negotiation. The following is a sample of a LOCAL 44-Property/Los Angeles.

LOCAL 44 - PROPERTY
LOS ANGELES

LOCAL 44, PROPERTY Distant Location Minimum Rates 7/31/11 - 7/31/12				
Schedule	A	B	C	
Employee Type	Daily	Weekly**	Weekly**	
Minimum Guarantee - Consecutive Cumulative		6 days 60 hours		On Call
1 1/2 x after (hours)	8 and/or 40	40		Exempt
Minimum Call (hours)	9 1/2	8		On Call
Occ. Code	Classification	Per Hour	Per Hour	Per Week
				5-Day Rate
7300	Prop Maker Foreperson	41.48 (ix)		2,151.65
7301	Prop Maker Gang Boss	38.41 (ix)		
7303	Prop Maker Journeyperson (Carpenter)	36.31 (ix)		
7310	Special Effects Foreperson	41.48		
7311	Special Effects Gang Boss	38.41		
7313	Special Effects Journeyperson	36.31		
7315	Licensed Powder Person (ii)	41.63		
7317	Asst. Licensed Powder Person	38.88		
7320	Sewing/ Greens/Property Foreperson	38.12		
7320	Upholsterer Foreperson	41.48		2,014.43
7321	Draper Foreperson	41.48		2,151.65
7322	Upholsterer Gang Boss	38.41		2,151.65
7323	Draper Gang Boss	38.41		
7325	Upholsterer	36.31		
7326	Draper	36.31		
7328	Sewer Foreperson	38.41		
7329	Prop Sewing Person	36.31		
7331	Prop Master****	40.91	40.375	2,826.26
7332	Asst. Prop Master	36.30	35.768	2,503.78
7351	Upholsterer/Draper/Greens/ Property Gang Boss*** (Leadperson)	35.56	35.040 (viii)	2,452.81 (viii)
7369	Property Person (includes Checkers, Hand Prop Persons, Electrical Property Persons, Furniture Handlers, Flower Persons, Greens Persons, Upholsterers, Drapers and Property Sewing Persons)* (Swing Gang and Set Dresser)	34.00		
		1-Day Rate		
7390	Set Decorator "On Call" (iii)	600.89		2,503.70
7392	Coordinator "On Call" (iii)	585.24		2,458.50

* Property Person #7369 assigned to scoring stage may be employed at #7369 rates and schedules; Special Effects on scoring stage carry the Special Effects Journeyperson #7313 rate.

** B - The guaranteed pay of weekly employees who absent themselves without the employer's consent may be reduced one-fifth (1/5) of the weekly guarantee for each day of absence.

C - A combination of employment under studio and distant location schedules may be used to fulfill the weekly guarantee of five (5) days for studio employment.

FIGURE 4.3—Sample of LOCAL 44 Property/Los Angeles

Overtime

- Work hours in excess of eight (8) on the first five (5) days of the work week shall be paid at *time and one-half*. This means members are paid 1.5 times their usual hourly rate.
- Work hours in excess of fourteen (14) hours on the first six (6) work days of the work week and for all hours worked on a seventh work day in a work week or on a designated holiday shall be paid *double time*.
- Work hours beyond fifteen (15) hours on any day shall be paid at *triple time*.

KEY TERM:

OVERTIME Additional hours outside of a regular work schedule.

TIME AND ONE HALF Being paid 1.5 times their usual pay rate.

DOUBLE TIME Being paid 2 times your pay rate.

TRIPLE TIME Being paid 3 times your pay rate.

Meal Period

The meal periods will range from one-half ($\frac{1}{2}$) hour to no more than one (1) hour. On a normal day there can be no more than one (1) meal period that can be deducted. If the work day is extended, a second meal period may be deducted from work time. If meals are delayed, there is a meal penalty allowance and is computed as follows:

- (1) First one-half hour meal delay—\$ 7.50
- (2) Second one-half hour meal delay—\$10.00
- (3) Third and each succeeding one-half hour meal delay—\$12.50

DGA

This guild has two types of agreements for filming in the United States and Canada which are:

The Basic Agreement (BA) is established for films and television programs. This agreement applies to directors, assistant directors, and unit production managers (UPM).

The Freelance Live and Tape Television Agreement (FLTTA) for films produced live or recorded on videotape. This agreement applies to directors, associate directors, stage managers, and production associates.

Director

In addition, the DGA has a Low Budget Side Letter that allows directors to work on films for theatrical, DVD releases at various budget levels.

Level 1 and 2: Film budgets less than \$2,600,000.

- The director's daily rate and compensation is subject to negotiation.

Level 3: Film budgets greater than \$2,600,000 but less than \$3,750,000.

- The director's compensation shall be no less than \$75,000 for a minimum guarantee of 13 weeks.
- The minimum compensation for a second unit director is \$1,500 per day.

Level 4A & B: Film budgets greater than \$3,750,000 but less than \$11,000,000.

- Directors and second unit directors may be paid:

Low Budget Side letter – Level 4A & B		
Rates Effective July 1, 2012 to June 30, 2013		
Subject to Change		
	Level 4 A	Level 4 B
Weekly Salary	\$12,598	\$15,117
Guaranteed Preparation Period	2 weeks	2 weeks
Guaranteed Employment Period	10 weeks	10 weeks
Guaranteed Cutting Allowance	1 week	1 week
Compensation for Days Worked Beyond Guarantee	\$2,520	\$3,023
Daily Employment Where Permitted	\$3,149	\$3,779

Level 4C: Films budgets greater than \$11,000,000.

- Directors and second unit directors may be paid:

Low Budget Side letter – Level 4C	
Rates Effective July 1, 2012 to June 30, 2013	
Subject to Change	
Weekly Salary	\$16,797
Guaranteed Preparation Period	2 weeks
Guaranteed Employment Period	10 weeks
Guaranteed Cutting Allowance	1 weeks
Compensation for Days Worked Beyond Guarantee	\$3,359
Daily Employment Where Permitted	\$4,199

Guarantees

As you will note in the various diagrams, the director is guaranteed two (2) weeks of preparation before starting a film. This provides the director time to study the script, interrupt the vision, create a shot list, conduct casting, or rehearsals. They have a guaranteed employment period of 10 weeks which will provide the director time to develop a cooperative relationship with the cast and crew and get the best film shot. In addition, the director is guaranteed a cutting allowance which means they can be consulted in post-production.

Disclosure

The production company must provide full disclosure of all details pertaining to the creative process and must provide all the artistic elements before engaging the director. The director should be provided the following:

- Names of actors and creative personnel that are employed.
- Budget to review and advise if it is practical.
- Script the film is based on.

When the director has accepted the position, the production company cannot erratically reduce the budget or shooting schedule. The production company must provide full disclosure to the director if there are changes being made to the above or below the line costs.

Consultation

The production executive team must consult with the director when dealing with script revisions, casting, hiring of the creative personnel, location selection, set design, construction, and post production. The director has the right to select the first assistant director as long as their salary is not excessive and they have not been guilty of a crime. The production company will still have the right to dismiss the first assistant if there are just grounds.

If second unit director is needed, the director will participate in the hiring process. In the event there is a disagreement finding the ideal applicant, the producer will supply the director with a list of three (3) qualified applicants. The director will then select the applicant.

The director can also designate the individual that will have *final cut authority* in post-production if the production company has not selected an applicant. The production company shall supply the director a list of three (3) qualified applicants. The director will then select the applicant.

KEY TERM:

FINAL CUT AUTHORITY This terminology is used when an individual has the contractual authority over how the film will be edited and ultimately released for public viewing.

Grievance

Any disputes with the basic agreement or deal memo regarding proper credit, cutting rights, preview rights, creative rights, and unpaid compensation (\$500,000 or less) can be arbitrated. Disputes regarding travel arrangements, secretarial services, and compensation measured by gross proceeds can not be arbitrated.

The grievance can be filed as follows:

- Twelve (12) months following the date discovery.
- Four (4) years following the date of the dispute regarding pension and health contributions, residual compensation, or deferred compensation.

All grievances must be in writing and should refer to the contractual provision that alleges a breach took place. Usually, guild representatives and the production company shall meet in ten (10) working days to settle the dispute.

Arbitration

If a settlement cannot be reached, the damaged party must send a written demand for arbitration. This demand must be made no later than sixty (60) days after filing the grievance. The other party will provide a written response to the grievance within five (5) days. Next, the parties will attempt to agree upon an arbitrator within ten (10) business days. If an agreement cannot be reached, the parties must utilize the following rotation of Arbitrators outlined in the Basic Agreement.

Other arbitrators can be selected but only by mutual agreement between the production company and the guild. If an arbitrator is not selected the Federal Mediation and Conciliation service will appoint one.

Arbitrations should be held in Los Angeles in either the guild's offices or the production company office. Any dispute as to what city the arbitration should be held shall be determined by an arbitrator. The arbitrator will set a date for the hearing which is within fifteen (15) to thirty (30) days after

the request for arbitration. The arbitrator will notify all parties of the time and place of the hearing. All parties will be subject to *subpoena duces tecum* which means they are required to provide documents and physical evidence. The Arbitrator will oversee the meeting and reach a decision. The award shall be put in writing and sent to all parties and is final. Please note that an arbitrator has no rights to modify or amend any of the terms of the Basic Agreement or deal memo or personal service contract in making a decision.

Work Week

The DGA work week consists of seven (7) consecutive days with the sixth and seventh days off.

Wages

If a director works six days at the request of the production company, the director will be paid 150% of the directors actual *pro rata* salary (or amount earned) or an additional 200% of director fee scale whichever is lower. For directors employed on a flat deal, the compensation is 1/5th of the weekly minimum for the sixth day worked.

KEY TERM:

PRO RATA To calculate an amount based on the portion of time that has passed.

Transportation

All transportation, meals, and accommodations to location for directors must be first class or best obtainable, if not available. Except as otherwise outlined in his or her deal memo, the production company will reimburse the director for reasonable incidental expenses incurred in connection with the film.

Assistant Directors/Unit Production Managers

Just like the director, the assistant directors and unit production managers have their own Low Budget Side Letter which allows them to work on films at various budget levels.

Level 1A: Film budgets less than \$500,000.

The hourly rate is subject to negotiation. The hour of work shall in no event be less than the federal or state minimum wage.

Level 1B: Film budgets greater than \$500,000 but less than \$1,030,000.

Initial compensation should not be less than 33% of the minimum weekly salaries. The salary paid for any hour of work shall in no event be less than the federal or state minimum wage—see following:

Level 2: Film budgets greater than \$1,030,000 but less than \$2,570,000.

Initial compensation should not be less than 50% of the minimum weekly salaries. Any second assistant director hired in addition to the key second assistant may be paid no less than 50% of the minimum weekly salary for an additional second assistant director.

Please note that there is a *production fee* for all UPMS, 1st AD, and Key 2A for the period of principal photography or second unit photography. In this level, the production fee is \$25 per week.

KEY TERM:

PRODUCTION FEE Additional monies that are included for work being provided.

Level 3: Film budgets greater than \$2,570,000 but less than \$3,605,000.

Initial compensation should not be less than 60% of the minimum weekly salaries. Production fees for the UPM and 1st AD is \$200 per week and \$150 per week for K 2A.

Level 4A: Film budgets greater than \$3,750,000 but less than \$5,500,000.

Initial compensation and production fees should not be less than 70% of the minimum weekly salaries.

Level 4B: Film budgets greater than \$5,500,000 but less than \$8,500,000.

Initial compensation and production fees should not be less than 80% of the minimum weekly salaries.

Low Budget Sideletter - Level 4B					
Rates Effective July 1, 2012 to June 30, 2013	UPM	1st AD	Key 2A	2nd Second AD	Additional 2nd AD
Weekly Studio Salary	\$3,835	\$3,647	\$2,445	\$2,308	\$1,403
Weekly Location Salary	\$5,371	\$5,101	\$3,414	\$3,225	\$1,970
Daily Employment Studio	\$959	\$912	\$611	\$577	\$351
Daily Employment Location	\$1,343	\$1,275	\$854	\$806	\$492

Level 4C: Film budgets greater than \$8,500,000 but less than \$11,000,000.

Initial compensation and production fees should not be less than 90% of the minimum weekly salaries.

The following is a sample of a The DGA Basic Agreement Rates:

BASIC AGREEMENT			DGA					
BASIC AGREEMENT (7/1/11 - 6/30/14)								
Directors - Minimum Rates 7/1/11 - 6/30/14								
Type of Picture	Weekly Rate		Guaranteed Employment*	Prep Time*	Cutting Time***			
	7/1/11 - 6/30/12	7/1/12 - 6/30/13†	7/1/12 - 6/30/14†					
Low Budget (to \$500,000)	10,373	10,580	10,792	8 weeks	2 weeks			
Medium Budget (\$500,000 to \$1,500,000)	11,791	12,027	12,268	10 weeks	2 weeks			
High Budget (\$1,500,000+)	16,508	16,838	17,175	10 weeks 20 or more out of 26 weeks or any multiple of such	2 weeks			
Term	10,373	10,580	10,792		None			
Trailers, Talent Tests & Promos	11,791	12,027	12,268		None			
Freelance Shorts & Documentaries	11,791	12,027	12,268	1 week and 1 day per film	2 days			
Second Units	Same as 1 st Unit		1 week or 1 day	****	None			
† The DGA reserves the right to divert one-quarter percent (0.25%) of the salary increases in each of the 2 nd and 3 rd years of the agreement, instead applying it to increases in the health plan contribution rate. This means that instead of raising salaries 2% each year, as reflected here, salaries would only be raised 1.75% in the 2 nd and/or 3 rd years.								
* Guaranteed Period of Employment - In the event of a change or substitution of a Director, the substituting Director will only be guaranteed the unexpired portion of the previous Director's guarantee, at not less than double minimum compensation for the work performed.								
** Preparation time will be added to guaranteed employment period for Directors employed at a weekly salary of double minimum or less who will receive full salary during such preparation time.								
*** Cutting allowance will also be added to guaranteed employment period for Directors receiving double minimum or less, who will receive full salary during such cutting allowance time.								
**** One day preparation for one day's shooting; two days preparation for two or three days shooting; three days' preparation for four or more days shooting. However, this preparation time requirement will not apply to any unplanned units or emergencies, or where preparation time is not needed because the Director of the second unit work has been working on the production in a different Guild capacity covered by the terms of the BA or FTTA.								
Daily Rate - The daily rate for daily employment will be one-fourth of the weekly rate payable for the particular type of picture. The daily pro-rata rate for weekly employment following the guaranteed period will be 1/5 of the Director's weekly rate. Directors may only be employed on daily basis in specific circumstances, such as second units, trailers, added scenes, etc.								
Page 2 - DGA	Showbiz Labor Guide 2011/2012							

FIGURE 4.4—DGA basic Agreement Rates

Work Week

The DGA work week consists of seven (7) consecutive days with the sixth and seventh days off.

Overtime

If a UPM, Assistant Director, or Associate Director are required by the production company to perform work on six (6) days at a studio or a local location they are compensated as follows:

- Daily—shall be paid one 150% of his or her actual gross daily salary.
- Weekly—one-fifth (1/5) of his or her actual gross weekly salary, in the case of weekly employees.

If a UPM, Assistant Director, or Associate Director are required by the production company to perform work on seven (7) days at a studio or a local location they are compensated as follows:

- Daily—shall be paid 200% of his or her actual gross daily salary.
- Weekly—one-fifth (1/5) of his or her actual gross weekly salary.

Rest Period

Any UPM, Assistant Director, or Associate Director working on a film shall be entitled to a nine (9) hour rest period.

Guild Obligations/Residuals

Once a guild member is hired the production company will need to complete all the necessary paperwork to ensure the member(s) get pension and health benefits and ensure payments are made for social security, disability, and all state and federal taxes. In addition, as a part of compliance you will need to provide various documents to the guilds such as weekly work list, quarterly employment data report, and quarterly gross earnings report. Ultimately, once the film is completed and gets distribution this agreement ensures that the Guild has the legal means to collect residual payments for their members.

As there are differing requirements and procedures with the various guilds it is best to contact a representative at the guild or go to their Web sites to download contracts and forms and utilize the resources available online.

Guild/Union Contact Information

DGA

Directors Guild of America
DGA Membership Department
7920 Sunset Boulevard
Los Angeles, California 90046
Phone: 310-289-2000/800-421-4173

Signatories Department: 310-289-2094

Web site: www.dga.org

IATSE General Office

1430 Broadway
20th Floor
New York, NY 10018
Phone: 212-730-1770
Web site: www.iatse-intl.org

Refer to the attached Listing of the various IATSE district offices.

SAG-AFTRA

Los Angeles - National Headquarters

5757 Wilshire Blvd., 7th Floor
Los Angeles, CA 90036-3600
(323) 954-1600 Main Switchboard
1-800-SAG-0767 for SAG-AFTRA Members outside Los Angeles

New York

360 Madison Avenue, 12th Floor
New York, New York 10017
(212) 944-1030 Main Switchboard

260 Madison Avenue, 7th Floor
New York, NY 10016-2401
(212) 532-0800

Web site: www.sagaftra.org

MPEG

Motion Picture Editors Guild
Hollywood
7715 Sunset Boulevard, Suite 200
Hollywood, CA 90046
Phone: 323-876-4770

New York

Editor's Guide
145 Hudson Street, Suite 201
New York, New York 10013
Phone: 212-302-0700
Web site: *www.editorsguild.com*

WGA

Writers Guild of America-West
7000 West Third Street
Los Angeles, CA 90048
Phone: 323-951-4000
Phone: 800-548-4532
Web site: *www.wga.org*

Writers Guild of America-East
555 W. 57th Street
New York, NY 10019
Phone: 212-767-7800
E-mail: *info@wgaeast.org*

SUMMARY

The purpose of this chapter is to provide you with an understanding of how guilds were created, what they do, and who they represent. Thanks to the efforts of SAG, DGA, WGA, IATSE, and AFTRA, filmmakers have improved working conditions and are now able to make a fruitful living in entertainment. When utilizing a guild it requires an in-depth review of the contracts and their requirements. While the process requires a lot of arduous paperwork, in the end, you will produce a good quality film, achieve a distribution deal, and with a little luck, “fame and fortune.”

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Over the years guilds/unions have grown larger and larger, many filmmakers feel they have grown out of touch with their membership. What suggestions would you make to the guilds/unions to better serve their members?
2. In light of the Writer’s Strike (2007–2008) that lasted 100 days and caused a tremendous economic impact not only on writers but everyone affiliated in the entertainment industry, what changes would you implement to avoid this in the future?
3. Imagine you are a director, what would your concerns be if a non-union crew is hired?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Do some research by calling two guilds and/or reviewing their Web sites. Find out what is required to become a member, i.e., how many years of professional experience, references, application process, and cost of membership. Create a chart and print the membership application.

Producers Guild of America	Directors Guild of America
Professional Experience	Professional Experience
References	References
Application Process	Application Process
Cost of Membership	Cost of Membership

CHAPTER 5

IT'S ALL ABOUT THE ACTORS

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Do Good Actors Make a Great Film?
- To SAG-AFTRA or Not to SAG-AFTRA
- Screen Actors Guild (SAG)
- Short Film Agreement
- Ultra-Low Budget Agreement
- Modified Low Budget Agreement
- Low Budget Agreement
- Theatrical and Television Basic Agreement
- The SAG Process
- Why Are Talent Agents Required in the Casting Process?
- Who Are the Best Talent Agencies?
- What If I Want to Go Non-Union?

Do Good Actors Make a Great Film?

In the film business, many believe you need good actors to make a great film, this statement is obviously not the *only* variable that makes a successful film. However, when you check out the below “Best Actor” or “Best Actress” Academy Award winners of character driven films you may have to agree.

SIDE NOTE

BEST ACTOR

Marlon Brando—“The Godfather”
Daniel Day-Lewis—“My Left Foot”
Tom Hanks—“Forrest Gump”
Sean Penn—“Milk”
Jeff Bridges—“Crazy Heart”

BEST ACTRESS

Meryl Streep—“Sophie’s Choice”
Sally Field—“Norma Rae”
Hilary Swank—“Boys Don’t Cry”
Helen Mirren—“The Queen”
Sandra Bullock—“The Blind Side”

The right lead and supporting actors make the magic happen, it is through their portrayal that we, the moviegoers, get invested in the story. We tell two friends to “check out this film,” they tell two friends and so on and so forth. Soon you end up with a hit.

To SAG-AFTRA or Not to SAG-AFTRA

This is a very important question for filmmakers because you must decide whether to hire a SAG actor(s) or hire non-union actor(s). As I stated previously, distributors are looking for films that star recognizable actor(s) or director.



FIGURE 5.1—SAG-AFTRA or Not to SAG-AFTRA?

Using recognizable actors and a noted director encourages interest in the film and increases sales. The best way to find recognizable actors is by way of SAG-AFTRA. To do this, the production company must begin the process of becoming a signatory to SAG-AFTRA. Another alternative is to hire non-union actors for their film. In this situation, there have been a great number of production companies that have been able secure successful distribution.

However, there is no way to definitively know how a film will be received when it is completed as it is still subject to the other variables that are outlined in Chapter 4. Overall, it is imperative that a producer carefully consider all variables that impact achieving distribution and make the best decision for the success of the film. In the end, the decision should not be based on economics but upon potential distribution avenues and marketing opportunities.

Screen Actors Guild (SAG)

Since 1933, The Screen Actors Guild (SAG) has “enhanced actors’ working conditions, compensation and benefits, and to be a powerful, unified voice on

behalf of artists' rights." They are a very powerful guild and have advanced the professional interests of their members. On the SAG Web site, a question from an actor asked "What do I lose if I am working on a non-union production?"

The answer that SAG posted was as follows:

- *SAG contracts*—You lose the protection of SAG contracts and a voice at your workplace. Your agreement to perform non-union work is between you and the producer. If the producer fails to abide by an agreement, the union's legal staff cannot help you.
- *Residuals*—Non-union residuals are an oxymoron. Most non-union films do not pay residuals. When you are not working a SAG contract, SAG legal can not represent you. Furthermore, when you are no longer represented by the Screen Actors Guild, you are responsible to collect your own money. Only SAG members are able to check their residual payments online.
- *SAG-producers pension and health*—Eligibility is earned only when you work under SAG contracts.

Wow...these are really good arguments to become a member of SAG. While this is great for a SAG member, it takes a lot of work for a production company. Much like the other guilds, there are forms to complete and established rules and regulations to follow. The guiding contract is the SAG Basic Agreement. These contracts provide in detail the responsibilities that producers must assume when hiring SAG members. Since the SAG-AFTRA merger on March 30, 2012, both organizations are utilizing their own agreements until the current agreement expires on June 30, 2014. The present SAG basic agreement outlines the following information:

- The minimum wage "scale" and overtime pay for the number of hours the guild members work.
- Working conditions such as:
 - Adequate rest periods between performances.
 - Number of meal breaks and penalties.
 - Travel and hotel accommodations.

SAG has provided regulations for professional performers such as actors, day players, professional singers, stunt performers and stunt coordinators. For decades, SAG was considered the guild that was traditionally utilized for studio and big motion pictures. However, due to limited numbers of

studio features and the success of independent films, SAG developed new types of agreements. In 2005, SAG created the listing below of new agreements. The agreements not only enable SAG to support the independent film world, it provides their membership with the prospect of more job opportunities.

Short Film Agreement:

- Ultra-Low Budget Agreement
- Modified Low Budget Agreement
- Low Budget Agreement
- Theatrical Basic Agreement

In addition, SAG has agreements for other types of film mediums such as:

- Television
- Basic Cable
- Television Animation
- Basic Cable Animation
- Commercials

Each of the above agreements is separated by different criterion and is based on the size of the budget. Here are some of the highlights of the various agreements.

Short Film Agreement

The short film agreement was designed for a total film budget of less than \$50,000. The requirements are as follows:

- Run time must be 35 minutes or less.
- Film must be produced in the United States.
- No more than 30 days of filming.
- Salaries are deferred.
- No *consecutive employment* (except on overnight locations).

- Both professional and non-professional performers can be utilized.
- Background performers are not covered.

KEY TERM:

CONSECUTIVE EMPLOYMENT The production company is obligated to pay for only the days the SAG member works. In addition, the SAG member may take another job if they wish. Rescheduling a shoot is up to the actor's availability.

Ultra-Low Budget Agreement

The ultra-low agreement was designed for a total budget of less than \$200,000.

- The daily rate is \$100.
- No “step-up” fees for distribution beyond theatrical market (not including Internet) but residuals will be due the principals. This does not include distribution on the Internet, you will have to contact SAG to find out how to pay a SAG-AFTRA and non-union actors if you intend on distributing your film on the Internet.
- No consecutive employment (except on overnight locations).
- Both professional and non-professional performers can be utilized.
- Background performers are not covered.

Please note that under the terms of the short and ultra-low budget contracts that you can use both SAG and non-SAG actors in the film.

Modified Low Budget Agreement

The modified low budget agreement was designed for a total budget of less than \$625,000.

- The daily rate is \$268/weekly rate is \$933.
- Stunt performer daily rate is \$268/weekly rate is \$1001.

- No consecutive employment (except on overnight locations).
- Six day work week.
- Reduced overtime rate.

KEY TERM:

SIX DAY WORK WEEK Is a structure of a work week. This means the company and their employees work 6 days.

Background Actor Incentive

Included only in this agreement is the Background Actor Incentive which applies an additional \$100,000 to the total production cost if the producer employs a minimum average of three SAG-AFTRA covered background actors for each day of principal. Please note that you are not required to utilize union extras when you are working with the Short, Ultra-Low, and Modified Low budget agreements.

Low Budget Agreement

The low budget agreement was designed for a total budget of less than \$2,500,000.

- The daily rate is \$504/weekly rate is \$1,752.
- Stunt performer daily rate is \$504/weekly rate is \$1,880.
- No consecutive employment (except on overnight locations).
- Six day work week.
- Reduced overtime rate.
- Reduced number of background performers covered

Nudity Requirements

In this agreement, there are requirements established for nudity. The SAG agreement wants to make sure that you and your representatives inform the actor up front if nudity or sex scenes are required in the role and if necessary the actor has the right to have a person of their choice present at any

audition involving nudity. If a *double* is to be used instead, authorization, and consent must be given by the actor. No still photography of nudity or sex acts is authorized without the consent of the actor.

The following is incorporated into both the Modified Low and Low Budget agreements:

Diversity in Casting Incentive

This incentive can be provided if the production company meets the criteria. If so, they can increase their production costs as follows:

- Modified Low Budget agreement—\$625,000 to \$937,500
- Low Budget Agreement—\$2,500,000 to \$3,750,000

Option A: If a minimum of 50% of the total speaking roles and total days of employment are performed by the following four (4) groups:

1. Women
2. Senior performers (sixty [60] years or older)
3. Performers with disabilities
4. People of color (Asian/Pacific Islander, Black, Latino/Hispanic, and Native American Indian)

Option B: A minimum of 20% of the total days of employment is performed by people of color.

Mandatory Theatrical Release

Please note that the modified low budget agreement requires that your film have an initial *theatrical release*. If the film is released theatrically the production company will have to step up payments or pay the theatrical actors basic rates that were in effect at the time of *principal photography*.

KEY TERM:

THEATRICAL RELEASE The film is to be released in theaters.

PRINCIPAL PHOTOGRAPHY The dates when filming start and finish.

You are obligated to notify the guild in writing of the theater, city, and date of the initial release. If this notification is not provided, this would be considered a breach of this agreement and you will be subject to SAG's *Basic Agreement*. Please note that payments are not due if after three (3) years the picture fails to get a theatrical release and is released in a different market—cable, DVD, or television. For Internet release, the production will pay the actors a sum (currently 3.6%) of the fee paid by the licensee for the right to release. In addition, all time including rehearsal time must be paid under this agreement.

Theatrical Basic Agreement

- The daily rate is \$809/weekly rate is \$2,808.
- Stunt performer weekly rate is \$3,015.

This agreement is a long detailed agreement that serves as a digest where you can find regulations regarding:

Consecutive Employment

Under the Basic Agreement producers are required to pay consecutive employment. This means that if an actor works on Tuesday and Thursday the producer will not only have to pay the actor for the days worked, but also for the “consecutive” day of Wednesday.

Looping, Retakes, Added Scenes

After principal photography an actor can return to do sound recordings for 4 hours or less and be paid one half their day pay. Salaries may need to be renegotiated if the actor is called back more than six (6) months of termination. If the actor works on Saturday they will have to be paid time and a half and if they work on Sunday, double time.

Stunt and Safety

The producer must get the actor's consent before performance of the stunt or work in smoke. A qualified stunt coordinator will plan, organize, inspect everything prior to executing a stunt and notify the union when a stunt is planned. A qualified and visually identifiable first-aid person should be present when anything stunt work is planned. With any use of a rigged explosive device the actor or background actor can consult a stunt coordinator or special effects person.

Non-discrimination and Diversity

This section requires the producer to agree to non-discrimination on the basis of sex, race, age, marital status, and sexual orientation. The producer will provide the union with information regarding employment of these individuals. All minorities, women, actors with disabilities, and actors over 40 years old have to be involved in the casting of *non-descript* roles. This agreement states that the production company should utilize minorities and women in the performance of stunt work.

KEY TERM:

NON-DESCRIPT Lacking distinct or individual characteristics; having no outstanding features.

In addition, there are other regulations and information relating to listing of all SAG-AFTRA branch offices, overtime, meal periods, holidays, filming minors, parking, time reports, residuals, rest periods, transportation and location expenses, engagement, and cancellation issues.

Additional Costs

Please be aware that besides the cost of the salaries of the actor(s) you will be required to make payments to the SAG Pension and Health plans of which is currently 15.3% of all gross compensation for performers and 15.0% for background actors. Also, as stated in Chapter 4, payments will need to be made to social security, disability, state and federal tax obligations, purchase workers compensation, and travel coverage. You will need to weigh the costs versus the services of the SAG member. Is their participation going to offset these costs? The answer is up to you and your production team.

The Process

Pre-production

Once you decide which agreement you will be utilizing, you will need to complete a *Preliminary Information Sheet*. These forms are available on SAG-AFTRA and SAG Indie's Web site.



SCREEN ACTORS GUILD PRELIMINARY THEATRICAL INFORMATION SHEET

(Motion Pictures made for initial theatrical release only)

Is your project: Live action or animated:

Title(s): "SUCCESS"

Screenplay writer(s): Aileen Snow

Start date: 4/23/13 Completion date: 5/31/13

Travel Dates: 4/24-5/3/13 Rehearsal Dates:

Individual producer or production company

name: Can't Go Wrong Productions

Street Address: 123 Success Road,

City/State/Postal Code /Country: Hollywood, CA

Contact Name: Trevor Canton

Position in the company: President

Telephone: 310-xxx-xxx Fax:

Email: tcanton@email.com

Genre: Comedy

Lenders/Financiers (specify): Bill Nee

Projected Edited Running Time: 90 minutes

Total Budget: \$500,000

Filming locations (City/State/Country): California

Lead Cast (if known): TBD

Distribution Agreement(s)(current or pending):

Sales Agent(s):

In addition, please place check (or "X") mark if you intend to include any of the following in your production:

Minors Animals Singers Puppeteers Stunts Nudity

PLEASE RETURN by fax or email to the appropriate number listed below. A Business Representative will contact you within 2 – 3 business days to follow-up on your request, explain the process and forward the appropriate paperwork. If you do not receive a return call please call to check that the fax was received.

For projects filming in:

Alaska	Idaho	Montana	Texas	Seattle
Arizona	Iowa	Nebraska	Oklahoma	South Dakota
Arkansas	Kansas	Nevada	Omaha	Utah
Colorado	Los Angeles	New Mexico	Oregon	Washington
Hawaii	vicinity	North Dakota	San Diego	Wyoming

*Fax to Los Angeles office – Theatrical Contracts – (323) 549-6886 or email to signyourfilm@sag.org
Telephone (323) 549-6828.*

For projects filming in:

Alabama	Maine	New York	Tennessee
Connecticut	Maryland	North Carolina	Vermont
Delaware	Massachusetts	New Jersey, Ohio	Virginia
Florida	Michigan	Pennsylvania	Washington D.C.
Georgia	Minnesota	Philadelphia	West Virginia
Illinois	Mississippi	Puerto Rico	Wisconsin
Kentucky	Missouri	Rhode Island	
Louisiana	New Hampshire	South Carolina	

Fax to New York office – Theatrical Contracts – (212) 944-6774. Telephone (212) 827-1553.

For projects filming in the San Francisco and Northern California areas:

Fax to San Francisco office – (415) 391-1108. Telephone (415) 391-7510

Although the signatory process will be handled by the Los Angeles or New York SAG office, if you are filming in a Branch area, the local office is your best resource for information and will be contacting you for information on your project, may require production documents to be forwarded to the Branch office and will provide support during production. Please take advantage of the knowledge and experience of the Branch representatives and feel free to contact them ahead of time.

Regional Branch offices can be reached toll-free at (800) 724-0767. Local numbers are below:

BRANCH	STATES COVERED	BRANCH	STATES COVERED
ARIZONA Tel: (480) 264-7696 Don.livesay@sag.org	Arizona, Utah	NASHVILLE Tel: (305) 670-7677 Fax: (305) 670-1813 or (800) 844-5439	Kentucky, Tennessee
BOSTON Tel: (617) 262-8001 Fax: (617) 262-3006	Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	NEW YORK See above	Connecticut, New York, Northern New Jersey (as designated by zip code)
CHICAGO Tel: (312) 573-8081 Fax: (312) 573-0318 or ((800) 599-1675	Illinois, Indiana, Iowa, Minnesota, Missouri, North Dakota, Ohio South Dakota, Wisconsin	NEVADA Tel: (702) 737-8818 Fax: (702) 933-9118	Nevada
COLORADO Tel: (720) 932-8193 Fax: (720) 932-8194	Colorado, Kansas Nebraska, Wyoming	NEW MEXICO Tel: (505) 268-2127 Fax: (505) 268-2151	New Mexico
DALLAS Tel: (214) 379-1171 Fax: (214) 379-1172 or (877) 344-7276	Arkansas Northern Texas (as designated by zip code) Oklahoma	PHILADELPHIA Tel: (215) 760-8535 Fax: (866) 226-6983	Delaware, Pennsylvania, Southern New Jersey (as designated by zip code)
DETROIT Tel: (248) 351-2678 Fax: (248) 351-2679	Michigan	PORTRLAND Tel: (206) 402-5958 Fax: (206) 402-3489 or (800) 378-6741	Oregon
FLORIDA Tel: (305) 670-7677 Fax: (305) 670-1813 or (800) 844-5439	Alabama, Florida, Louisiana, Mississippi North Carolina, Puerto Rico, South Carolina	SAN DIEGO Tel: (702) 737-8818 Fax: (702) 933-9118	Southern California (as designated by zip code)
ORLANDO Tel: (407) 788-3020 Fax: (407) 788-3080			
GEORGIA Tel: (404) 239-0131 Fax: (404) 239-0137	Georgia	SAN FRANCISCO Tel: (415) 391-7510 Fax: (415) 391-1108	San Francisco: Northern California (as designated by zip code)
HAWAII Tel: (808) 596-0388 Fax: (808) 593-2636 or (800) 305-8146	Hawaii	SEATTLE Tel: (206) 402-5958 Fax: (206) 402-3489 or (800) 378-6741	Alaska, Montana, Washington
HOLLYWOOD See above	Greater Los Angeles (as designated by zip code)	UTAH Tel: (480) 264-7696 Don.livesay@sag.org	Utah
HOUSTON Tel: (214) 379-1171 Fax: (214) 379-1172 or (877) 344-7276	Southern Texas (as designated by zip code)	WASHINGTON DC Tel: (301) 657-2560 Fax: (301) 656-3615 or (800) 253-9730	Maryland, Virginia Washington DC, West Virginia

FIGURE 5.2—SAG Preliminary Information Sheet Sample

Dependent upon which agreement you choose, the information sheet generally requires the following information:

- Production company name and address
- Title of film
- Synopsis of film
- Start date and completion date
- Total budget
- Filming locations
- Name of lender/financier
- Distributor agreement

Once complete the form needs to be e-mailed to signyourfilm@sag.org. A SAG representative will contact you within a couple of days to take you through the steps and send you a packet of information. You will then need to send various documents from the packet of information such as: signed SAG agreement, signed Pension and Health adherence letters, copies of the articles of organization, script, cast list, days out of days, copyright reports, and line item budget.

Once SAG has reviewed all the documents, the representative will need financial assurance which means they require a guarantee agreement, residuals reserve, security agreement, a security deposit, and W-9 form. When all requirements are fulfilled, SAG will advise if the actors are available to work.

Production

During production, SAG will require that you submit the signed SAG performer contracts and will want production time reports throughout production.



PERFORMERS PRODUCTION TIME REPORT

Please complete in ink. Indicate a.m. or p.m.

FIGURE 5.3—SAG Production Time Report Sample

Post-production

When production has finished, SAG will require a final cast list, casting data reports, and a detailed final cost report.

SAG/SAG Indie

You can find all the agreements on the SAG Web site by visiting (<http://www.sag.org/production-center/theatrical/signatory-information#>). The SAG Web site includes a section entitled ALL SAG DOCS. This site allows you to download all agreements, forms, rate sheets, and signatory packages onto your computer. Please note that this site provides signatory guidelines that include step by step instructions. In addition, check out a site entitled SIGN SAG Online this allows a filmmaker the ability to complete the entire signatory process for a number of SAG agreements on the computer. Overall the SAG agreements have similar requirements; some not as stringent as others. As with any contract, please review them carefully and contact a representative to clarify any points you are confused by. Please note that a number of points in the SAG low budget contracts refer to the Basic Agreement so you will need to refer to that contract as well. SAG can be reached via e-mail at osa@sag.org. Below is a current listing of phone numbers by departments.

SAG-AFTRA Contact Information

Commercials/Infomercials: (323) 549-6858

Industrial/Educational: (323) 549-6858

New Media: (323) 549-6724

Residual Payment Info Center: (323) 549-6505

Singers/Dancers: (323) 549-6864

Stunt & Safety Department: (323) 549-6855

Theatrical and Television Contracts Department: (323) 549-6828
or (323) 549-6835

In addition, you can find copies of all the low budget agreements by going to SAGIndie (www.sagindie.org). SAGIndie was formed in 1997 and was

made possible by a grant from the Screen Actors Guild–Producers Industry Advancement & Cooperative Fund. Their mission is to make it easier for low budget filmmakers to use SAG actors. Their staff assists with SAG agreements, locates production resources, posts casting breakdowns of the film, and hosts monthly workshops in New York and Los Angeles to assist filmmakers and help them understand the process. Contact a SAGIndie representative to assist with questions. They can be reached at (323) 549-6064.

How Do I Find the Right SAG-AFTRA Actor?

First, you should find a reliable and well-connected casting director and put them under contract with the production company. Casting directors do not take a percentage of the actor's salary. They offer their services at a fixed cost. Casting directors make suggestions and are responsible for matching the role to the right actors. When deciding on a casting director, you must find someone who is reputable and have a vast knowledge of the talent that is available. You should ask them if they have a database for actors and actresses and ask them where they recruit their actors from. Request that they provide a listing of the productions they did the casting for. In addition, ask for client referrals, contact them and see if they were satisfied with their services.

Casting directors work closely with the producer and directors and they convey the needs of these individuals. They locate all the lead and supporting actors. They need to understand what the role is and the characteristics of the person, i.e., male/female, age, specific appearance, accents, and other special skills (dancing, singing, sports, martial arts).

Most times the production company and director will tell the casting director to find a specific name of an actor for the key roles. The casting director will track them down through their network of *talent managers* and connections.

KEY TERM:

TALENT MANAGER Represent actors, negotiates their rate, and supplies casting directors and producers.

When preparing for auditions you should provide the casting director with the following information:

1. Production company name and the title of film.
2. What type of production are you filming, i.e., feature/short, drama/comedy/horror?
3. What types of actors are you looking for, i.e., male/female, age, appearance?
4. What is the anticipated principal photography dates?
5. Where will the film be shot? Is travel required?

The casting director will contact various talent agents and arrange *auditions*.

KEY TERM:

AUDITIONS A trial performance to appraise the talent of entertainer.

Auditions/Call Backs

The auditions are usually scheduled over the course of at least two or three days. This will give actors with scheduling conflicts a better chance of attending your auditions. The rest is up to the casting directors and their assistants. They will connect the right actor to the right role. In addition, establish a game plan with the casting director to determine what questions you may have and any particular scene you would like read. *Hint:* please request the casting assistants film the audition on a digital camera. This will enable you to see how the actor performed in front of camera. Next the casting director will narrow their selection to 3–5 actors and arrange a call-back to allow the director and producer to interview and audition the actors. Before the call-back the casting director should have a meeting with the director and review all materials relating to the actor—headshots, resume/list of projects, and video tape of the actor. If they are not to your liking ask the casting director to present other actors and review this together. At the call back you should set a number of objectives when auditioning your actors. You need to see how the actors perform and how they take direction. The audition should involve an individual “read” of the script to a group “read” of the script. Group reads enable the director and producer to see if any chemistry develops among the actors. With any luck the right “stars” are discovered. To

help make the decision, set up a meeting with your casting team go over the video recording and ask the following questions:

- Do they meet the vision I am looking for?
- Did they take direction well during the audition?
- How did the actor perform when he or she read with other actors?
- How did the “cold read” go?
- Was the actor’s performance authentic?
- Would this actor be marketable?
- Does the camera like them?
- Does the actor light up the room?

KEY TERM:

COLD READ Is a method utilized in auditions where a script is handed to an actor with little preparation and told to act it out. The cold read enables a casting director to observe how the actor thinks on their feet and if they have the instincts and the natural ability to act.

If the answers to these questions are predominantly “yes” you have probably found your actor(s). Warning...this process may take awhile so take your time and make the right decision. Once the actor(s) are selected, the negotiations begin. The casting director will discuss the salary with the talent agents, directors, producers, and the production accountant. The production accountant needs to be involved in this process to determine how much the actor’s salary impacts the film’s budget. If the cost for talent goes up, the budget will eventually increase too. More information can be found in Chapter 10—*Budget*.

■ Why Are Talent Agents Required in the Casting Process?

Any actor trying to make it in film business find it to be a “rocky road” if you don’t have the right connections. This is because it is a “Who you know”

business. To get in the door and get a chance to establish a reputation for great acting you need to be represented by a talent agent. A talent agent represents actors and their clients are the casting directors. Their main objective is to connect the actors they represent with a role that demonstrates their talents. To find the actors, an agent usually *scout* individuals at events and hold open *casting calls*.

KEY TERM:

SCOUT Someone employed to discover and recruit talented persons.

CASTING CALL An event where a number of actors get to audition.

Once selected and the contracts are signed the agent will start locating job opportunities, and submitting the actors for auditions. If the audition is successful the talent agent negotiates compensation, the terms of the contract with the casting director, director, and producer. A talent agent should have an understanding of what the role demands are and what the part is worth. When the deal is finalized the agent will receive a commission of the actor's earnings. A talent agent is necessary to gain access to SAG-AFTRA actors. According to SAG's Web site "No member of the Screen Actors Guild may engage, use, or deal through an agent (person or company) for representation in motion pictures unless the agent is SAG franchised." This means the agent is state licensed and registered with the guild.

Who are the Best Talent Agencies?

The top four agents in Hollywood are Creative Artists (CAA), The William Morris Endeavor Entertainment (WME), International Creative Management (ICM), and United Talent Agency (UTA). They are considered to be "A" level agencies which means they have the most power and prestigious stars. Besides these major agents, there are many talent agents available as well. In order to utilize their services you must make sure they are considered "SAG franchised."

■ **What If I Want To Go Non-Union?**

If you go non-union, this would mean that you would select your actors and film crew without the assistance of a guild association. This is not always advised in the film community as this means that without a recognizable cast member you may have a difficult time securing the interest of a distributor. Don't get disillusioned because a great number of non-union films have achieved success in theatres, television, cable, direct to video, and Web. The main thing to keep in mind is "Does your script fit into a genre that domestic and foreign markets are distributing...suspense, thriller, horror?" A number of production companies have taken the proactive steps and contacted sales agents or distributors to inquire if there is any interest with this type of film. You will be encouraged to learn that they many were able to secure funding and distribution.

While distribution is definitely possible, you still need to find the best actor(s) and supporting actors. The process for casting is different from dealing with SAG. This process will take a lot longer and will monopolize a lot of the producer's and director's time and effort.

Non-Union Casting

The following are suggestions for looking for the right actor:

1. Determine, with the help of your accountant, the amount of money you wish to spend on actor(s).
2. Contact local casting agencies and discuss your talent needs. There are some agencies who charge and others who may not.
3. Contact local playhouses and speak to theatre actors there. They are experienced with their craft and seasoned in performing live for an audience.
4. Attend comedy clubs and speak to the comedians there. They are gifted performers who think well on their feet.
5. Attend local film festival screenings and contact the actors from these films. These actors are aware of the process and may be ready for another opportunity.
6. Get recommendations from other filmmakers and other industry professionals.

7. Check out social networking systems, i.e., LinkedIn, Facebook, Twitter.
8. Join film associations and network with the members.

Casting Call Notice

The call notice should be clear and professional. It should state the title, type of film, and what the role is and the characteristics of the person, i.e., male/female, age, specific appearance, accents that you are looking for. You will need to provide when auditions will be held and where. Here's an example of a professionally written casting call:

Example—Casting Call

Haunted By You Productions is seeking a lead actor for an upcoming feature-length dramatic thriller. The thriller will be filmed, in the Los Angeles area, over a period of 3 weeks in either June or July.

Role: James Addison, 27–30 years old man is trying to rebuild his life after the tragic loss of his wife due to what was believed to be a boating accident. To forget his worries, James takes a tropical vacation and while sightseeing he spots a woman that looks exactly like his wife. He starts to follow her to discover whether she is his wife...or an imposter.

Needed: Must speak with a British accent, toned, 5'9" to 6'3", and has a medium build.

If interested, please send your current headshot, resume, and reel (if applicable) to haunted.com.

Casting call will take place on Saturday, May 8th at the 123 Rockridge, Los Angeles, CA.

Audition Locations

As you start collecting head shots and resumes you should choose a location in or near a city so that people have a better ability to get to your location. A city has a bigger population of actors and there is better public transportation in the city. Casting can take place at an acting school, dance studio, or

college theatre or auditorium. It is best not to hold auditions at your home or hotel room as this may result in inappropriate behavior (casting couch) and could result in sexual harassment lawsuits.

Scheduling Auditions

Choose a couple of dates and times that work the best for the actors. Of course, the majority of these actors either work or go to school so it may be a good idea to hold your auditions on Fridays and Saturdays. In addition, you may want to conduct auditions on weekdays; if so, select a time in the afternoon such as 2pm. Please call the actors schedule a specific time to meet and provide directions to the audition. You should allot at least an hour so that you can access their abilities.

If your actor is underage make sure they are accompanied by a parent or guardian. You may want to request the actors to have a monologue prepared so you can see how they perform when they have a prepared piece.

Audition preparation

Establish a casting team which should consist of the director, producer, experienced acting coach, or casting director. Make copies of your script and choose a scene that will enable you to obtain the best performance. You should establish which actor will play what role before they arrive. Have a digital camera available so you can film the performances and review it in more detail after they leave.

The Audition

There are a couple of objectives you should have in place before auditioning your actors. You need to see how the actor performs and how they take direction. To do this you should have them perform the work they have prepared and give them a chance to do a *cold read* of the script. A cold read gives you a chance to see how quickly an actor adapts to the script. After every audition, you should ask each member of your casting team if they felt the actor was right for the role. Everyone should write down their feelings on a notepad right after their performance so you can review this together at the end of the day. If everyone agrees the actor is right for the role, you can put them on the call back list.

And The Winner Is...

In the end, you and the casting team need to make the BIG decisions. This is the hardest part of any film. As outlined previously, review your video recordings and ask yourself the following questions:

- Do they meet the vision I am looking for?
- Did they take direction well during the audition?
- How did the actor perform when he or she read with other actors?
- How did the “cold read” go?
- Was the actor’s performance authentic?
- Would this actor be marketable?
- Does the camera like them?
- Does the actor light up the room?

If the answers to these questions are predominantly “yes” you have probably found your actor(s).

Follow the Rules

The casting process is very difficult; whether you use SAG actors or non-union actors it is best to follow the rules. Consider a scenario in which an independent film producer shot a film with some of his SAG actor friends. The project went well and actually got a distribution deal with Sony Pictures Classic, however it was discovered at the time of delivering paperwork to Sony that the producer did not file the SAG signatory papers. The producer contacted SAG to get the paperwork completed and was told he could not sign the necessary agreements retroactively. Unfortunately, he now has a film that is only available to friends and family. So in the end, the main issue surrounding cast is “To SAG-AFTRA or Not to SAG-AFTRA.” Whatever your decision, choose wisely and hope to see you at the Academy Awards!



FIGURE 5.4—Is An Oscar In Your Future?

SUMMARY

The purpose of this chapter is to provide you with an understanding of the casting choices a filmmaker has to make today—SAG or non-union. This chapter identified the various SAG contracts as follows: short film, ultra-low budget, modified low budget, low budget, and theatrical and television basic agreements. These agreements now enable a filmmaker to utilize SAG members at various budget levels. In addition, we provided information about the search for the right cast member and the utilization of a casting director and talent agent. We then discussed going non-union and provided you with advice as to how to find the right cast members, establish casting notices, prepare and conduct auditions.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Suppose you are producing a small film at a budget of \$200,000. Would you utilize the SAG ultra-low budget agreement or go non-union?
2. Put yourself in the role of the director. You have two actors who would be perfect for the main lead of your film. How will you decide which actor to choose?
3. Not all independent films have well known actors in their films and have done well. For instance, “The Blair Witch Project.” The film was produced on a budget of \$15,000 and the box office receipts are estimated over \$100 million. Do some research and determine why this film was so successful.

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: If you could chose, what big named actor would you hire to play the lead of your short film? Why?

CHAPTER 6

FILM TAX INCENTIVES

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

What Are Tax Incentives?

- History

Film Tax Incentives

- History
- Definitions: Qualified Productions, Qualified Expenses, and Qualified Labor
- Process

State Tax Incentives—Examples

- California
- Connecticut
- Louisiana
- Michigan
- New Mexico

- New York

Which State Tax Incentive Works the Best?

- Experienced Film Crew
- Filming Locations
- Budget
- Concerns

State Rebates

- What Do They Offer?

State Rebates—Examples

- Washington
- Oklahoma

■ What Are Tax Incentives?

It seems everywhere you turn these days there are *tax incentives* that the federal government and states are implementing to motivate you to do something that you would not do normally.

KEY TERM:

TAX INCENTIVE Is a deduction or exemption from a tax liability, offered as an enticement to engage in a specified activity for a limited period of time.

In simple terms, a tax incentive was created to encourage certain behaviors of specific citizens such as homeowners and business owners. As a home owner you may receive a tax credit if you install energy efficient appliances or purchase a hybrid car. As a business owner, you may receive a tax incentive if you hire employees in certain regions or age group. For example, the Housing Urban Development's Empowerment Zone and the Renewal Community Tax Incentives encourage business owners to open, expand, and hire local residents by including tax deductions and employment credits. In the end, the purpose of tax incentives is to stimulate and improve the economy.

■ History of Film Tax Incentives

For decades, the film industry revolved around New York and California. This is primarily because these states had sound stages, sets, equipment and experienced film crews at their disposal. However as the independent film industry grew, the costs of labor, locations, equipment, and *bureaucracy* increased.

KEY TERM:

BUREAUCRACY A system of administration marked by specialization of different functions and result in a number of required steps, i.e., red tape.

Soon studios and filmmakers started “running away” from these states and started filming in other countries like Canada, India, Romania, Philippines, New Zealand, and Australia. *Runaway productions* were being lured away by the lower wages, favorable exchange rates, and/or foreign *subsidies*.

KEY TERM:

RUNAWAY PRODUCTION Is film or television production that leaves one state or country to be filmed in another purely to reduce production costs.

KEY TERM:

SUBSIDIES Financial assistance granted by a government to a person or group in support of an enterprise regarded as being in the public interest.

However, since the events of 9/11 and the unpredictability of terrorist acts aboard, many production executives and actors decided to film closer to home. Many states saw this as an opportunity to start their own film incentive programs.

To legislators of these states, it appeared to be the best solution for their poor economy as it appeared the film industry was “recession proof” and could bring much needed revenues to the state. Soon many states were looking to the “glitz and glamour” of the film world to be their salvation.

Louisiana was the first state to establish a film tax incentives program. The film business in Louisiana started to flourish and soon other states such as New Mexico, New York, Connecticut, and Massachusetts started their own film incentive legislation and programs. The intent of film tax incentives program is to encourage studios and independent production companies to come to a specific state and film their projects.

Film Tax Incentives

Film tax incentives appear to be a “Win, Win” for everyone concerned. The qualified production companies would receive a *tax credit* for the *qualified*

expenses that are spent in a designated state. The tax credit is based on a set percentage that varies from state to state and is applied against their income taxes. Depending on the state, a tax credit can range from as low as 20% to as high as 30%. This provides the production company a way to reduce the costs of their film. In return, the state and cities receive immediate gratification from the revenue that is produced when the production company purchases goods and services.

KEY TERM:

TAX CREDIT Is a specific sum deducted from the total amount a taxpayer owes to the state. A tax credit may be granted for various types of taxes, such as an income tax or property tax.

QUALIFIED PRODUCTIONS Can include motion pictures, television programs, miniseries, specials, music videos, commercials, infomercials, video games, and documentaries. The qualified productions will vary depending on the state.

QUALIFIED EXPENSES An expense that can be included in a rebate of tax credit calculation. The qualified expenses vary depending on the state.

Depending on the state, the following is a listing of “qualified expenses”:

Payroll—Qualified labor	Airfare	Hotel accommodations
Meals	Set design	Set construction
Production equipment	Lighting equipment	Vehicle rentals
Location fees	Sound stages	Props
Wardrobe	Make up	Special effects
Audio effects	Insurance	Editing/Sound mixing

In addition, if the production company hires *qualified labor*, or residents of the state, this provides citizens of that state wages they can spend on homes, autos, goods, and services. This scenario would extend to the employees and owners of supplemental businesses such as grocery, drug, and clothes stores, bars, tourist spots, hair and nail salons. This improves the state’s economy and creates a “mini-stimulus” package for a particular state or city.

KEY TERM:

QUALIFIED LABOR Includes payroll fringes and fringes paid to residents of that state. The definition of residents differs from state to state.

The process of obtaining a film tax credit is as follows:

Pre-production

- Complete the initial application and provide the required paper work. Have meetings with state program coordinators and auditors.

Production

- When your application is approved, have your accountant implement a system to track the qualified expenses and comply with the state's requirements.

Post-Production

- Complete final application, provide the required financial information, or prepare for a meeting with an auditor.

Seems simple...however, you will find the production company must comply with the requirements that are established by each state. Unfortunately, because tax incentives are developed by state legislators, the programs are not standardized and differ from each other. When it comes to the tax incentive process, it is imperative that the production company has the collaboration of both the line producer and the accountant in order to complete the necessary applications and financial information.

The line producer should assist with the determination whether the expenses are legitimate. The accountant will track the expenses by utilizing accounting software and a payroll service to track expenditures. If the budget is sizeable, an additional accounts payable employee should be hired to assist in tracking the state expenditures.

Transferable Tax Credits

While a tax credit works for studios and large budgeted independent films, this does not work for independent production companies who do not have

enough income to offset their tax credit against their income taxes. Instead, many productions sell their tax credit at a negotiated rate to a corporation or tax payer (buyer) who can apply the tax credit to their income taxes. The money the production company will receive is then used to pay back a financier or used for other expenses.

Here are the guidelines for third-party (buyer) tax credit purchases:

- If a third party buys the tax credits from an independent film production, the credits may only be applied to the purchaser's income tax liabilities—not the buyer's sales.
- A party that purchases the tax credits must report the income on the difference between what they paid and what the credit is worth.

SIDE NOTE

TRANSFERABLE TAX CREDIT EXAMPLE:

Buyer purchases \$1 million dollars worth of credits from an independent film for \$800,000. Buyer applies that \$1 million dollars of tax credits to their \$1 million dollar tax bill. The buyer will then pay taxes on only \$200,000.

State Tax Incentives—Examples

As this can be a difficult process, a production company can contact a number of tax credit brokers. They can locate the company or tax payer interested in buying the production company's tax credits. The following are a some notable brokers which are: Tax Credits LLC, Film Incentives Group, Inc., and CFC Capital. State Tax Incentives—Examples

To avoid going through all of the 50 states, I selected six (6) states and provided an overview as to how each tax incentive program works:

- California
- Connecticut
- Louisiana
- Michigan

- New Mexico
- New York

California—“The Golden State”



FIGURE 6.1—Point Dume off the Malibu Coast

California has always been the most ideal place to film—the weather, experienced crew, talented actors, established equipment, props and vehicle rentals vendors. Thanks to the influence of the DGA/SAG, *The California Film Commission*, and state and local legislators, they developed California's own tax incentives.

KEY TERM:

THE CALIFORNIA FILM COMMISSION Provides services and supports filmmaking. This includes a free online permitting, a digital location library, and cost savings for the use of state properties.

Effective July 1, 2009, California put in place a film incentives program that allocated \$100 million annually beginning 2009/2010 for the next five (5) years (Fiscal year 2013/2014).

Tax Credit/Qualified Productions

- Feature films budgeted between \$1,000,000 to \$75,000,000—20% tax credit
- Television series for basic cable and miniseries with a minimum budget of \$1,000,000 (30 minutes or more)—20% tax credit
- Movie of the week or miniseries with a minimum budget of \$500,000—20% tax credit
- A television series filmed in another state that relocates to California—25% tax credit
- An “independent film” (\$1 million total production budget—\$10 million qualified expenditure budget that is produced by a company that is not publicly traded and that publicly traded companies do not own more than 25% of the producing company)—25% tax credit

Please note the following films **are** eligible for tax incentives:

Feature films, commercials, music videos, television pilots, news, talk shows, sporting events, award shows, productions that solicit funds, reality programs, student films, industrial films, documentaries, variety programs, and daytime dramas

The following films are **not** eligible for tax incentives:

Sexually explicit programs

Information Needed for Consideration

- Application must be submitted at least 30 days prior to the start of principal photography (www.film.ca.gov/Incentives/).

California Film & Television Tax Credit Program



APPLICATION FORM

CFC Use Only:
DATE RECEIVED:
QUEUE #:

Please carefully read the informational materials on the CFC website before filling out this application. Please consult your tax advisor to determine the tax implications for the applicant and any partners, members, or shareholders prior to filling out this form.

Section 1: APPLICANT INFORMATION

Production Title: "Success"	Today's Date: 03/03/2012
-----------------------------	--------------------------

*Applicant Entity or Individual/Title (if Individual):

Production Company Name (if different from Applicant): Can't Go Wrong Productions

Applicant Address: 123 Success Road,

City: Hollywood,	State: CA	ZIP: 90027
------------------	-----------	------------

Country:	Email: tcanton@email.com
----------	--------------------------

Phone:	Cell phone:	Fax:
--------	-------------	------

Taxpayer ID #: 95XXXXXX	Seller's Permit # (if applicable):
-------------------------	------------------------------------

- | | |
|--|---|
| <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> Subchapter S Corporation |
| Type of Entity: <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Individual Proprietorship | <input type="checkbox"/> Other _____ |

* The Applicant is any corporation, partnership, limited partnership, limited liability company (LLC) or other entity or individual that is principally engaged in the production of the "qualified motion pictures" and that controls the film or television program during pre-production, production, and post-production. The Applicant is the qualified taxpayer who, upon final approval, will receive the Tax Credit Certificate.

Section 2: PRODUCTION INFORMATION

A. Primary Production Company / Studio Representative Check here if same as Applicant; Skip to Section 2B

Name: Trevor Canton	Title: President
---------------------	------------------

Company Name: Can't Go Wrong Productions

Company Address: 123 Success Road,

City: Hollywood,	State: CA	ZIP: 90027
------------------	-----------	------------

Country: USA	Email: tcanton@email.com
--------------	--------------------------

Phone:	Cell phone:	Fax:
--------	-------------	------

B. Producer		
Name: Trevor Canton	Email: tcanton@email.com	
Cell Phone: (310) 000-0000	Office Phone:	
C. Line Producer		
Name: John Smithers	Email: jsmithers@email.com	
Cell Phone: (310) 000-0000	Office Phone:	
D. Production Manager		
Name:	Email:	
Cell Phone:	Office Phone:	
E. Production Accountant		
Name: Winston Goodman	Email: wgoodman@email.com	
Cell Phone: (310) 000-0000	Office Phone:	
F. Post-Production Accountant (if known)		
Name:	Email:	
Cell Phone:	Office Phone:	
G. Director		
Name: Harris Jordan	H. Executive Producer(s)	
I. Lead Actor		
Name:	J. Lead Actress	
K. Payroll Service		
Company Name: Media Services Payroll Service		
Paymaster:		
Address:		
Email:	Phone:	Fax:
L. Distributor - Domestic or International (if known)		
Company Name:	Contact Name:	
Email:	Phone:	
M. Agreed Upon Procedures - CPA Firm Information		
<input type="checkbox"/> To Be Determined		
CPA Firm:		
CPA:	License or Practice Privilege Permit #:	
Address:		
Email:	Phone:	Fax:

CFC Form A
Rev 10.20.2010

2 / 5

Section 3: ELIGIBILITY DETERMINATION

A. Type of Production

B. Independent Film Declaration

Please list names of all company owners and percentages of ownership (use additional page, if necessary).

Name / Entity:	Ownership (%)

I hereby attest that _____ *is not owned*

Copyright © 2014 Pearson Education, Inc.

by a publicly traded company OR that publicly traded companies do not own

(directly or indirectly) more than 25% of _____
Company Name

C. Production Schedule

Start Date of Principal Photography: 04/23/2013

Estimated End Date of Post-Production: 05/31/2013

Projected or Actual Release Date:

D. Principal Photography (PP) Days

D. Principal Photography (PP) Days	
a. Total PP days in Los Angeles area:	25 days
b. Total PP days outside 30-mile studio zone (if known):	3
c. Total CA PP days (a+b):	28
d. Total non-CA PP days:	0
e. Total PP days (c+d):	28
f. Total % CA PP days (c ÷ e x 100):	100%
g. Estimated total CA 2nd unit / stunt / VFX days:	

If shooting outside of studio zone, indicate CA counties filming will occur:

San Diego, CA

If shooting outside the State, indicate state and/or country filming will occur:

None

Section 4: FINANCING SOURCES

Please list each financing source as requested below.

Financing Sources and Name of Funds	Amount	%
Trevor Canton	\$300,000.00	75
Stan Canton	\$200,000.00	25

Supporting documentation* attached? Yes

Total Percentage of funds: 100

* Bank statements, commitment letters, term sheets evidencing at least 60% of financing.

Section 5: PRODUCTION STATISTICS

A. Labor Statistics for In-State Work

Estimated Total # of Cast Members: 10

Estimated Total # of "Base" Crew Members*: 20

Estimated Total Extras / Stand-ins Man-Days**: 10

* Base Crew is the average number of staff and shooting crew employed per day.

** The sum of the number of days, full or partial, a person is estimated to work.

B. Budget

Total California Expenditures (Qualified & Non-Qualified): Will 75% of total production budget be spent in CA?

Yes

No

Section 6: ESTIMATED TAX CREDIT ALLOCATION

A. Qualified Expenditures

a. Total Qualified Wages: \$200,000.00

CFC USE ONLY

a.

b. Total Qualified (non-wage) Expenditures: \$20,000.00

b.

c. Additional Qualified Expenditure (Bond, Contingency): \$100,000.00

c.

d. Total Qualified Expenditures (a+b+c): \$320,000.00

d.

B. Estimated Tax Credit Allocation

CFC USE ONLY

\$320,000.00 x 0.25 = \$80,000.00

Total Qualified Expenditures Eligible Tax Credit
Enter .20 or .25

Note: Calculate tax credit allocation utilizing applicable qualified expenditure percentage for your production.

25 % - Independent Productions & Relocating TV Series 20 % - Other Qualified Motion Pictures

Section 7: REQUIRED MATERIALS CHECKLIST

- CFC Form A Application Form - Paper copy
- Documentation to verify at least 60% financed - Paper copy & electronic PDF file
- Budget in an industry standard budgeting format indicating **QUALIFIED EXPENDITURES ONLY** - Paper copy & electronic
- One-line shooting schedule with scene descriptions (Production Board or Production Calendar for TV Series) - Paper copy & electronic PDF file
- Synopsis of a screenplay, teleplay, or series - Paper copy
- Screenplay - Electronic PDF file (preferred) or 2-sided paper copy
If script is not available for confidentiality reasons, submit a one-line schedule in continuity order with scene descriptions.
- Relocation Statement (if applicable) - Paper copy

Section 8: SIGNATURE

I certify under penalty of perjury under the laws of the State of California that I examined this application including all attachments and that, to the best of my knowledge, its content is true and correct.

Signature of Qualified Taxpayer / Representative

Trevor Canton

Printed Name and Title

Date

FIGURE 6.2—California Film & TV Tax Credit Application

- Budget, shooting schedule, synopsis, or script.
- Financing Sources Report (Form B): Provide documentation of each financing source for at least 60% of your financing. If 100% self-financed, you do not have to submit a form.
- Independent Film Declaration (CFC Form C): The film must be produced by a company that is not publicly traded, or can not own more than 25% of the producing company.
- Relocation Statement: The production company must provide a letter stating the tax credit was the reason for relocating. *Statement must be signed.*
- The production start date should be within 180 days of approval of the application.
- Spend 75% of the total budget or film 75% of the production in California.
- All post-production needs to be completed within 30 months.

SIDE NOTE

According to the Web site, applications may be sent to the CFC offices via hand delivery, FedEx, UPS or other private mail service, U.S. Postal Service, or via messenger.

Address:

California Film Commission
 Attn: California Film & Television Tax Credit Program
 7080 Hollywood Boulevard, Suite 900
 Hollywood, CA 90028

The California Film Commission will notify the production company within 20 business days if they are accepted or rejected. If approved, they will send you a “Credit Allocation letter.” This letter will indicate the amount of credits, dates of principal photography, meetings with the CFC, and completion of the motion picture. Once you get started you will need to provide call sheets, monthly status report (CFC Form I), and fiscal year-end report (CFC Form K).

Qualified Expenses

- Crew and staff salaries including Loan Out Corporations
- Wages and fringe benefits
- Rental of facilities and equipment costs
- Construction, wardrobe, food, lodging, and lab processing costs

The following are **not** qualified expenses:

- State and federal income taxes
- Expenses related to the financing, marketing, and distribution
- Salaries of the following:
 - Principal cast
 - Writers, directors
 - Music producers/supervisors/composers/performers
- Expenses related to other secondary markets like soundtrack album, toy, game, trailer, or teaser
- Audit expenses

Tax Credit

Please note that in the end of production you will formally need to apply for the Tax Credit certificate. Documents like a completion letter from the post production facility, proof of copyright registration, expenditure summary report (CFC Form F), cast, crew and vendor lists, Employment Diversity Report (CFC Form H), and Film & Television Tax Credit Program application. All the CFC forms can be found by going to the CFC Web site (www.film.ca.gov/incentives/). Once the information is verified and approved a *Tax Credit Certificate* is issued. No timetable is given to how long the approval process takes. As there are a number of rules and regulations, it is best to contact the California Film Commission.

KEY TERM:

TAX CREDIT CERTIFICATE This is a document issued by the state which evidences the amount of the production tax credit.

The concern with this tax incentive plan is that the amount available is relatively small compared to other states and there are so many filmmakers that live in the California area that to be selected would be like winning the lottery. In addition, qualified expenses do not include salaries for principal cast members; this is a shame as these are usually the most significant costs.

Stopping “run-away” productions have united the film organizations and state legislators. This means enhancements and creative solutions are surely in the works. As one of my filmmaker friends stated “I love what I do...just wish I could do it in my own backyard.” California contact information is as follows:

California Film Commission
Tax Credit Program
Phone: (323) 860-2960 ext. 110
E-mail: incentiveprogram@film.ca.gov
Web site: www.film.ca.gov

Connecticut—“The Constitution State”

Connecticut is one of the states that provide the most attractive tax incentive for films in the United States. In 2006, the Connecticut legislator made a point to aggressively improve film tax incentives.

Tax Credit/Qualified Productions

- Production costs budgeted between \$100,000 to \$500,000—10% tax credit
- Production costs budgeted between \$500,000 to \$1,000,000—15% tax credit
- Production costs budgeted over \$1,000,000—30% tax credit

Please note there is **no** annual cap nor per production cap.

At present the following applies:

- The production company is required to film 50% of the production in the state of Connecticut or Expend no less than 50% of post-production costs within the state or expend not less than \$1,000,000 of post-production costs within the state.
- No out of state expenses, i.e., equipment and supplies purchased or rented can be included. All goods and services must be rented or purchased from a Connecticut vendor in order to qualify.

- Compensation for all star talent featured in a film is limited to \$20,000,000 in the aggregate and subject to Connecticut personal income tax.

Please note the following films **are** eligible for tax incentives:

Motion pictures, miniseries, television series, specials, music videos, interactive television/games, video games, commercials, documentaries, digital media and trailer, pilot, and video teasers for marketing or promotion

The following films are **not** eligible for tax incentives:

Weather, financial market reports, infomercials, award shows, sporting events, fund raising, and any material considered obscene under state law

Information Needed for Consideration

- Application must be completed and submitted (www.ctfilm.com)
- Contact list
- Production budget
- Script
- Obtain a Certificate of Legal Existence from the Secretary of the State of Connecticut (www.sots.ct.gov/)
- Register with the State of Connecticut Department of Revenue Services (www.ctgov/drs)

SIDE NOTE

According to the Web site applications must be organized in a three-ring binder with a table of contents and divider tabs. Submit Excel documents on disk and insert it in the binder.

Address:

Department of Economic and Community Development, Film Division
Attention: Film Division Director
500 Hudson Street, 4th Floor
Hartford, CT 06106

Qualified Expenses

Compensation or purchases including production work, production equipment, production software, post-production work, post-production equipment, set design, set construction, props, lighting, wardrobe and other costs or services directly incurred in the state in connection with a qualified production.

The following are **not** qualified expenses:

- Deferred, leveraged, or profits and costs related to audit costs and the transfer of the production tax

Tax Credit

To formally request a Tax Credit Voucher, you will need to complete an eligibility and tax credit voucher applications by going to www.ctfilm.com. Have an audit done by a Connecticut licensed CPA and provide payroll, vendor, and production reports. This process should begin 90 days after the end of the production. There are a number of rules and regulations so it is best to contact the Connecticut film division.

The concern with this tax incentive plan is that this state has limited film crew and limited suppliers of production equipment. As a result, you may end up competing with other production companies for these resources. However, due to close proximity, a lot of crew members come in from New York. This works as long as salaries for non-resident cast and crew are still considered qualified expenses. The major advantage is that they are open to a variety of film productions and do not have a cap or per production cap. At present, the following films have been produced in Connecticut: “Rachel Getting Married,” “Confessions of a Shopaholic,” “Indiana Jones and the Kingdom of the Crystal Skull.”

Connecticut contact information is as follows:

Film Division, Connecticut Commission on Culture and Tourism
Phone: (860) 270-8198
Web site: www.ctfilm.com
E-mail: DECD@ct.gov

Louisiana—“The Pelican State”



FIGURE 6.3—Horse Drawn Carriage Ride—French Quarters

In the 1990s, Louisiana was one of the first states to establish a tax incentive program. Thanks to the longevity of this program, Louisiana has experienced film crews and established sound stages and post-production facilities.

Tax Credit/Qualified Productions

- 30% transferable tax credit on qualified expenses
- No annual CPA or per project cap on tax credits.
- An additional 5% tax credit when utilizing *resident* hires up to the first \$1,000,000 in wages.

KEY TERM:

RESIDENT Is defined as any person domiciled in the state or any other person who maintains a permanent place to live and spends more than six months of each year within the state.

Please note the following films **are** qualified productions:

Films, television pilots, series, reality shows, and movie of the week

Details

- Minimum state spend is \$300,000
- No per production or statewide cap
- All fringes, *qualified payroll* and payroll processing fees, paid to a Louisiana vendor qualify

KEY TERM:

QUALIFIED PAYROLL Is defined as salary, wages, and other compensation, including related benefits.

Information Needed for Consideration

- Application must be completed and submitted to the Office of Entertainment (www.louisianaentertainment.gov)
- www.louisianaeconomicdevelopment.com/incentives--programs/motion-picture-tax-credit.aspx



Bobby Jindal
Governor

Stephen Moret
Secretary

Office of Entertainment Industry Development Motion Picture Production: Tax Credit Application

**This application and all related information submitted to LED shall be presumed to be public records under La. R.S. 44:1 et seq., unless subject to a specific exception established by law. An applicant may submit a cover sheet providing that "DOCUMENTS CONTAIN CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION" & mark each individual page as such. However, such request shall be subject to verification and final determination by LED. **

Production Title:	<input type="text" value="Success"/>	Address/Phone:	<input type="text" value="Baton Rouge, LA 70809"/>	
Louisiana Investment LLC:	<input type="text"/>	Louisiana Production LLC:	<input type="text" value="Can't Go Wrong Productions"/>	
Name & Position of Authorized Representative:	<input type="text" value="Trevor Canton"/>	e-mail :	<input type="text" value="tcanton@email.com"/>	
Louisiana Tax ID #:	<input type="text"/>	Estimated Total Budget:	<input type="text" value="\$1,000,000"/>	
Estimated Louisiana Expenditures:	<input type="text" value="\$200,000"/>	Estimated Louisiana Payroll:	<input type="text" value="\$300,000"/>	
Estimated Jobs on Production:	<input type="text" value="30"/>	Pre-Production/Spend Start Dates:	<input type="text" value="3/19/13"/>	
Start/Wrap Dates:	<input type="text" value="4/23/13-5/13/13"/>	Total Estimated Days in Louisiana:	<input type="text" value="28"/>	
Production Type (please circle one):	<input checked="" type="radio"/> Feature Film	<input type="radio"/> TV Pilot	<input type="radio"/> TV Series	<input type="radio"/> TV Movie of the Week
	<input type="radio"/> Documentary	<input type="radio"/> Reality TV	<input type="radio"/> Other:	<input type="text"/>

I hereby certify that the information provided in this application is true and correct, and I am aware that my submission of any false information or omission of any pertinent information resulting in the false representation of a material fact may subject me to civil and/or criminal penalties for filing of false public records and/or forfeiture of any tax credits approved under this program. I also understand that any final certification of investor credits will be subject to the submission & review of an independent audit conducted by a Certified Public Accountant licensed in the state of Louisiana; that employees that are claimed as Louisiana hires, must each fill out a "Declaration of Residency" form to be kept on file by the production company & that if I am applying for the additional credit for employment of Louisiana residents, I must remit a detailed schedule to the Department of Revenue as required by La R.S. 47:6007(D)(5). Additionally, I agree that the finished product shall contain an acknowledgement that the production was filmed in Louisiana and such brand/logo shall be included in the credits. Finally, I understand that this application and information submitted with it shall not be returned to the applicant.

Signature of Authorized Representative: _____

Date: _____

REQUIRED ADDITIONAL INFORMATION (*all information below must be received before initial certification is issued):

- a. Detailed Preliminary Budget (including above & below the line hires)
- b. Detailed Distribution Plan
- c. Script, Synopsis (including principle creative elements: cast, producer, director, etc.) & statement that the project meets the definition of a state-certified production.
- d. Notarized statement in accordance with the provisions of LA RS 47:6007 (D)(2)(e).
- e. **Application Fee (minimum: \$200 / maximum: \$5000):** Fee is assessed as 0.2% of 30% of Your Estimated Expenditures in Louisiana. Please make the check or money order payable to the Louisiana Department of Economic Development. NO CASH ACCEPTED & the fee is NON-REFUNDABLE.

Please complete and return this application, with attachments & payment to the address below.



***2010 is the Year of the Song in Louisiana – please let us know if you would like more information on the additional benefits of placing Louisiana Music in your Motion picture project – we'll be sure to contact you.

1051 North Third Street • Baton Rouge, LA 70802 • 225.342.3000 • LouisianaEconomicDevelopment.com
An Equal Opportunity Employer

FIGURE 6.4—Louisiana Economic Development Application Sample

- Production budget.
- Script or synopsis.
- Marketing and distribution plan.
- Statement that the project meets the definition of a state-certified production.
- The minimum application fee is \$200 and the maximum fee is \$5,000. The fee is calculated as 0.2% of the estimated total incentive credits.
- Louisiana LLC and Louisiana Tax ID number.
- Notarized statement. The state requires the production company provide a notarized statement agreeing to pay all vendors.

SIDE NOTE

According to the application, all materials need to be mailed to:

Louisiana Department of Economic Development
Capitol Annex Building
1051 North 3rd Street, Suite 173
Baton Rouge, LA 70801

Once the required documents are received, the Office of Entertainment will issue a unique identification number and review the documents. If approved, the office will provide an initial certification letter and send it to the production company for signature. Please note that the process time is generally 30–45 business days.

Tax Credit

- When the minimum state threshold of \$300,000 is achieved, the producer must have the expenditures certified. An independent CPA, licensed in Louisiana, must audit and certify the production company's expenditures. Louisiana has set audit guidelines, which can be found on their Web site. The guidelines are: Full bible run(s)—any and all data detailing expenditures (in-state and out-of-state) related to the production.

- Full employment data—any and all data related to payroll associated with the production
- Additional data may be requested after the office's review of the data

If everything is satisfactory, a request will go to the Louisiana Economic Development's legal department for the secretary's approval and signature. Once signed, the certification letter is issued and the incentives are certified. After receiving the certification letter, the incentives can be applied to any Louisiana income tax liabilities, or transferred to another Louisiana taxpayer. In addition, you have the option to transfer the tax credit to the Office of Entertainment Industry Development for \$0.85 on the dollar and they will send you a check.

SIDE NOTE

Louisiana Transferable Tax Credit Example:

Calculation would be as follows:

Amount of incentive: $\$1,000,000 \times 0.85 = \$850,000$ for production company

Leaving 15% or \$150,000 for the state

Qualified Expenses

- Crew and staff salaries including Loan Out Corporations
- Wages and fringe benefits
- Purchases made from Louisiana vendors

The following are **not** qualified expenses:

- Outsourcing post-production or film processing

The only concern with this state is that it is located in the south and can be subject to the hurricane season which starts June 1st and ends on November 30th. Of course hurricanes can damage props, equipment, and buildings due to high winds and torrential rain. Proceed with caution when deciding on filming in southern states during hurricane season; there is a limit as to what production insurance will cover and hurricane insurance can be costly. The devastation of a hurricane cannot only delay your film by weeks (not days) but result in financial hardship and the inability to complete the film.

Louisiana is one of the most popular states to film in. At present, the following notable films have been produced in this state: “The Curious Case of Benjamin Button,” “Red,” and “Green Lantern.”

Louisiana contact information is as follows:

Louisiana Department of Economic Development

Phone: (225) 342-5403

Fax: (225) 342-5349

Web site: www.LouisianaEntertainment.gov

E-mail: led-entertainment@la.gov

Michigan—“The Wolverine State”

Michigan is another state you would not think produces films. However, Michigan’s tax incentive is the most generous in the United States.

Tax Credit/Qualified Productions

- Materials and services purchased or rented from Michigan vendors—40% rebate
- Labor and crew:
 - 32% for Michigan personnel.
 - 20% for the non-resident crew below-the-line salaries

Please note that an additional 3% credit is available for utilizing a qualified facility or post-production facility. (A form will need to be filled out by the facility).

Payments for Michigan producer can not exceed 10% of expenditures for non-Michigan producers the percentage is 5%. This program has a \$2 million cap per employee, per production.

Please note the following films **are** eligible for the program:

Motion pictures, television pilot/series/miniseries/specials, music videos, interactive/video games, Internet programming, Internet videos, sound recordings, digital animation, content for interactive Web sites and documentaries

The following films **are not** eligible for the program:

Films with obscene matter or performance, news or current events shows, live sporting events, political advertising, radio show, weather show, financial market report, awards show, gala events and fund raising events.

Information Needed for Consideration

- Application must be completed and submitted (www.michiganfilm-office.org)
- List of officers or principals of the production company
- Production budget
- Script/storyboard
- Insurance certificate – General liability: \$1,000,000
- Financial statement which includes balance sheet, income statement, and statement of cash flows
- Incentive Calculation Work Sheet
- Details as to how the production is being financed
- Details as to the marketing and distribution plan
- Application fee of 0.2% of the anticipated incentive – minimum \$200 and maximum \$5,000.

The project must commence pre-production within 90 days of approval and cannot start until approval from the state before incurring any eligible expenses.

SIDE NOTE

According to the applications all materials must be sent to:

Michigan Film Office
Michigan Economic Development Corporation
300 N. Washington Square, 4th Floor
Lansing, MI 48913

Phone: 800-477-3456

Qualified Expenses

To qualify, all qualified expenditures must be:

“Made in this state” which means property and services performed in the state,

- Purchased from a Michigan vendor
- Subject to taxation in Michigan

The following are **not** qualified expenses:

- Expenditure for entertainment
- Expenditure of more than \$2,500 of jewelry or artwork
- Parking tickets or legal fines
- Donations

Tax Credit

After completion of the film, the production company will need to complete a Post-Production Certificate of Completion application. You can find this application and audit requirements under the Michigan Film Post-Production audit packet which is available on their Web site.

An audit must be conducted by either a Michigan CPA or an independent auditor (not with the production company). All the costs for the audit must be paid by the production company. You will need to provide payroll, vendor, and production reports. As there are a number of rules and regulations, it is best to contact the Michigan Film Office.

This state is quite popular because the tax incentive is the highest in the United States. However, recently the selection of the films is no longer first come first serve, they are now choosing films that would bring the most revenue to the state. Of course this would mean studio and large budgeted films would be chosen first. Another concern is the limited supply of experienced Michigan film crew. However, thanks to workshops and seminars more individuals will be able to develop and improve their skills. At present, the following notable films have been produced in this state: “Up in the Air,” “Transformers,” and “Dreamgirls.”

Michigan contact information is as follows:

Michigan Film Office
Phone: (800) 477-3456
Phone: (517) 373-0638
Fax: (517) 241-2930
E-mail: info@michigan.org
Web site: www.michiganfilmoffice.org

New Mexico—“The Land of Enchantment”



FIGURE 6.5—Sandstone Formation at Ghost Ranch

According to *Variety* magazine, New Mexico is ranked the third best location for film production in North America. Besides the historic buildings and beautiful untouched scenery, they have skilled workers and production facilities to accommodate filming.

Tax Credit/Qualified Production

The programs available are:

- All direct production expenditures will received—25% tax rebate includes New Mexico resident labor and post-production services that are subject to taxation by the state of New Mexico.

As stated on the New Mexico Web site, this program has:

- No minimum budget requirement
- No minimum spend requirement
- No minimum shoot day requirement
- No minimum resident hire requirement
- No prequalifying
- No application fees
- *\$50MM Rolling Cap*

KEY TERM:

ROLLING CAP Means that any accrued amounts greater than \$50M in any one fiscal year will be “rolled over” into the next fiscal year. There is no prequalifying or “getting in line” because credits will be awarded based on when you file your credit claim and tax return. TRD will award tax credits on a first-come, first-served basis and when the \$50M cap is full, the remaining amounts will be placed at the front of a queue and awarded in the next fiscal year.

Please note the following films **are** eligible for the program:

- Feature films/independent films
- Television, MOW, pilots, series, reality
- National and regional commercials
- Webisodes
- Documentaries and video games
- Animation

Information Needed for Consideration

- Fill out the Film Production Company Registration Form and Production Tax Credit agreement (www.nmfilm.com)
- Script
- Production budget
- Pre-production meeting with New Mexico Film and Taxation department

According to the Web site send applications to:

Address:

New Mexico State Film Office
1100 St. Francis Drive, Suite 1213
Santa Fe, NM 87501
Phone: 800-545-9871
Phone: 505-476-5600
Fax: 505-476-5601
John Raymond Armijo
E-mail: john@nmfilm.com

Qualified Expenses

- Expenditures subject to taxation by the state of New Mexico.
- Goods and services expenses if purchased from a New Mexico vendor.
- Payments of wages, fringes benefits (pension) or fees for talent, management, or labor for a person who is a resident of New Mexico.
- Rental of facilities and equipment (including location fees).
- Food and lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed.
- Insurance coverage and bonding if purchased through a New Mexico based insurance agent, broker, or bonding agent.

- Post-production expenditures that are directly attributable to the production of a commercial film or audiovisual product, for services performed in New Mexico.

The following are **not** qualified expenses:

- Non-resident crew members – however their per diem—including living and housing allowance can be included.
- Entertainment, amusement or recreation costs, i.e., wrap parties.
- Artwork or jewelry except when used as a set dressing or prop in a film. This will qualify for up to \$2,500.
- Advertising, marketing, and distribution
- Purchases made on American Tribal lands, including gas stations, hotels, restaurants.

Tax Credit

To obtain a tax credit the production company must provide the following within one year of the production company's final expenditure:

- Complete an Application for Film Production Tax Credit (www.nmfilm.com).
- Pay all expenses.
- Publish an ad at least once a week for three (3) weeks in local newspapers notifying the public of the completion. This will allow business and vendors to file *creditor claims* against the production company.
- Copies of general ledger—a report that enables you to view your costs/expenses.
- If your tax credit exceeds \$5MM, an audit will need to be conducted by a certified public accountant licensed in New Mexico.

KEY TERM:

CREDITOR CLAIMS Person or entity owed money; must put their claims in writing and notify the debtor.

As there are a number of rules and regulations, it is best to contact the New Mexico Film Office. The audit process can take up to 3 to 6 months to complete and once the amount is approved and you file the tax return, it will take 2–10 weeks to receive your rebate. New Mexico has an assortment of locations to chose from, i.e., natural, rustic, and cityscapes. In addition, it is great to see that they are investing in the education of their citizens by way of the film crew advancement program and actually establishing production facilities. At present, the following notable films have been produced in this state: “True Grit,” “Thor,” and “Cowboys & Aliens.”

New Mexico contact information is as follows:

New Mexico Film Office
Phone: 800-545-9871
Phone: 505-476-5600
Fax: 505-476-5601
Web site: www.nmfilm.com
E-mail: Info@nmfilm.com

New York—“The Empire State”



FIGURE 6.6—The Statue of Liberty and Lower Manhattan Skyline

New York is the state where the film industry first began. This state is rich with history, experienced crews, famous stars, and is undoubtedly a desirable state to film in. The complaints are similar to Los Angeles; costs, expenses, and the bureaucracy to film there. To remedy “running away” to other states like Connecticut the state of New York established their own state incentives.

Tax Credit/Qualified Productions

The state of New York has two incentives:

- State of New York—Provides 30% refundable tax credit on qualified expenses. The website (www.nylovesfilm.com) provides incentive information, forms, and production resources.

State of New York Tax Incentive

Please note the following films **are** eligible for the program:

Feature films, episodic television series, television pilots, and presentations, MOW's and miniseries

The following films are **not** eligible for the program:

Documentaries, news or current affairs programs, interview or talk shows, instructional videos, sport shows or events, daytime soap operas, reality programs, commercials, and music videos

Details

According to the Web site, there are two types of eligible feature film and television productions.

Level 1 and Level 2 productions which are describe as follows:

Level 1 production is a qualified production that:

- Has a production budget of no more than \$15 million, AND
- Is being produced by a company in which NO MORE THAN 5% of the beneficial ownership is owned, directly or indirectly, by a publicly traded entity.

Level 2 production is a qualified production that:

- Has a production budget over \$15 million, OR
- Is being produced by a company in which more than 5% of the beneficial ownership is owned, directly or indirectly, by a publicly traded entity.

The program has three separate threshold requirements which are:

- *Facility* refers to qualified costs incurred during and related to work at a production facility.
 - Level 1
 - Shoot at least one full day on a set built for production in NY.
 - Any qualified production facility in NY State or City. Level 1 or 2 facility.
 - 75% of all expenses must be related to the work done at a qualified production facility.
 - Level 2
 - Shoot on a set built expressly for production on a stage located in a qualified production facility.
 - A Level 2 qualified professional facility must be utilized if it is located within the five boroughs of the City of New York. *If the QPF is located within NY state but outside NYC, there is no distinction and any QPF (Qualified Production Facility) can be utilized by the Level 2 production.*
 - At least 10% of the total principal photography shooting days should be spent in the Level 2 qualified production facility.
 - 75% of all expenses must be related to work done at a qualified production facility.
- *Location* refers to principal photography shoot days in NY State outside a production facility.
 - Level 1 and 2
 - For location work, pre production and all costs related to work done in New York **outside** a production facility:
 - 75% of all principal photography days shot on location outside the facility must be in NY State,

OR

- The production must spend at least \$3 million related to work at the QPF.

Please note that if you have met the stage filming requirement, **and** you meet one of these two thresholds, all costs related to stage filming, location filming, pre-production, and all costs OTHER THAN post-production will qualify for the credit.

- *Post-Production* refers to qualified costs directly related to post-production.
 - Level 1 and Level 2
 - At least 75% of the total of all qualified post-production costs spent anywhere must be spent in NY state.
 - Must meet the facility and location threshold.

Information Needed for Consideration the State of New York Tax Incentive

- Completed initial application Form A (www.nylovesfilm.com/tax)



New York State Film Production Credit FORM A

Project Title:

"Success"

Date Submitted:

3/13/13

(Office use only)

Received by:

Date:

SECTION ONE: Production General Information

1-1 Project Title:

"Success"

1-2 a Type of Production (select one) LEVEL 1 LEVEL 2 Requires signature in Section 5 below.

1-2 b Feature Film

Television Pilot

Television Series # episodes this season

Television Movie

1-3 Production Schedule

Start

End

a. Prep Start/End Date:	3/20/13	4/23/13
b. Principal Photography:	4/23/13	5/13/13
c. Additional Principal Photography/2nd Unit		
d. Post Production:	5/14/13	7/23/13
e. Projected Release/Premiere:	10/1/13	n/a

SECTION TWO: Applicant & Production Contact Information

Applicant Contacts

2-1 Applicant

Company Name	Trevor Canton	EIN/SSN	123-45-6789
Address	123 Success Road		
Address2			
City	Hollywood	State	Ca
Country	USA		

NOTE: If the Applicant is an LLC, LP (partnership) or an S corporation, attach separate sheet listing the names, addresses and EINs or SSNs of all members, partners or shareholders and their respective percentages.

SECTION TWO: Applicant & Production Contact Information (continued)

2-2 Applicant's Primary Contact (authorized signer of this application)

Name	Trevor Canton		
Address	123 Success Road		
City	Hollywood	State	CA Zip 90027
Phone	310-xxx-xxxx	Email	tcanton@email.com

2-3 Applicant's Secondary Contact

Name			
Address			
City	State	Zip	
Phone	Email		

2-4 Preparer of application

Name	John Smither		
Address	345 Happy Lane		
City	Hollywood	State	CA Zip 90027
Phone	310-xxx-xxxx	Email	

Production Contacts

In Sections 2-5 through 2-11 below, list the primary production personnel who will be knowledgeable about the information provided on this application.

2-5 Producer

Name	Trevor Canton		
Address	123 Success Road		
City	Hollywood	State	CA Zip 90027
Phone	310-xxx-xxxx	Email	tcanton@email.com

SECTION TWO: Applicant & Production Contact Information (continued)

2- 6 Line Producer / UPM

Name John Smither		
Address 345 Happy Lane		
City Hollywood	State CA	Zip 90027
Phone 310-xxx-xxxx	Email jsmither@email.com	

2- 7 Location Manager

Name Drew Caiati		
Address 51 Wonder Street		
City New York	State NY	Zip 10001
Phone 212-xxx-xxxx	Email abishop@email.com	

2- 8 Production Accountant (at New York production office)

Name		
Address		
City	State	Zip
Phone	Email	

2- 9 Post Accountant (preparer of final application)

Name		
Address		
City	State	Zip
Phone	Email	

2-10 Post Production Supervisor (responsible for end credits)

Name		
Address		
City	State	Zip
Phone	Email	

SECTION TWO: Applicant & Production Contact Information (continued)

2-11 Payroll Service

Name	Media Services Payroll Service		
Address	30 West 22nd St., 5th Floor		
City	New York,	State	NY
Phone	Email		

Additional Key Personnel (name only)

2-12 Executive Producer:

2-13 Director:

Director:	Harris Jordan
-----------	---------------

2-14

Lead Actor:	Marie Palms
Lead Actor:	Dan Run
Lead Actor:	Larry Frenzel

List all. For TV, list network/cable channel, etc

2-15

Distributor(s):	TBD
-----------------	-----

2-16

Presentation Credits: List all companies and producing partners that will be listed in the project's presentation credits.

SECTION THREE: Production Detail Information

3-1 NY Facility Threshold Calculation

From completed Form C: Summary Page

NY Facility Threshold Calculation	Amount	% Total
NYC LEVEL 1 Qualified Facility Costs	\$ 500,000	% 100.00
NYC LEVEL 2 Qualified Facility Costs	\$ _____	% 0.00
NY STATE Qualified Facility Costs	\$ _____	% 0.00
Non Qualified Facility Costs	\$ _____	% 0.00
TOTAL Facility Costs	\$ 500,000	% 100.00

SECTION THREE: Production Detail Information (continued)

Production Facility Information

3-2 Primary New York City or New York State Qualified Production Facility

Facility Name	Broadway Stages		
Address	203 Meserole Ave		
City	Brooklyn,	State	NY
Phone	718-349-9146	Email	

3-3 Primary New York Qualified Production Facility Schedule

	Start	End
a. Facility License or Operating Agreement start/end date:	3/20/13	5/8/13
b. Construction start/end date:	3/22/13	4/13/13
c. Stage shooting start/end date:	4/23/13	5/5/13
d. Stage wrap start/end date:	4/30/13	5/8/13

If you are shooting at **more than one** Qualified Production Facility, contact the State Film Office for instructions

3-4 NON- Qualified Production Facility

If you are also shooting at any film production facility that is NOT a Qualified Production Facility, whether within or outside New York State or City, contact the State Film Office for instructions.

3-5 Post Production Facility

Facility Name	Broadway Video		
Address	1619 Broadway		
City	New York	State	NY
Phone	212-265-7600	Email	

3-6 FACILITY Shoot Days

12.0

TOTAL number of **PRINCIPAL PHOTOGRAPHY** shoot days
at the Qualified Production Facility

TOTAL number of **SECOND UNIT / OTHER** shoot days
at the Qualified Production Facility

3.0

TOTAL number of shoot days at any **NON Qualified** production facility

15.0

TOTAL number of **ALL SHOOT DAYS** at any production facility

SECTION THREE: Production Detail Information (continued)

3-7 LOCATION Shoot Days

Enter the number of shoot days on location (i.e., not at a production facility) for PRINCIPAL and SECOND UNIT/OTHER days for each region you plan to shoot in as indicated below. New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island and Manhattan. If you need help determining regional designation for locations outside NY City, contact the State Film Office.

Principal	2nd Unit
1. New York City	<input type="text"/>
2. Buffalo/Western	<input type="text"/>
3. Rochester/Finger Lakes	<input type="text"/>
4. Syracuse/Central	<input type="text"/>
5. Adirondack/Thousand Islands	<input type="text"/>
6. Albany/Capital District	<input type="text"/>
7. Catskills	<input type="text"/>
8. Hudson Valley	<input type="text"/>
9. Westchester/Rockland	<input type="text"/>
10. Long Island	<input type="text"/> 3.0
TOTAL Shoot Days NY State	<input type="text"/> 3.0
Shoot Days OUTSIDE NYS	<input type="text"/>
% of PRINCIPAL LOCATION Days in NY STATE	<input type="text"/> 100.00

If you have more specific location info--place name, town, village, etc.--please indicate here

3-8 LEVEL 2 ONLY: Principal Photography Threshold NOTE: If this project is a LEVEL 1 production, do NOT fill out this section.

<input type="text"/> 12.0	TOTAL number of PRINCIPAL PHOTOGRAPHY shoot days at the QUALIFIED PRODUCTION FACILITY		
<input type="text"/>	TOTAL number of PRINCIPAL PHOTOGRAPHY shoot days ON LOCATION in New York State		
<input type="text"/> 3.0	TOTAL number of PRINCIPAL PHOTOGRAPHY shoot days anywhere OUTSIDE New York State		
<input type="text"/> 15.0	TOTAL number of all PRINCIPAL PHOTOGRAPHY shoot days	<input type="text"/> 80.00	% PRINCIPAL PHOTOGRAPHY in QPF

SECTION FOUR: New York Employment Information

4-1 *NOTE: Do NOT include information for **background actors** anywhere in Section 4-1; all employment information regarding background actors should be included in Section 4-2 ONLY.*

New York Production Employees are all employees assigned to work on the qualified film in New York (regardless of their personal residency).

Qualified Employees (whether resident or not) are production employees assigned to work on the qualified film in New York whose costs are eligible for reimbursement in the tax credit program. Non-Qualified Employees (whether resident or not) are those employees whose costs are NOT eligible for reimbursement via the tax credit program (please refer to FORM B).

	# of Employees	Wages/Comp
Above the Line NY Qualified Employees	20	\$ 300000
Below the Line NY Qualified Employees		\$
Post Production NY Qualified Employees		\$
NON Qualified NY Employees		\$
Subtotal NY Qualified Employees ONLY	20	\$ 300000
TOTAL ALL NY Employees	20	\$ 300000

4-2 Background Actors

Indicate the number of background actors (extras), number of man days, and total wages. "Number of hires" are the actual number of individual background actors hired. "Number of man days" are the total number of days which all background extras are scheduled to work. For example, if you have 20 background extras each working for 10 days, there are 20 hires and 200 total man days.

All NY background actors # hires 10 # man days 3.0 \$ 50000

SECTION FIVE: Level 1 Certification

By signing this section of this application, the Applicant certifies that the qualified production named in this application BOTH

- a. has a production budget of no more than \$15 million, AND
- b. is being produced by a company in which NO MORE THAN five percent of the beneficial ownership is owned, directly or indirectly, by a publicly traded entity.

Failure to properly and fully disclose all information relevant to this stipulation can result in this application being declared invalid in its entirety.

I attest that I have read and agree to comply with the above

SIGN HERE

SECTION SIX: NY State Registered Vendors

By signing this section of the application, the Applicant certifies that the qualified production company named in this application will purchase taxable tangible property and services, defined as qualified production costs, only from companies registered to collect and remit New York State and local sales and use taxes.

I attest that I have read and agree to comply with the above

SIGN HERE

SECTION SEVEN: End Credits

By signing and submitting this application, an applicant for the State program agrees to EITHER:

- include in the end credits of the qualified film "Filmed With the Support of the New York State Governor's Office for Motion Picture & Television Development" **and in addition** to include the logo for the "NY ♥ FILM" program;
- OR
- include in each qualified film distributed by DVD, or other media for the secondary market, a New York promotional video approved by the NY State Governor's Office for MP/TV

NOTE: Inclusion and documentation of the End Credits as specified above is a **STATUTORY REQUIREMENT** of the New York State Film Production credit program. This is not discretionary. It is the responsibility of the Applicant to ensure that all components of the End Credit Requirements are included in the end credits of the qualified film.

Failure to comply with this stipulation could result in this application being declared invalid in its entirety.

SECTION EIGHT: Required Attachments

- Form C - Completed Budget Cost Qualifier, both the Detail Page and Summary Page, in electronic Excel spreadsheet form.
- The most current detailed budget
- A complete production schedule
- FOIL letter to protect your confidentiality (optional) *See page 16 of Instructions For Initial Application*

SECTION NINE: Signature

The signature below must be provided by the corporate officer, general partner, managing member, or sole proprietor of the applicant seeking the New York State Film Production tax credit. All other information requested by the application should be provided by the corporate officer, general partner, managing member, or sole proprietor of applicant seeking the film production tax credit.

Under penalties of perjury, I declare that I have examined the application and accompanying documents and, to the best of my knowledge and belief, they are true, correct and complete.

Authorized signature

Date

Title

FIGURE 6.7—New York Film Production Credit Application Sample

- Provide estimates of expenses—Schedule of Qualified Expenditures FORM B
- Total Budget—Initial Budget Cost Qualifier FORM C
- Shooting schedule
- Schedule a meeting with the state and city offices prior to the start of photography

Application must be submitted up to 180 days prior to the start of principal photography.

According to the Web site send applications to:

New York State Governor's Office for Motion Picture

633 Third Avenue, 33rd Floor
 New York, NY 10071
 Phone: 212-803-2330
 Web site: www.nylovesfilm.com
 E-mail: nyfilm@esd.ny.gov

Qualified Expenses

- Technical and crew production costs
- Production facilities expenses
- Costs for props, makeup, wardrobe, and set construction.

The following are **not** qualified expenses:

- Costs of stories and scripts
- Salaries for writers, directors, producers, actors, and stunt players

Tax Credit

To obtain a tax credit, the production company must provide the following:

- Completed final application must be sent no more than 60 days after completion of the film
- Final budget—Final Budget Cost Qualifier—Form E

- Employment report Form F
 - End credit requirements
 - A production company must include in the end credits the following statement: "Filmed With the Support of the New York State Governor's Office for Motion Picture and Television Development" and the New York ♥ Film (logo provided by the Film Office)
- OR
- Include in each DVD, or other media distribution a New York promotional video approved by the Governor's Office for Motion Picture and Television Development

Prior to the issuance of a final Certificate of Tax Credit, every production will be required to provide proof of the end credit requirements either in the form of a screen shot, DVD, or other materials which the Film Office may request.

As there are a number of rules and regulations, it is best to contact the New York State Governor's Office. If the application is approved, a certificate of tax credit will be provided. The concern with this tax incentive plan is the same as California; there are so many filmmakers that live and work in the New York area that to be selected would be a long shot. I hope the City of New York and its state legislators work together to find new ways to encourage filmmakers to make the "Big Apple" shine again.

New York Contact information:

New York State Governor's Office for Motion Picture and TV Development
(State)

E-mail: Pkaufman@empire.state.ny.us

Phone: 212-803-2330

Fax: 212- 803-2339

Web site: www.nylovesfilm.com

Mayor's Office of Film, Theatre, & Broadcasting (City of NY)

E-mail: info@film.nyc.gov

Phone: 212-489-6710

Fax: 212- 307-5237

Web site: www.nyc.gov/film

Which State Tax Incentive Works the Best?

Where a production company is going to film is one of the first decisions a filmmaker must make. They need to make sure the right. To make the right decision, a filmmaker should ask the following questions:

- Will the state be accessible to experienced crew?
- Will state be accessible to film equipment, lighting, camera, and prop vendors.
- Can the state provide affordable hotel accommodations and restaurants for the film?
- What would the filming in this state do to our budget? What would the savings be to film in this state?

Experienced Film Crew

As previously discussed, having an experienced film crew is important for filming success. Assembling a film crew in states that are not as sophisticated in film may be difficult because they can cause delays, malfunctions of equipment, or even property damage. For example, there was a film that utilized crew from a tax incentive state and unfortunately encountered increased insurance claims. Thankfully, many of the claims were simple cuts on the hand, bumps on the head, and damaged equipment. To avoid any more occurrences safety meetings and guidelines held more frequently and they were able to mitigate any further claims.

In addition, an experienced film crew is organized, completes the job in a timely manner, and come in on budget. This is not to say that experienced film crews are perfect...however they know their job and they know what needs to be done.

Filming Locations

Study the script. There may be definitive landmarks or settings that you may need to film a particular scene. In these situations it will require you to determine how long it would take to film there and the production costs you may incur. The same analysis will be required if your script requires filming on the beach, in the mountains, deserts, or in a particular climate.

Upon determining the state, you will need to find the city or town that would enable the production company to be accessible to filming locations, equipment, props, and set dressings. In addition, the production company will

need to check hotel accommodations and restaurants to see if they are comfortable and reasonable priced. The key issue is to find a city or town that will enable you to take care of all your production needs so that the production operations can be completed in a timely manner.

Budgeting

The next step would be the start the budgeting process. It is advisable to actually create various budget scenarios to find out which state works the best. Once determining the costs you should do the math. Apply the formulas and do the calculations to see which state is the best. Once you have a better idea of what the costs are you can decide if the particular state is the best alternative.

Concerns

There are a couple of concerns to mention here, state tax incentives are not always guaranteed. If any issues occur in the final paper work or audit the production company may only get partial tax credit or none at all. Also, changes to the state tax incentives may occur. In some states legislators are moving toward reducing the tax credit or setting caps. While the film tax incentives are good for the economy of the state, there are other more pressing issues the money could be used for, i.e., health care for the poor, schools, parks, business development.

In closing, if a production company utilizes a state incentive they will need to make sure the right infrastructure is in place for their film, thoroughly understand the process, manage the paperwork, remain vigilant with the tracking of costs and provide all materials for the audit in a timely manner.

State Rebates

State rebates are being offered by various states in where a qualified production gets a percentage back of their qualified spending without waiting and the formality of waiting to file tax paperwork. The reasoning for these rebates is the state already has use of the tax revenues generated by the spending so why hold on to it.

Washington – “The Evergreen State”

The state of Washington has a film incentive program where they provide 30% funding assistance for state qualified expenses. According to their Web site, they provide “30% cash back in 30 days.”

Qualified Productions/State Rebate

- Feature films with budgets of \$500,000—30%
- Television programs with budgets of \$300,000—30%
- Commercials with budgets of \$150,000—30%

The annual cap is \$3.5 million per calendar year.

Information needed for consideration

- Funding assistance application—www.washingtonfilmworks.org
- Script
- Budget
- Finance plan
- Proof of funding
- Producer's Letter of Intent—letter stating how this film will grow the state's film industry

According to the Web site send applications to:

Washington Filmworks
Attn: Executive Director
1218 Third Avenue, Suite 1515
Seattle, WA 98101

The following are qualified expenses:

- Location fees
- Set construction
- Wardrobe, accessories/makeup
- Rental equipment/facilities
- Rental of vehicles
- Food/lodging
- Film processing/lighting/sound

- Payroll for Washington state residents
- Post-production

The following are **not** qualified expenses:

- Payroll for out-of-state employees
- Any purchases made outside of Washington state
- Purchases made through vendors that act as an agent
- Gift cards or money orders given to any cast or crew member.
- Parking tickets, bank fines, and penalties or fines.
- Cell phone reimbursements or calling card purchases.

Information needed for a *Refundable Rebate*

- Signed letter from Production Accounting confirming production dates and total amount spent
- Expense Transaction Detail spreadsheet
- Chart of Accounts
- Washington State general ledger
- Total Production Budget to date
- Payroll Report
- Dept of Commerce Production Survey—www.cted.wa.gov/forms/prodsurvey/
- Vendor Invoices
- List of Washington locations

As there are a number of rules and regulations it is best to contact the Washington Filmworks.

Washington contact information:

Washington Filmworks
1218 Third Avenue, Suite 1709
Seattle, Washington 98101

Telephone: (206) 264-0667

E-mail: info@WashingtonFilmworks.org

Web site: *www.washingtonfilmworks.org*

Oklahoma “The Sooner State”

The Oklahoma Film Enhancement Rebate offers up to 37% on expenditures while filming in the state. The annual cap is \$5 million. This rebate is payable beginning July 1 following the fiscal year in which documented expenditures were made.

Qualified Productions/State Rebate

- Feature film, television, and commercial productions with a minimum budget of \$50,000 and must spend \$25,000 in Oklahoma.

The following films are **not** eligible for the program:

- Child pornography and films that depicts or describes any obscene material.

Information needed for consideration:

- Project Information Form—FORM A
- Application of Eligibility—FORM B
- Oklahoma Filming Permit—FORM C
- Statement of Budget—FORM D
- Provide proof the financing is complete prior to commencement of principal photography
- Script
- Budget
- Schedule an interview to discuss your application with the Oklahoma Film & Music office

The phone number is 405-230-8440. The meeting must be attended by producer executives or production accountant.

According to the application all materials should be sent to:

The Oklahoma Film & Music Office
120 N. Robinson Avenue
Suite 600
Oklahoma City, OK 73102
Phone: 405/230-8440
Web site: www.oklahomafilm.org
Email: Yousef.Kazemi@TravelOK.com.

The following are qualified expenses:

- Below-the-line wages or salaries paid to Oklahoma residents.
- Wages or salaries paid to Oklahoma Expatriates (as described in guidelines).
- Oklahoma Expatriate by the Oklahoma Film & Music Office. The Expatriate roster consists of Oklahoma below-the-line crew not currently residing in Oklahoma, who have pre-registered with the Oklahoma Film & Music Office.
- Salaries for resident and non-resident above-the-line personnel paid to loan-out corporations or limited liability companies registered to do business with the Oklahoma Secretary of State's Office. *Please note: No more than twenty-five percent (25%) of the total rebated amount can be comprised of qualifying above-the-line salaries.*
- Underlying rights for screenplay and novels paid to an Oklahoma entity or individuals with an Oklahoma tax liability.
- The cost of construction, operations, wardrobe, accessories and related services.
- The cost of photography, sound synchronization, lighting, and related services.
- Rental of facilities and equipment.
- Lodging costs.

The following are **not** qualified expenses:

- Salaries for resident and non-resident above-the-line personnel that are not paid through a payroll service.
- Costs to vendors not in the state of Oklahoma.

Refundable Rebate

Ninety (90) calendar days after the payment of all Oklahoma expenditures, the production must submit the following to the Oklahoma Film & Music Office:

- Final Rebate Application (Form I).
- Final budget and signed statement of budget (Form D).
- Daily production reports for all Oklahoma filming days.
- Completed Summary of Local Expenditures (Form F).
- Final accounting ledger (all supporting documentation and receipts must be kept by the production company of record for a period of three (3) years).
- Final production one-line shooting schedule.
- Results of Third Party Review conducted by an accounting firm that has been mutually agreed upon in advance. Third Party Review will be at the expense of the production company. This is deemed a qualifying expenditure if a certified Oklahoma accounting firm is used.
- Notarized documentation is on file with the Oklahoma Film & Music Office (Form G) stating that all information provided for the purposes of qualifying for the Film Enhancement Rebate program are true and correct and that there are no unpaid salaries, invoices, reimbursements for damages, or liens against the production entity in the State of Oklahoma.
- End Credit Requirement—Form H.

The following screen credit, logo, and written confirmation must be included in the end credit crawl “Filmed in Oklahoma utilizing the Oklahoma Film Enhancement Rebate Program.”

As there are a number of rules and regulations it is best to contact the Oklahoma Film & Music Office.

Nice! The rebate program allows you to get your money back quicker than tax incentives. The production company may not be able to get a big return and these rebates would accommodate smaller production companies not studios because there is a cap to the amount spent. However, rebates are worth investigating if you have a low budget film.

Oklahoma contact information:

Oklahoma Film & Music Office
120 N. Robinson, Suite 600
Oklahoma City, OK 73102
Phone: (405) 230-8440
Toll Free: (800) 766-3456
Fax: (405) 230-8640

SUMMARY

The purpose of this chapter is to provide you with an understanding of the state tax incentives. This chapter provides various state tax incentives for California, Connecticut, Louisiana, Michigan, New Mexico, and New York. All these states have very different requirements, i.e., higher percentages, established caps, and others require audits.

Finding the state where you want to film is a very important step in the production process. The budget, the cast, the film crew, locations and equipment, and props and set vendors can be affected by this decision. In addition, rebates are another option for consideration. Maybe some day federal and state legislators will realize the importance of the motion picture film business and come up with more attractive state tax incentives or rebates with a lot less red tape.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. The most difficult part of tax incentives is filing the paper work and tracking the expenditures. Imagine you are the producer. What methods would you use to insure that you receive the tax credit?
2. Become a film tax incentive advocate; locate your state legislative representative by going to your state's government Web site. Once you've located your legislator, write a letter regarding either of the following:
 - a. Additional funding should be provided for tax incentives programs in your state.
 - b. A film tax incentive program should be established in your state.

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: In your opinion which state discussed in the book has the best tax incentive program. Please confirm why.

CHAPTER 7

LOCATION, LOCATION, LOCATION

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- How Do You Find the Right Spot?
- We've Selected the City...What's Next?
- Understanding Permitting Requirements
- Insurance
- Submitting the Paperwork for a Permit
- Dealing with Bureaucratic Red Tape
- Getting Along with the Neighbors
- Police and Fire Personnel
- Private Property Location Agreements
- Location Requirements—Special Conditions
- Compensation to Tenants
- Location Negotiations
- Finalizing Agreements
- Moving In
- Public Versus Private Locations

How Do You Find the Right Spot?

The mantra “location, location, location” is important not only in real estate but also in the film world. If the film requires your two *main leads* to share their first kiss at the Santa Monica pier, you will definitely have to film there.

KEY TERM:

MAIN LEADS The essential characters of the film.



FIGURE 7.1—Santa Monica Pier Courtesy Trevor Wong

However, finding the right spot to film is not always written in the script. As discussed in Chapter 6, the production company should decide on the state they wish and investigate ways to achieve any savings through tax incentives or rebates.

What Do You Envision?

Once the production company identifies the state, they will need to find the right city or town. Besides finding the right city, there are so many locations that must be selected. The locations can encompass commercial buildings, residents, hotels, restaurants, retail stores, museums, libraries, schools, airports, and parks. Typically, deciding on filming locations requires the involvement of the producers, director, director of photography, location manager, and others on the team. This group must do the following:

- Break down the script, create a location listing, and develop the type of background and scenery they envision. The production team should develop a *Storyboard* or *shot list*. These documents will help the production team visualize what they want to film.

KEY TERM:

STORYBOARD Provides a visual layout of events as they are to be seen through the camera lens.

- Determine the length of time you will need a production office and various filming locations. You will need the locations for a number of days or weeks.
- Establish a location budget that includes estimated costs for permits and location fees.



FIGURE 7.2—Location, Location, Location

Do the Research

Before you get in a car or on a plane, do some research about the proposed city. Use the Internet, review maps, consult with a rental property agency or property managers, and contact state film offices because they can provide you with some insights and direction. The data you collect should be similar to those gathered for an individual moving to a new city. The information should include the following:

- *What are the crime statistics for certain regions in the city?*⁹ Specifically review statistics for burglary, vehicle thefts, assaults, and homicides.
- *What are the traffic conditions?* Obtain the statistics of the peak traffic times and most congested streets.
- *Does the city have adequate health and emergency services?* Locate the nearest hospitals and determine how well they are ranked. Obtain information about private emergency service providers and

determine the experience level of their emergency medical technicians. Can they respond to medical incidents in an ambulance, rescue vehicle, helicopter, and fixed-wing aircraft.

- *What are the housing costs?* Where can you find the most affordable rental properties and hotels.
- *What is the climate like?* Will the time of season correspond to the film's setting? Is there a possibility that weather conditions may affect the film's success?

Scouting

Now that the research has been completed the location department must conduct *tech scouts*. One cannot get a sense of a city or town unless it is seen in person. Before you get in a car or on a plane you should PLAN your tech scout.

KEY TERM:

TECH SCOUTS To explore a location in order to obtain useful information for filming activities. The purpose of the tech scout is to determine whether the infrastructure of the location can support a film shoot, i.e., ample parking, reliable electrical power sources.

The *location manager*, director, or director of photography should have a "game plan" established and gather lots of "local color" by conducting meetings with the following:

- City or county officials
- Property owners, property managers, and real estate agents
- Hotel or restaurant managers

KEY TERM:

LOCATION MANAGER Is responsible for the finding and securing of locations to be used, and coordinating the logistics involved for the production to successfully complete its necessary work.

In addition, more information can be learned by reading local newspapers and listening and watching the local news. The most important information to obtain is:

- The permit and location contract requirements
- The costs for location and rental fees
- The costs for food and hotel accommodations
- A calendar of city/county special events and conventions

While scouting, the location manager or director should take digital pictures of the exteriors and interiors of prospective film locations. In addition, it is best to take notes at each location you visit and answer the following questions:

- Is the permitting easy and the location fees affordable?
- Is this location centrally located and accessible to other filming sites?
- Will the city officials, business owners, location owners, and residents of the neighborhood accommodate the production company's filming schedule?
- Does the location have a lot of congestion from traffic or crowds?
- Does the location have ample parking for crew vehicles and production vehicles?
- Is this location accessible to camera, lighting and electrical equipment vendors?
- Does this location have reliable electrical power sources and accommodate generators for lights and electrical equipment?
- Does the location have working restrooms?
- Does the location have nearby affordable rental properties and hotels?
- Is the location big enough to accommodate your actors and film crew?

If all of the above questions result in a “yes” answer, than you have found the right location. However, if one or two of the questions results in concerns, the production executives, location manager, and his or her team will need to develop alternative solutions or action plans that will resolve the concerns. If not, another location site will need to be selected.

When searching for locations, consideration should be made for studio facilities. Facilities such as sound stages have a lot of resources such as pre designed sets, props, lighting, and sound equipment, which ultimately provides the production company with the ability to manipulate the surroundings to their specifications. Construction and special effects services are also available at some of these facilities. They have skilled craftsmen that can assist with building sets and have technicians that can assist with green screen or special effects.



FIGURE 7.3—Sound Stage Construction Facility Courtesy Trevor Wong

Besides finding filming locations, you should start searching for an ideal location for your production office. A production office is your command center or headquarters and it is critical, so select wisely. The office should be centralized, near other production locations and large enough to accommodate executive and production crew. In addition, this location should have all the amenities of a normal office, such as multiple telephone connections,



FIGURE 7.3—A future production office? Courtesy Trevor Wong

Internet access, restrooms, and ample parking. Please remember, that consideration will be needed for office equipment such as copiers/scanners, fax machines, printers, and computer equipment. This equipment will need to be purchased or rented before production starts because without these tools the production company will have no ability to communicate with the rest of the production team. The production office should have at least a couple of fast food restaurants or coffee houses within walking distance or better yet, a 24-hour coffee shop.

Upon completion of the scouting trips, all the information learned should be presented and reviewed with the producer and production executives. A report should be provided as to what the estimated costs are and whether there are any potential problems. At the conclusion of these discussions, a couple of “front runners” will be determined. To finalize the decision, production executives may do a tech scout and tour the various locations for themselves. This scout should result in a consensus as to which city works best. Once a decision is made, the film project can move forward.

We've Selected the City...What Next?

The location manager must confirm the availability of the city and the various film sites. The first item that the location manager will need to obtain is a film *permit* to the city in which they wish to film. In addition, virtually simultaneously, the location manager will start reviewing *location agreements* and negotiating the *location fees* with property owners and building managers.

To keep track of everything, a location manager should establish a listing of all possible film sites, availability, location fees, and contact information. Update the listing as you progress through the location selection process. In the end, you will need to report the location fees and permit costs to the production accountant so they can be included in the location department's budget figures.

KEY TERM:

PERMIT To grant consent to have access to the city or county.

LOCATION Agreements an agreement that is used to obtain permission from a property owner to shoot a film at a property owner's house or business.

LOCATION FEES A fee that is payable to the location owner to utilize the film site.

Understanding Permitting Requirements

What Is Involved?

The permitting process can be difficult and may require the skills of a diplomat. This is because there are a number of third parties that have different perspectives and vested interests. The production company should make every effort to partner with each of these parties to mitigate future disagreements. Unfortunately, many times these disagreements have the potential to result into *legal dispute* such as *fines*, *legal actions*, or *lawsuits*.

KEY TERM:

FINES To impose a penalty upon for an offense or breach of law.

LEGAL ACTIONS OR LAWSUITS A civil or criminal judicial proceeding intended to resolve a legal dispute, claim, or accusation.

First, there are the city/county officials who are concerned with damage to historical landmarks and/or natural centers, i.e., parks, beaches, and roads. In addition, they are concerned that the production company may injury its citizens their temporary custody and control of the location. Next, are the business owners who are concerned that the production company may cause damage to their property or bodily injury to employees or customers. In addition, there are business owners not affiliated with filming who have concerns with interruption of their normal business operations which would result in loss of revenues. They feel the production company's vehicles may absorb their parking spaces, or block access to their buildings, preventing deliveries and customers from access to their business.

There are homeowners that may have concerns with the damage to their home, theft of their valuables, and damage to their yard. In addition, neighborhoods have churches, schools, museums, and/or libraries that are concerned with having to endure erratic filming schedules, noise, and traffic delays. Many of these property owners perceive production companies as a band of nomads coming to destroy their village.

The Permit Process

The city and county of a particular state have established permit requirements that the production company must follow. Before you start the process, it is best to check out the film permit office Web site. There you should find information about the process and the permit application. In addition, you can contact the permit office, talk to a representative, and ask any questions you may have.

SIDE NOTE

By contacting the City of Los Angeles, I was directed to FilmLA (www.filmla.com). This is a nonprofit organization whose sole purpose is to coordinate and process permits for feature films, television, and commercial production.

To begin the process, a permit application will need to be completed. Dependent on the city, besides the completed application, the production company may be required to provide the following information:

- Location and address of filming
- Dates and times broken down as follows:
 - Prep dates—days the production company is preparing to film
 - Filming dates—days of principal photography
 - Hold dates—days the production company is not working
 - Strike date—days the production company will be breaking down sets
- Equipment on location
 - Numbers of vehicles that will be utilized on the set
 - 5 or 10 ton trucks, motor homes, honey wagons, portable restrooms, stake bed trucks, semi-trucks, cranes
 - Picture cars, camera cars, generators
 - Parking must comply with parking regulations
- Personnel on location
 - Number of personnel on location
 - Cast, crew, extras, and audience members
- Filming activities—provide in detail what is planned for the day or attach a production schedule
- Gunfire effects/special effects/stunts
 - Gunfire effects—type of gunfire—single shot, semi-automatic, automatic
 - Special effects—bullets/squib, car explosions, explosion, fire effects, sparks



FilmL.A., Inc.
1201 W. 5th St, Suite T-800
Los Angeles, CA 90017
(213) 977-8600

PERMIT APPLICATION REQUEST

General Permit Information

Production Title: Success
Type of Production: Feature

Production Company Information

Company Name: Can't Go Wrong Productions
Phone: (310) 000-0000
Phone: _____
Fax: _____
Street: 123 Success Road
City: Hollywood
State: CA
Zip Code: 90027

Insured Company Information

Company Name: Fireman's Fund Insurance Company
Phone: _____
Phone: _____
Fax: _____
Street: 2350 W. Empire Avenue, Suite 200
City: Burbank
State: CA
Zip Code: 91504

Location Manager

Name: Drew Caiati
Cell: (310) 111-1111
Office: _____
Fax: _____
Email: dcaiai@email.com

Location Assistant

Name: Joy Sword
Cell: (310) 111-1111
Office: _____
Fax: _____
Email: jsword@email.com

Producer:

Trevor Canton

1st AD:

Director:

Harris Jordan

Production Manager:

Permit Service Company Information

Company Name: N/A
Representative: _____
Phone: _____
Phone: _____
Fax: _____
Email: _____



FilmL.A., Inc.
1201 W. 5th St, Suite T-800
Los Angeles, CA 90017
(213) 977-8600

PERMIT APPLICATION REQUEST (LOCATION 1)

Location Description

Type of location: Building Thomas Guide Page #: _____
Open: Closed: Thomas Guide Grid #: _____
Address: 900 Strait Avenue
City: Hollywood, CA Zip Code: 90028

Dates

Prep Date(s) & Time(s):
3/4/13-10 am to 3/10/13 - 6pm

Filming Date(s) & Time(s):
3/11/13-7am to 4/4/13 - 6pm

Strike Date(s) & Time(s):
4/4/13- 6:30pm - 8:00pm

Hold Date(s) & Time(s):
None

Equipment On Location

Type	Quantity	Type	Quantity	Type	Quantity
5 or 10 Ton Trucks	3	Beebe Light/Nite Sun	_____	Camera Cars	_____
Cast/Crew Vehicles	20	Condors	_____	Cranes	_____
Cube Trucks	1	Generator	2	Honey Wagons	5
Motor Homes	1	Picture Vehicles	1	Portable Restrooms	5
Process Trailer	_____	Scissor Lifts	_____	Semi Trucks	_____
Stakebed Trucks	2	Vans	_____		

Personnel On Location

Type	Quantity
Audience Members	_____
Cast	12
Crew	30
Extras	_____

Where are extras holding? _____

Page 2



FilmL.A., Inc.
1201 W. 5th St, Suite T-800
Los Angeles, CA 90017
(213) 977-8600

PERMIT APPLICATION REQUEST (LOCATION 1)

Filming Activities

Filming in Hollywood. The project is about an ambitious filmmaker trying to make it in Hollywood. The main lead is trying to secure funding and financing so that he can produce a screenplay. By accident he meets a rich tycoon who promises that he will finance his next film if he would track down his first love. This is no small task and turns the filmmaker into a detective.

Gunfire

Shot Type	Load Type	# Takes Per Day	# Times Per Take
_____ Automatic	_____	_____	_____
_____ Semi Automatic	_____	_____	_____
_____ Single Shot	_____	_____	_____
_____ Non Gun	_____	_____	_____

Description of Gunfire:

Special Effects

F/X Permit Number: _____

Type	# Takes Per Day	# Times Per Take
✓ _____ Breaking Glass	1	_____
_____ Bullets/Squib Hits	_____	_____
_____ Burn Barrels	_____	_____
_____ Car Explosion	_____	_____
_____ Dust Hits	_____	_____
_____ Explosion	_____	_____
_____ Fire Ball	_____	_____
_____ Fire Bars	_____	_____
_____ Fire Effects	_____	_____
_____ Sparks	_____	_____
_____ Other _____	_____	_____

Description of F/X scene:



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Los Angeles, CA 90017
(213) 977-8600

PERMIT APPLICATION REQUEST (LOCATION 1)

Base Camp/Crew Parking

Base Camp

Location Type: Private Property Address: 900 Strait Avenue, Hollywood, CA 90028

Crew Parking

Location Type: Private Parking Lot Address: 902 Strait Avenue, Hollywood, CA 90028

Posted Parking/Closures

Posting "No Parking" signs: please indicate which side of the street: N/S-north side, E/S-east side, S/S-south side, W/S-west side, B/S-both sides

N/S- north side

W/S - west side

Lane/Full Closure

FIGURE 7.5—FilmLA Application Form

As with any permitting process, you should send your application in at least 5 working days prior to your first shoot date. Keep in mind the process should start sooner if there are any special conditions such as parking or street closures, stunts, or pyrotechnics. These issues may take longer to navigate.

■ Insurance

Normally all state or city permit offices, as well as property owners, will require the production company to carry *general liability* insurance. General liability protects the production company from *bodily injury* (BI) and *property damage* (PD) claims brought forth by an individual outside of the production company otherwise known as a “third party.” In other words, this policy provides for injury to an individual and damage to filming locations. The normal limit for this coverage is \$1,000,000 and there is no deductible applicable to this coverage. This coverage is required because the property owners do not want to be held liable for any claims or lawsuits as a result of actions of the film crew during filming.

KEY TERM:

BODILY INJURY Physical injury to an individual.

PROPERTY DAMAGE Damage to private property caused by an individual.

In addition, there may be an occasion where the city or state risk managers may request that you increase your general liability limits to a higher level. Increased limits are usually applicable when you are filming at airports, historic landmarks, libraries, and colleges. These individuals fear that the large numbers of actors and extras may increase the possibility of an injury or property damage. This requires that you purchase an *umbrella liability* policy. The umbrella policy provides additional liability coverage above the standard general liability limit of \$1,000,000.

For instance, if you plan on filming in the City of Los Angeles, you may need to increase the limit if you are filming at properties at the following jurisdictions:

- \$2,000,000 for properties under the jurisdiction of the Department of Water and Power.
- \$3,000,000 for water areas under the jurisdiction of the Harbor Department.
- \$5,000,000 when using aircraft or using the “Sunken City” area at Point Fermin.

In addition, property owners of commercial or residential buildings, concert venues, and hotels and restaurants may request you increase your limits as well. A client of mine wanted to film in a simple warehouse and found that the property owner required they increase their limit to \$5,000,000.

If the previous scenario occurs, I suggest that the location manager try to negotiate a limit reduction before signing the agreement. Please note that out of the two scenarios, the location manager was able to negotiate a limit reduction with the warehouse owner rather than with the city risk manager. Ultimately, increases in limits will increase a production company's location budget.

To purchase the appropriate insurance the production company will need to use an entertainment *insurance broker*. An insurance broker represents a filmmaker and searches the insurance marketplace for a company that provides the best coverage for the most competitive prices. In addition, they provide risk management assistance, process insurance claims, and issue certificates of insurance. A *certificate of insurance* will include the city, state, or property owners as an *additional insured*. Please note that to properly cover your film, you require other insurance lines. For more information regarding insurance, please refer to Chapter 13.



FILM INSURANCE CERTIFICATE REQUIREMENTS FOR FILMLA., INC.

CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY)	
PRODUCER INSURANCE AGENT NAME & ADDRESS		THIS CERTIFICATION IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERES NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
INSURED INSURED NAME & ADDRESS		INSURERS AFFORDING COVERAGE		NAIC #	
		INSURER A:	INSURANCE COMPANY NAME(S)		
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
COVERAGES					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
INSURED LINES LTD. INSURE	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
<input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	POLICY NUMBER	CURRENT POLICY PERIOD	POLICY NUMBER	CURRENT POLICY PERIOD	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ex occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
					<input type="checkbox"/> GEN/L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC
<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	POLICY NUMBER	CURRENT POLICY PERIOD	POLICY NUMBER	CURRENT POLICY PERIOD	COMBINED SINGLE LIMIT (Ex accident) \$ 1,000,000 BODY INJURY (Per person) \$ BODY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: AGG \$
					<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO
<input type="checkbox"/> EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION	POLICY NUMBER	CURRENT PERIOD	POLICY NUMBER	CURRENT PERIOD	EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$ \$
					<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/ASSOCIATE OF THE INSURED EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS					
<p>1) FilmL.A., Inc., its directors, officers, and employees are added as additional insured.</p>					
CERTIFICATE HOLDER		CANCELLATION			
<p>2) FilmL.A., Inc., its directors, officers, and employees 1201 W 5th St., Ste. T-800 Los Angeles, CA 90017</p>		<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.</p> <p>AUTHORIZED REPRESENTATIVE</p>			
ACORD 25 (2001/08)		© ACORD CORPORATION 1988			

- 1) **Description of Operations:** FilmL.A., its directors, officers, and employees.
 2) **Certificate Holder:** FilmL.A., its directors, officers, and employees.

Please submit Certificate to insurance@filmla.com.

For any additional questions, please contact our office at (213) 977-8600.

COVERAGES

- Commercial General Liability
- Auto Liability
- Proof of Workers Compensation

MINIMUM LIMITS

For Filming:

- \$1,000,000 per occurrence.

For Still Photography:

- \$500,000 per occurrence.

ADDITIONAL INSURED

- FilmL.A., Inc. named as additional insured.
- If a policy contains "blanket" additional insured, then the certificate must note: "FilmL.A. is additional insured by blanket endorsement".
- If policy has no blanket endorsement see page 2 for sample.

INSURANCE COMPANY

- Must be licensed to do business in California.



ADDITIONAL INSURED ENDORSEMENT FORM FOR FILML.A., INC.

ADDITIONAL INSURED

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

FilmL.A., Inc., its directors, officers, and employees.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section 1) is an insured to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.

CG 20 26 11 85

Page 1 of 1

Please submit your Endorsement Form with your Certificate of insurance to: insurance@filmla.com.

FilmL.A. Updated 4/2010

FIGURE 7.6—FilmLA Certificate

KEY TERM:

CERTIFICATE OF INSURANCE Is a document that verifies the existence of the insurance policies that are in place. It provides the type of insurance coverage purchased, policy number, effective date, and limits.

ADDITIONAL INSURED Is a person or organization that enjoys the benefits of being included under an insurance policy. This means that the policy holder will indemnify which means protect against damage, loss, or injury.

Submitting the Paper Work for a Permit

Depending on the city, you will need to submit the completed application and certificate of insurance at least 3–7 working days before principal photography begins. For street closures, the production company will need to provide the specific street, side streets, and the requested dates and hours. Some cities have online permit systems that automate the process and streamline the approval process.

Prior to the issuance of a permit, the production company will need to pay a fee. This fee is determined by the city permit office and is dependent upon the film's activities. For instance, FilmLA's fee is \$625 for a feature films and \$60 for still photography.

Dealing with Bureaucratic Red Tape

Permit—Filming Guidelines

Now that the permitting process is complete, the production company will have a number of guidelines to abide by. These guidelines vary from city to city but here's a selection of the guidelines:

- Notification of the residents of a location must take place 2 days before principal photography.
- Production companies hours of operations.

- No weekend or holiday filming unless approved by the city.
- Production crew may not park on main streets—only off street parking.
- Production companies can not impede the resident's access to the neighborhood.
- Production companies must provide access for emergency vehicles.
- Generators, portable toilets, and outdoor food preparation must be a minimum of a specific number of feet away from residential properties.
- Lighting should be confined to a specific site and should not interfere with the neighbors.

Accommodating all these guidelines can be difficult, however, one should keep in mind that a production company and its crew are considered “temporary visitors” and must be good to their hosts. To be a “good neighbor,” the best resolution is to concentrate your efforts on complying with the guidelines. However, every “visitor” is entitled to negotiate an accommodation if deemed necessary by the production executives.

As a production company’s filming schedule varies day to day, there may be instances in which permission is needed to:

- *Film on the weekends*—Commonly, production companies have a 6 day shoot week so filming may need to take place on Saturdays.
- *Film stunt and pyrotechnics exposures*—Preparing for a stunt takes a great deal of time and preparation. In addition, there are countless numbers of rehearsals and safety checks that must be accomplished before executing the effect or stunt.
- *Film night scenes*—There are times when the production company may want to film a scene at night. It may be in the best interest of the neighborhood to allow filming to occur later in the evening or early in the morning so the production company does not impede the business operations or tie up traffic in the area.

In these situations, depending on the city, the production company must *survey* the neighborhood residents to discuss any problems that could arise due to filming activities.

KEY TERM:

SURVEY Is gathering data by interviewing a group of individuals for a study or research report.

A survey form is provided by the city and the location team must canvas the neighborhood and interview the individuals who would be affected by the filming activities. During this process, there will be individuals who may have concerns that need to be addressed and resolved. Once the survey is completed, the city will review, address any issues, and with luck, approve the change. Once the permit is approved the production crew must retain a copy of it at all locations at all times.



FIGURE 7.7—Small Town Neighborhood

■ Getting Along with the Neighbors

Getting along with the neighbors starts by communicating and providing information to all in the area where filming will occur. A written notice should be created to outline:

- Production company and title
- Name and phone number of production manager and location manager
- Dates, time, and include the *wrap* time
- Detail activities on the street, special effects, or pyrotechnics
- Advise of proposed parking locations for the production team
- Provide streets or alleys that may be blocked off
- Provide alternative parking arrangements for residents

KEY TERM:

WRAP To conclude filming activities. This includes taking down sets, packing up cameras, grips, lights, and generators, and picking up trash.

The production crew must deliver and post these notices in local businesses, apartment buildings, stores, churches, senior centers, and schools within a week of filming. All notices should be sent to residents that are within 1 block radius of the film site. “No Parking” signs should be posted at least 48 hours in advance of the shoot.

SIDE NOTE

EXAMPLE:

ABC Productions will be filming on Saturday, June 7th at the Peterson Park from 8 am until 5 pm.

There will be some special effects pyrotechnics between 10 am and 12 noon. These are completely controlled and performed by licensed technicians. You may see a simulated explosion which looks like a large fireball rising up the sky and disappearing within seconds.

A security and safety perimeter will be maintained around the park during this time, please stay clear of this area. Thank you.

A production meeting should be held prior to filming on location. The crew should review the filming activities planned at the location site and be instructed to adhere to the following *Code of Conduct*:

- Speak courteously to all neighbors and business.
- Do not block fire hydrants, handicapped parking, building entrances, and driveways.
- Do not block the buildings or keep equipment in front of buildings or storefronts.
- Do not block traffic without a police officer or traffic agent.
- Keep the noise to a minimum when arriving in the neighborhood before 7 am or filming past 10 pm.
- Cover cables with mats, keep equipment against buildings or curb lanes, and create a pedestrian passageway.

The film crew should be reminded that they are the ambassadors to the film world.

KEY TERM:

CODE OF CONDUCT Is a set of rules outlining the responsibilities of or proper practices for an individual or organization.

Police and Fire Personnel

Some city permits have additional requirements in which they mandate that you use city police and fire department personnel at the set. These officials are crucial as they are there to monitor public safety and provide traffic control. Many times production companies feel that this is not necessary however, these individuals have been able to maintain a perimeter around the production location and assisted in “keeping the peace” especially with the neighbors.

If the performance of stunts or pyrotechnics takes place, a fire marshal and fire and water trucks will be required at the filming location. These safety precautions need to be in place to avoid fire and property damage. Basically, these precautions help to establish a clear perimeter around a filming location and will lessen the probability that a third party will get injured or their property damaged. Please note that if the filming activities endanger public safety and/or buildings, these individuals have the right to shut down the production. As you will note, there are a lot of hurdles to jump over to get a permit. Ultimately, to go through this process, you need to keep the lines of communication open with the permitting office representatives as well the community leaders and residents.

Private Property Location Agreements

Aside from city permitting issues, a production company will need to use a variety of locations, some of which are owned by private individuals. These privately held properties are usually residential homes, office buildings, and small businesses such as retail stores, restaurants, hairdressers, hardware stores, repair shops, and much more. As filmmakers do not normally own these types of locations, they need to rent or lease the location for a couple of weeks or as little as a day. The temporary custody of these locations causes concerns for the real owners of these properties. To alleviate these concerns, the production company should establish their own location agreement.

LOCATION AGREEMENT

1. Can't Go Wrong Productions ("Producer") and its agents, employees, contractors and suppliers the right to photograph, make recordings of and on, and otherwise enter and use the property, located at: 900 Strait Avenue, Hollywood, CA ("Property") which is owned by Kristine Le for and in connection with the Picture, and any such other motion picture, television production (including, without limitation, movies-for-television, television mini-series and television series, whether produced for exhibition on network television, free over-the-air syndicated television, pay cable, basic cable, pay-per-view, DBS or otherwise) or any other production (including, without limitation, home video productions), as Producer determines, and to exhibit, advertise and exploit such photographs and recordings in any manner whatsoever, whether now known or hereafter devised, at any time in perpetuity throughout the universe.

Entrance to the property includes without limitation all interior and exterior areas, buildings and other structures of the Property, and owner's name, logo, trademark, service mark and/or slogan, and any other identifying features associated therewith or which appear in, on or about the Property for the purpose of photographing (including without limitation by means of motion picture, still or videotape photography) said premises, sets and structures and/or recording sound in connection with the production, exhibition, advertising and exploitation of the film tentatively entitled "Success"(the "Picture").

2. Term: Owner agrees that Producer shall have exclusive possession of the Property commencing on or about 3/4/2013 and continuing until 4/4/13 (the "Term"). If, because of the illness or unavailability of any Producer personnel and weather conditions the term can be extended in order for the Producer to utilize the Property at a later date. The date will be mutually agreed upon with Owner, at the agreed rates below.

3. In consideration of the foregoing permission, Company shall pay the sum of: \$30,000 dollars (\$1,000 per day) and for any extension of Term (if any): (\$ 500) per day

4. Producer has the rights bring personnel, equipment, sets, props onto the Property, and agrees to remove same after completion of work and leave the Property in as good condition as when received, reasonable wear and tear from uses permitted herein excepted. Signs on the Property may, be removed or changed, but, if removed will be replaced. In connection with the Picture, Producer may refer to the Property or any part thereof by any fictitious name and may attribute any fictitious events as occurring on the Property. Owner irrevocably grants to Producer and Producer's successors and assigns the right, in perpetuity, throughout the universe, to duplicate and recreate all or a portion of the Property and to use such duplicates and recreations in any media and/or manner now known or hereafter devised in connection with the Picture. The owner has no right or interest whatsoever in any photography or recording of the Premises or any results and proceeds of Producer's use of the Premises.

5. Producer agrees to use reasonable care to prevent damage to the Property, and will indemnify and hold Owner harmless from and against any claims or demands arising out of or based upon personal injuries, death or property damage (ordinary wear and tear excepted), suffered by such person(s) resulting directly from any act of negligence on Producer's part in connection with the

work hereunder. Owner shall submit written notice of any such claim to Producer no later than ten (10) days following the occurrence of such injury or damage for which Owner claims damages, and Owner shall permit Producer to inspect the portion of the Premises alleged to be damaged and shall otherwise cooperate with Producer.

Owner agrees to indemnify and hold Producer, harmless from and against any and all liabilities, claims, or demands (including, without limitation, attorneys' fees and court costs) arising out of or based upon personal injuries, death or property damage suffered by person(s) or resulting directly from any act of negligence on the part of the Owner.

6. All rights of every nature whatsoever in and to all still pictures, motion pictures, videotapes, photographs and sound recordings made hereunder, shall be owned by Producer and its successors, assigns and licensees, and neither Owner nor any tenant or other party now or hereafter having an interest in said property shall have any right of action against Producer or any other party arising out of any use of said still pictures, motion pictures, videotapes, photographs and/or sound recordings, whether or not such use is or may claim to be defamatory, untrue or censurable in nature. In addition, neither Owner nor any tenant nor any other party now or hereafter having an interest in the Property shall have any right of action, including but not limited to those based upon invasion of privacy, publicity, defamation or other civil rights in connection with the exercise of the permission and/or rights granted by Owner to Producer. In no event shall Owner have the right to enjoin the development, production, distribution or exploitation of the Picture.

7. Owner represents and warrants that he/she is the owner and/or authorized representative of the Property, and that Owner has the authority to grant Producer the permission and rights granted in this agreement, and that no one else's permission is required.

This Agreement sets forth the entire understanding of the Owner and Producer and may not be changed except by a written agreement signed by the party to be changed. Owner acknowledges that they have not been induced to enter into this Agreement by any representation or promise not contained herein.

AGREED AND ACCEPTED TO:

Producer: Can't Go Wrong Production

By: _____

Title: _____ Producer _____

Dated: _____

Owner: Kristine Le

By: _____

Dated: _____

FIGURE 7.8—Location Agreement

This agreement outlines what is expected from both the production company and the property owner. The location agreement provided is usually acceptable because private owners do not have standardized agreements. However, there may be times when the private owners have their own agreements and should be reviewed before they are signed. All agreements should include the following:

- Identifies who has rights of access to the premises.
- Outlines what the production company plans on doing at the premises—alterations to the property, assembling sets and structures, installing lighting, camera, and sound equipment, and filming.
- Defines the dates the location will be in the possession of the production company. Besides the filming, this section should include the preproduction, hold, and wrap days.
- Identifies the location fee and when it will be paid. In addition, provides a refund statement that will return any prepaid funds if the production company elects not to use the property.
- Defines when the production company can return to do a reshoot or film additional scenes and the fee that will be charged.
- Defines the length of time the property owner has to request their property be repaired and returned to satisfactory condition. The usual length is 10 days after filming has ended.

Indemnity/Hold Harmless Agreement

As in all lease or building contracts, there is an *indemnity agreement*, also known as a *hold harmless agreement*, which protects or releases the property owner from bodily injury and property damage claims or lawsuits. In essence, this means the production company is responsible for paying for damages to, or destruction of, a filming location and injuries of third parties while performing their filming activities.

KEY TERM:

INDEMNITY AND HOLD HARMLESS AGREEMENT Is a contract in which one party of a contract agrees to accept full responsibility for any legal or financial claims stemming from that party's actions and protects another party from such legal or financial claims.

To provide evidence of indemnification, the production company will need to provide a certificate of insurance that would include the owner and landlord as an additional insured. The insurance company will pay the damages, injuries, and legal costs to defend a lawsuit within terms outlined in the policy form. This is significant because if you did not have an insurance policy, the producer would have to pay the costs “out of pocket” which could result in shutting down the film. Please note the insurance company will only pay for injuries or damages that are a result of *negligence*. This means the activities can not be criminal or *intentional acts*.

KEY TERM:

NEGLIGENCE Failure to exercise the degree of care considered reasonable under the circumstances, resulting in an unintended injury to another party.

INTENTIONAL ACTS An individual that commits does something deliberately.

To protect the production company further, your agreement should require the property owner indemnify the production company for any unsafe conditions or negligence that they may be responsible for. The disrepair of the building could cause injury to the crew and/or visitors. If they are found to be liable due to their negligence, the owner’s insurance company should pay for the injuries or damages.

SIDE NOTE

EXAMPLE:

A client’s crew member broke his leg as he tried to walk down an unlit stairwell. It was determined later that the landlord was responsible for the injury because he failed to replace the light bulbs in the stairwell. The landlord ended up using his general liability policy to pay for the costs associated with the broken leg.

Commercial Location Agreements

There are a number of locations such as shopping centers, stadiums, concert venues, hotels, and apartment houses that may be ideal for filming. That said, these locations may be owned by large corporations, non-profit organizations, and agencies so the location process may be difficult.

It is difficult because these locations have high concentration of customers, patrons, and employees and are subject to high probabilities of bodily injury and property damage. The owners of these locations and their advisors who are composed of risk managers, property managers, business affairs, and attorneys who go to great lengths to protect themselves and avoiding any *liability*.

So when a production company approaches their location for filming, they mandate that the production company use their location agreement. This means whatever is outlined in the agreement, the production company must either accommodate it or negotiate new terms. The location manager should obtain a copy of the agreement and consult with an attorney or insurance broker to review its contents.

KEY TERM:

LIABILITY To make an individual, company, or group responsible for an activity they are doing.



FIGURE 7.9—Shopping Mall Courtesy Trevor Wong

Location Requirements—Special Conditions

Waiver of Subrogation

One clause that is often included in a location agreement is a *Waiver of Subrogation*. This clause removes the production company's ability to sue the property owner. If this particular clause is required, you must notify your insurance broker and he or she will request the insurance company *endorse* this clause. This endorsement means your insurance company gives up the right to take action against another party for a claim or loss. This clause will result in an additional *premium* charge as this requirement changes the insurance policies terms and conditions. This premium charge, while nominal, will increase your location budget.

KEY TERM:

ENDORSE To put on and add to an insurance policy.

PREMIUM Payment for insurance coverage.

Compensation to Tenants

Some location agreements may require the production company compensate a tenant for loss of business. This is usually only required if filming activities hinder and block a client's access to their business. The compensation is subject to negotiation with the tenants or vendors. Remember the scene described at the beginning of the chapter where two *main leads* share their first kiss at the Santa Monica pier? Well, if you reviewed their location agreement you would find there is a clause entitled "Compensation to Pier Tenants." They specifically require compensation to the tenant's/vendor's leased space if filming activities block customers. Of course, this requirement can definitely increase a production company's location budget...be aware.

SIDE NOTE

Example of Santa Monica Pier requirement:

COMPENSATION TO SANTA MONICA PIER TENANTS AND VENDOR CARTS

Santa Monica Pier tenants and vendor carts must be compensated for loss of business if filming/still photography will take place within the confines of the tenants/vendors lease space or if filming/still photography will block patron access to the businesses. Arrangements between production companies and Santa Monica Pier tenants/vendors must be made prior to the filming/still photography date. Compensation is negotiated directly by the production company with the Santa Monica Pier tenants/vendors. For a complete list of all Santa Monica Pier businesses, please visit our Web site at www.santamonicapier.org.

Location Releases

The production company must obtain written permissions from both the owners and tenants of a location. This can be included in the location agreement, however, if you are using a different type of location agreement, a separate location release should be presented, signed, and dated.

It is best to get these permissions up front to save the production company from having to obtain them later. The agreement must include permissions to use images of the exterior/interior of the various structures, names, and logos. The agreement should give the production company rights to exhibit, advertise, and broadcast all images. In addition, if the production company plans on filming random crowd scenes, they will need to put up postings or folding notice boards around the filming site.

SAMPLE FILM NOTICE

MOTION PICTURE FILMING IS CURRENTLY IN PROGRESS

BY ENTERING AND BY YOUR PRESENCE HERE, EACH PERSON IN ATTENDANCE IRREVOCABLY CONSENTS TO BE PHOTOGRAPHED, FILMED, RECORDED AND/OR TAPEDED IN CONNECTION WITH THE MOTION PICTURE ENTITLED "SUCCESS" AND ACKNOWLEDGES THAT SUCH MATERIALS MAY BE USED BY CAN'T GO WRONG PRODUCTIONS. AND ITS LICENSEES, SUCCESSORS AND ASSIGNS, IN ANY AND ALL MEDIA THROUGHOUT THE UNIVERSE IN PERPETUITY, WITHOUT LIMITATION OF ANY KIND, AND WITHOUT PAYMENT OF COMPENSATION TO YOU, FURTHERMORE, YOU RELEASE ALL PRODUCERS AND USERS OF SUCH MATERIALS FROM ANY LIABILITY FOR LOSS OR DAMAGE TO PERSONS OR PROPERTY OR FOR INFRINGEMENT OF ANY RIGHTS OF ANY KIND.

IF YOU DO NOT WANT TO BE PHOTOGRAPHED IN CONNECTION WITH THE MOTION PICTURE, PLEASE DO NOT ENTER THIS LOCATION.

PLEASE UNDERSTAND THAT WE ARE RELYING UPON THIS CONSENT AND RELEASE IN CONNECTION WITH OUR PRODUCTION ACTIVITIES.

Filming Notice

The production company should take a picture of these postings and surrounding area with a digital camera. Make sure that camera automatically date stamps the photo. This picture will come in handy if an individual in the crowd sues you for not obtaining his or her personal release. In addition, an announcement should be made via megaphone to inform everyone in the vicinity, they may be filmed and that they collectively agree to the production company using their likeness.

■ Location Negotiations

As with any contract negotiations, conflicts between the property owners, tenants, business owners, and the production company can stem from:

- *Location fees*—The price is not right. Some property owners feel they can take advantage of the production company.
- *Insurance requirements*—The insurance agreements may require higher than usual liability limits and a waiver of subrogation.
- *Unreasonable location agreements*—The agreement may limit access to the property or restrict the hours of use.

These issues can normally be resolved with some discussion, however, if these issues result in hardships to the production company, select an alternative film location.

■ Finalizing Agreements

Once the location dates are confirmed and changes to the agreement have been confirmed by the property owner, property managers, and production company, there is nothing left to do but get it signed by all parties. In addition, make sure you get all parties to sign the location release form.

As you progress from pre-production to production, keep the lines of communication with the property owners, tenants, businesses, and community leaders open. Any complaints should be handled professionally and swiftly as they can fester and grow into a lawsuit. Try to be accommodating if changes need to be made to your production schedule.

■ Moving In

Before moving into any filming location, the production company should:

- Do a walk through of the location with the property owner or property manager. Identify any problems such as faulty electrical wiring, water damage, or structural cracks. The location team should take pictures or video of the filming location and should make sure a copy is downloaded and kept on the production office computer.

- Request that the owner provide emergency contact names and phone numbers should the production company have questions or problems.
- Request that only department heads or production executives hold the keys or pass cards to the filming location. In addition, department heads and production manager should specifically designate an individual(s) to lock up each location every night.

SIDE NOTE

EXAMPLE:

A production company did not properly communicate who would lock up the production office. In this situation, the last individual leaving the building left the back door unlocked because he had assumed the department head was returning. Unfortunately, the production crew discovered their production office was ransacked and equipment was stolen.

Public versus Private Locations

In the end, the road to finding the right location can be very difficult. There are permits to secure, location agreements to have signed, and tenants and businesses to satisfy. Location mangers have said that some of the best alternatives are to film on a sound stage or on private property. This way, they have control of the set and do not have to bother with permits, contractual issues, and increase liability limits.

That said, if your script calls for you to be at a location, you have to be there, the movie going audiences have become too sophisticated. No amount of sets, props, and lighting can duplicate the Santa Monica Pier, beach, and ocean. Although it may be possible to computer generate this in the years to come. Until then, a production company must secure location permits, negotiate contracts, solve logistic issues, and deal with the costs and political challenges that can arise. The road may be long but worth it in the end.

SUMMARY

The purpose of this chapter is to provide you with an understanding of finding the right city and location to film your production. This chapter provides information regarding scouting, permitting procedures, private and public location agreements, special conditions, and location releases.

Every city/county has different permitting procedures and requirements. In addition, every private and public location has different types of location agreements, different special conditions, and different contractual terms. Ultimately, you must remember to be a “good neighbor” so you can create a successful film. In addition, once you gain the trust of the city officials, location owners, and residents, you will be welcomed back for future projects to come.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Imagine you are a location manager. What if you find out that the apartment building that you were scheduled to film at had limited parking for production vehicles and the film crew. What would you do to remedy this problem?
2. Imagine you are a location manager of a production that will be filming a night scene in a residential neighborhood. What would you do and how would you instruct your crew members?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Pick a location, i.e., building, restaurant, bar, or theater, that would be a perfect setting for your short film. Ask the owner what their location agreement requirements and location fees would be for you to film there.

CHAPTER 8

DO YOU HAVE THE RIGHT STUFF?

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

How do I determine what property I need?

- Storyboard
- Shot list

What is the Right Stuff?

- Camera
- Electrical & Lighting Equipment
- Grip Equipment
- Sound and Audio
- Props, Sets, Wardrobe
- Transportation

How do you find the Right Stuff?

- Rent it
- Who can I rent equipment from?
- Rental Agreement
- Reserving the Property
- Picking up or delivery or rental property
- Returning the rented property
- Borrow it
- Who can I borrow equipment from?
- Buy it
- Where can I purchase equipment?

Rent, Borrow, and Buy the Right Stuff – Do it all!

A production company needs the “right stuff” to create a film. A production company needs filmmaking properties such as:

- *Cameras* to capture the acting or action
- *Lighting* to illuminate the film
- *Grip* to secure camera and lighting equipment
- *Vehicles* to transport equipment and people
- *Props* to enhance
- *Wardrobe* to transform the actor



FIGURE 8.1—Do You Have the Right Stuff?

All production companies must have the “right stuff” to make a successful film. The “right stuff” consists of a variety of elements such as: camera, grip, lighting, generators, sound records, microphones, props, wardrobe and vehicles.

How Do I Determine What Property I Need?

The first thing is to assemble and elicit the assistance of the following Professionals to determine the “stuff” they require:

- Director of Photography—Camera
- Gaffer—Electrical
- Grip—Key Grip
- Sound Mixer—Sound
- Production Designer – Props
- Transportation Coordinator - Vehicles

These professionals will need to breakdown the script and analyze each scene. This evaluation will result in a variety of questions and decisions these professionals will need to make. Their main objective is to determine how they will bring the director’s vision to life. Some of the issues they will have to contend with are as follows:

- Intricate camera work and lighting
- Night filming
- Special effects/green screen
- Pyrotechnics
- Stunts
- Underwater filming
- Car chase scenes

These issues will result in technical discussions with the director of photography and the director. To assist in these technical discussions, the production team should develop a storyboard or *shot list*. These documents will enable the director and production team to visualize what they want to film and how they will get the right shots.

KEY TERM:

SHOT LIST A list of shots that assists in planning and filming.

EXAMPLE SHOT LIST:

SCENE 1-----

Shot 1: Titles—show name (“Take Five”) in logo form comes up dramatically w/ similar music [4 seconds]

SCENE 2-----

Shot 2: The pair in performance, wide enough to show black-box, theatrical setting, thereby establishing the types of places where they were working “in the early days”—this and next 5 or so shots show some variation in locations and shot scale...change costumes on the pair to create sense of different performances. [Length from 3 to 15 seconds each clip, total about 30]

Shot 3–6: (continue as above)

SCENE 3-----

Shot 7: The critic in medium-wide shot in her office, showing the tools of her trade, etc. *Can also use close ups for inter-cutting.* [20–30]

SCENE 4-----

Shot 8: Still photos (Photoshopped) showing them with celebs, at landmarks, etc. Try to set date in mid-80s. [20 seconds]

SCENE 5-----

Shot 9: “Actor’s Studio” scene. Establishing shot of stage, seats, both Critic and The Boys. Wide enough to get sense of place.

Shots 10–15: Medium shots of them, some with the two boys in it together. Be sure to vary and get them talking sometimes and listening at others, so it will edit together well. Could also go back to wide shot of both at once. NOT using OTS.

This will assist in determining what equipment and accessories are needed to film each scene. A listing should be created by each department head which is composed of the following: director, director of photography, gaffer, key grip, art director and designer.

The listing should outline the necessary camera, lighting, electrical, grip equipment, vehicles, and props required for the film. In addition, the producer and production accountant must set a budget amount as the costs for renting, borrowing, and/or buying the “right stuff” can get out of control. A budget amount should be established by the each department. Any an-

ticipated *overages* should be discussed and approved by the producer and production accountant.

KEY TERM:

OVERAGE Surplus or excess of money that is currently on hand.

■ What Is the “Right Stuff”?

Camera

The Director of Photography (DP) or Cinematographer uses cameras, lighting, filters, and a variety of camera techniques to film all scenes as envisioned by the director. The DP and his crew must communicate with all departments and make the technical decisions that achieve the vision. One of the main questions asked is “Do we utilize film or digital cameras?”

Film or Digital Cameras

The main advantages and disadvantages between the two options are as follows:

Film

- Advantage—The quality of the film is richer and more detailed.
- Disadvantage—Purchasing film stock and processing the film can be expensive. In addition, the production company is not able to review what they have shot until it has been processed in a post facility. So this means that if there is a problem with lighting or camera malfunction, you may have to reshoot the scene well after filming has been completed.

Digital

- Advantage—It is easy to use and you can check your work immediately by playing it back on a computer. If the scene is not to your liking, you can delete it. In addition, editing the film is easy as all you have to do is upload your files and your editing program.

- Disadvantage—The quality of film will have problems with shading and lighting. There may be no depth to the film unless it is enhanced with better lighting or in post-production.



FIGURE 8.2—Camera Ready to Roll Courtesy of Trevor Wong

Camera Package and Equipment

Once a decision is made by the director and DP of what type of camera will be used, they will put a list together that consists of the following:

- *Cameras*—35mm/65mm film or digital
- *Lens*—Wide-angle/medium-angle/Telephoto lens
- *Wireless remote system*—Remote control for the camera

- *Filters for all lenses*—Transparent or translucent sheets that alter the properties of light entering and helps to reduce the amount of haze and UV light that reaches the film
- *Matte boxes*—Box that clamps in front of the camera to improve contrast and hold the filters
- *Monitors*—Enables viewing film footage
- *Follow focus*—Mechanism used by the operator to focus the camera more precisely
- *Camera batteries/memory card*
- *Film stock*—If a film camera is utilized

Electrical and Lighting

The gaffer has the complicated task in designing the lighting plans for the film. The gaffer and his crew lay the cabling, install the generators, and set up the lights. With the proper electrical and lighting equipment, they can turn night into day, recreate an intimate candle lit restaurant, or duplicate the flickering of fluorescent lights.

Electrical & Lighting Equipment

The gaffer's equipment list will consist of the following:

- Light kits—flood, spot, soft, daylight, open face, strand, scoop, overhead



FIGURE 8.3—Spot Lights Courtesy Trevor Wong

- Diffusers—a device that spreads or scatters light



FIGURE 8.4—Light with Diffuser

- Reflectors—an umbrella or board that shapes and reflects light
- Bulbs, Globes, and Lamps
- Cables, Connectors, and Dimmers—cables designed to deliver electricity and control the amps of the lighting equipment

- Generators—device that provides variety of amps to power lighting equipment



FIGURE 8.5—Generators Courtesy Trevor Wong

The key grip's equipment list will consist of the following:

- Stands and risers—suspends lights at different heights.
- Mounts and clamps—suspends equipment in place to provide different camera and lighting positions.



FIGURE 8.6—Mounts and Clamps Courtesy Trevor Wong

- Camera dolly and tracks—a platform that is attached to tracks to create smooth tracking shots.
- Brackets/bars—devices that keep the camera and lighting in place as it is moved or rotated.
- Crane/arms—device that supports the cameras and lighting equipment so that it can pan and tilt. This allows the director to get better angles and different perspectives. These have a hydraulic lift system built in.



FIGURE 8.7—Crane/Lift Courtesy Trevor Wong

Sound and Audio

The Production Sound Mixer is responsible for recording dialogue, capturing the sounds made by objects or events on the set, monitoring audio sound to ensure its quality, and identifying places, or sections, in the film that can be enhanced in post-production. The sound mixer and his crew place microphone equipment, booms, and audio recording devices on the set.

The production sound mixer equipment list will consist of the following equipment:

- Sound cart—portable cart that holds all the audio/sound equipment.
- Digital or analog recorders—records sound and allows playback.
- Microphone booms—enable the sound mixer to position microphones in a variety of positions.

- Base—a mobile platform for supporting the booms. These have hydraulic lift system built in.
- Wireless transmitters and receivers.
- Sound mixer—mixes and balances speech, background sounds, and sound effects.
- Lock-it box—portable device to time code and video sync the film. This is used for time referencing and synchronizing the film when editing.

Props, Sets, and Wardrobe

A Production Designer is responsible for creating the settings, costumes, and properties of the film. The production designer needs the assistance of the prop master, set decorator, and costume designer to help achieve the overall look of the film. This crew has to obtain props, furnishings, clothing, and costumes to make the film believable.

Props, Sets, and Wardrobe Equipment

The production designer will put a list together that consists of the following items:

- Props—vases, paintings, replicas of wall hangings, lamps, statues



FIGURE 8.8—Egyptian Props/Premiere Props Courtesy Trevor Wong

- Furnishings—sofa, dining table, chairs, beds, desks
- Clothing/costumes—the clothes can range from vintage to futuristic



FIGURE 8.9—Wardrobe Courtesy Trevor Wong

Transportation

Transportation Coordinator is responsible for moving equipment and props between locations. He and his crew co-ordinates the purchase of picture cars, assists with the use of camera cars and coordinates the transport of the cast and crew.

Vehicle Rental

The types of vehicle that are needed to move equipment, props, and crew around are as follows:

- 1, 3, 4, and 5 ton trucks
- Cube truck—a truck that has a dry rectangular box in the back
- Cargo van—transports film equipment
- Passenger van—transports the production crew members
- Trailers—transports equipment, wardrobe, hair, and makeup trailers



FIGURE 8.10—Trailers Courtesy Trevor Wong

- Honeywagons—dressing rooms for the stars



FIGURE 8.11—Honeywagons Courtesy Trevor Wong

■ How Do You Find the Right Stuff?

The answer to this question falls into the following categories—rent it, borrow it, or buy it! As previously stated, the following should be considered before securing the “right stuff”:

- Evaluate your specific equipment, props, and sets needs. For example: Can you get by with basic film equipment but need better set dressings and wardrobe?
- Establish a budget for each department and try to stay within that amount.
- Determine the length of time you will need the equipment and props.

Rent It

Who Can I Rent Equipment From?

Renting professional film equipment, vehicles, and props is usually the first option many production companies chose because they do not have the money to buy these items and do this to keep their operating costs low. When renting these items, the production company has the ability to use up-to-date camera equipment, can exchange the items if they do not function properly, or just does not look right. In addition, the filmmakers are only responsible for the care and storage of these items for a short time. *Equipment, vehicle, and props rental houses* are warehouses or stores where a production company can obtain lighting, dollies, generators, booms, rental trucks, and set decorations. Rental houses operate virtually the same as when we lend a neighbor our hedge clippers or tools. We want them to be returned and in the same condition. If any of these items were damaged or lost, we would assume our neighbor would replace it. A rental house releases their filmmaking goods for a rental fee with the understanding it will be returned in working condition and repaired or replaced if damaged. Please note that rental houses have specific issues with independent filmmakers because they feel they are inexperienced and have a higher probability that the equipment would be damaged. It is important that you set a Code of Conduct for your film crew in which they must treat all equipment in your custody as if it was their own.

Before venturing into a rental house, the department heads must provide their established budget, principal photography dates, and equipment listing to their crew. Providing these set parameters prevents the crew from renting unnecessary items. The next step is to find a rental house that provides the right filmmaking equipment and services. The production manager should start by creating a listing of rental houses, contacting the facilities, and finding what the best price is for the equipment required.

In addition, to locate the best rental house, the production manager should ask for referrals from the local film office, film associations, and fellow filmmakers. These are good referral resources and can supply you with lists of companies that have the best rates, equipment, and reliable service.

Some of the rental houses may be able to offer you a complete equipment package while others are not able to because they do not specialize in that type of equipment. In the end, many production companies use a number of equipment vendors; this is dependent upon the selection, availability and price.

The following is a listing of questions you should ask when choosing a rental house:

- Do they have the latest camera, lighting, generator, and sound mixers?
- How many days or weeks in advance do you need to reserve the equipment?
- Do they have a large supply of the type of equipment?
- If the equipment gets damaged, how soon can a replacement be available?
- What are the daily and long-term rental rates?

You will find that rental houses provide services such as studio rental space, production or post services, and technicians. In addition, some rental houses sell used film making equipment as well as sell and demonstrate the latest advancement in equipment.

After you have done your research the next step is to visit the rental houses and speak to the representatives. Ask to see their inventory and determine if it is in good condition. Remember the ultimate objective is to find the right equipment to set the right look, sound, and mood.

Rental Agreements

Once the production company has determined the rental house(s) and property required, the production company will then need to review the rental agreement. You will find that not all agreements are alike. There are different clauses that the production company will need to be aware of and understand.

The main requirements that are outlined in a rental agreement are as follows:

- Indemnity clause
- Rental term/rental charges
- Insurance
- Finalizing the rental agreement
- Returning the rented property

Indemnity Clause

This clause outlines the responsibilities of the lessee/renter (production company) and the lessor (rental house). The clause states that the lessee will *indemnify* and hold the lessor harmless from all loss or damage to their property during the rental period. It is customary that the lessee is held responsible for:

- Any loss damage of the property while in transit, loading, and unloading. This clause can be altered if the rental house is responsible for the delivery of their property.
- The replacement of equipment, vehicles, or props if they are lost, stolen, or damaged during production and while stored on your premises.
- Protection of all persons and property from injury, death, disability, or damage resulting from the use of the rental property.
- Maintain the equipment and vehicles in working order and good condition.

With regards to the responsibilities of the rental house, they must:

- Guarantee that the equipment is in good working order.
- Provide replacement equipment, vehicle, or props when damage is reported.
- Furnish operators for the equipment, however, the lessee is usually responsible for their wages and responsible for their injuries. Occasionally, this clause can be altered if the rental house agrees to cover their employees if damage is caused by the rental house's negligence or *misconduct*.

KEY TERM:

INDEMNIFY To protect against damage, loss, or injury; insure. To provide compensation to for damage, loss, or injury suffered.

MISCONDUCT Is wrongful, improper, or unlawful conduct that can be premeditated or intentional.

Rental Term/Rental Charges

A rental agreement outlines when the production company takes possession and returns the equipment. Usually the rental house requires you cover the equipment the moment it is picked up or transported and ends when it is returned to a representative of the company.

The rental charges are either monthly or daily fees and is based upon the number of days or hours the equipment is needed. There are rental companies that will charge for only two (2) or three (3) days if you are renting equipment for a week. In addition, the agreement usually comes with alternative charges if the equipment is required an additional week or hours. These rental charges should be reported to the production accountant. Please note that some rental houses will request a *security deposit*. A security deposit is payment in a form of a check that is given to a representative of the rental house to guarantee the return of the equipment. If the items are returned in good condition, the rental house will refund the deposit (less interest). If not, the check may be used to reimburse the rental house. Most commonly, rental houses request a check in the amount of the applicable insurance deductible(s) and is held until the safe return of the rented property.

Insurance

As discussed in Chapter 7, insurance is not only important for rental of locations it is a “must have” for production companies who rent or borrow any property. Normally, the rental house requires a certificate of insurance evidencing *general liability, auto, equipment, and props coverage*. To purchase the appropriate insurance, the production company will need the assistance of an entertainment insurance broker.

General liability protects the production company from bodily injury and property damage claims brought forth by an individual outside of the production company otherwise known as a “third party.” In other words, this policy provides for injury to an individual and damage to filming. The normal limit for this coverage is \$1,000,000 and there is no deductible applicable with this coverage.

This coverage is required because the rental house does not want to be held liable for any claims or lawsuits due to the actions taken by the film crew or third parties. *Auto* covers rented and hired vehicles that are driven by the production company’s film crew. This policy breaks down into the following two categories:

- *Auto liability*—protects the production company from claims alleging bodily injury or property damage as respect to the production

company's use of a non-owned, rented or hired vehicle. The normal limit of liability is \$1,000,000 and there is no deductible applicable with this coverage.

- *Auto physical damage*—covers the repair or replacement of the rented or hired vehicle that has been damaged in an accident. This is the primary coverage a rental house requires so their vehicle can be repaired. The normal limit is \$125,000 because vehicles are not usually valued any higher than this amount. The coverage deductible ranges from \$2,500 to \$7,500.
- *Equipment coverage*—protects against physical damage or destruction to the film making equipment rented by the production company. This coverage will reimburse the rental house for damages and will either repair or replace the equipment. The normal limit can range from \$20,000 to \$1,000,000 and should be determined by the estimated *replacement cost* of the equipment. The coverage deductible ranges from \$2,500 to \$5,000.
- *Props coverage*—this coverage provides for props, sets, scenery, costumes, wardrobe, and similar property against all risk of direct physical loss, damage, or destruction occurring during the production. The limit is usually \$50,000 to \$1,000,000 and is determined by the estimated *replacement cost* of the props. The coverage deductible ranges from \$1,500 to \$2,500.

When dealing with props you must make sure that the prop vendor agrees to the limit you have for insurance. If any items are considered high value, such as paintings, antiques, or jewelry, you should contact your insurance broker to obtain separate coverage for fine arts. If this is the case, you will need to provide a schedule and value for each item, the security measures you will have in place, and the length of time you will have it in your custody. Please note that the fine arts coverage will be subject to a separate limit and deductible and will result in an additional premium.

KEY TERM:

REPLACEMENT COST Is the amount that it would cost to replace the property at current prices.

Once the appropriate policies are in place, the insurance broker can issue a certificate of insurance. The standard language is to include them as an additional insured because this relates to the production company's liability policies and *loss payee* relates to the vendor (props, equipment, and vehicles).

KEY TERM:

LOSS PAYEE Provides that in the event of a claim being made under the policy in relation to the insured risk, payment will be made to a third party, i.e., vendor and property owner.

Please refer to Chapter 13 for information regarding insurance.

Finalizing the Rental Agreement

Before signing this agreement, review your rental agreement thoroughly as there may be issues that need to be clarified. As this agreement is designed to protect you, it is in your best interest to seek the assistance of an entertainment attorney or your insurance broker. Some of the common issues experienced are:

- *Valuation of property rented*—Equipment, props, and vehicle rental houses may increase the replacement cost of their property because they believe it to be worth more. This means the production company will need to contact their insurance broker and increase their insurance limits. This may result in higher insurance premiums.
- *Loss of use payments*—When damage occurs to equipment, a rental house is unable to rent the equipment until it is repaired. Some rental houses feel they are entitled to be paid for their inability to earn revenue (loss of use) from further renting the equipment. Please check with your insurance broker to make sure you are covered for this exposure.
- *Waiver of subrogation*—As stated in Chapter 7, this clause removes the production company's ability to sue the property owner. If this is required you, must notify your insurance broker to endorse this and it will result in an additional premium charge.
- *Credit/reference checks*—Rental houses may subject unfamiliar production companies to the following:
 - Credit checks—see if they are financially established.

- List of references—people who can vouch for the payment and work experiences.
- Contacting the insurance broker to verify insurance has been placed.
- Deposit check—a check for the full replacement of the equipment which is held until the safe return of the rented property.

Reserving the Property

It is imperative that the production company reserve or put the property they want to rent on hold. Once you finalize the date(s), you must make sure the equipment, vehicle, and props are available and finalize your order. The rental house owners must act as “air traffic controllers” to see if there is clearance from the other parties and coordinate alternative date(s). Please be aware that some of the rental property may be in high demand and may cause delays or scheduling conflicts. Once all the property is deemed available, the production company must set up a time for pick up and/or delivery. In addition, the rental house will require:

- The signed rental agreement
- Payment of the rental fee
- Copy of your driver’s license
- A certificate of insurance

If the filming schedule changes, notification must be made to the various rental houses so new arrangements can be made.

Picking Up or Delivery of Rental Property

Before the production company picks up the rental property:

- Check your equipment/vehicle and props listings to see if anything is missing.
- Verify that your order will be ready on the appointed date.
- Request the rental houses provide proper property bins, containers, and protective padding to prevent damage.
- Secure transportation for the rented property. Consider renting trucks, trailers, or vans from a rental company. Please lock the vehicles when not in use to keep the equipment safe.

- Notify film crew and technicians and request they be available to test, load, and unload the equipment. In addition, the film crew should be instructed on how to handle the rented property and must be instructed where to store the equipment.
- Establish a few secure locations to prevent theft and hire security.

When picking up your rental property:

- Take digital pictures of the rental property, vehicles, and props to verify their condition.
- The production crew must check the listings and make sure all items are present. Make sure that any components or accessories are accounted for as well. It is better to find the missing item while you are still at the rental houses rather than wasting time coming back to the rental houses to retrieve missing items.
- Request that your production team check over the props, camera, lighting, and grip equipment for any visible damages. Again, it is better to find out if the equipment is faulty before leaving the rental houses.
- Store the rented property at secured locations. Insurance companies advise that if you are not using the equipment immediately, to keep the property in the locked trucks, trailers, and vans on private property, i.e., home, warehouse, garage or hire security to monitor the equipment.

Reporting a Loss

The rental house must be notified if any of the rented property is damaged as a result of use, lost, stolen, or if any person is injured or dies while using it.

You will need to provide a written report that contains the following information:

- Date of the accident or occurrence
- What was damaged and who was injured
- Provide written details as to what happened
- Provide an inventory of stolen property
- Provide the names and contact information of the parties involved

This information should be sent to both the rental house and your insurance broker. Your insurance broker will assign a claims manager to obtain details regarding the loss and report it to the insurance company. The production company must cooperate fully with investigations and notify their insurance broker if any legal proceedings occur. If the insurance adjuster approves the claim the payment reimbursing the rental house will be paid less the applicable (equipment/auto/props) deductible.

Returning the Rented Property

The production company should make every effort to return all property and accessories on the agreed due date. All department heads should have the return date on their production schedule weeks in advance so they can check in with the film crew to see if additional time is required. If additional time is required, negotiations should be conducted and the rental contracts will need be amended in writing and signed by all parties.

When returning the property, the production company should do the following:

- Check your equipment/vehicle and props listings to see if anything is missing.
- Request the rental houses provide property bins, containers, and protective padding to prevent damage.
- Take digital pictures of the rental equipment, vehicle and props to verify their condition.

Borrow It

Production companies can consider borrowing property from private individuals, film associations/schools, and independent contractors to keep rental costs low. Borrowing property can alleviate the burden of fulfilling rental house requirements and the inability to use the equipment for a longer period of time. However, borrowing property can be a problem if it is damaged or stolen. This means you may run into an issue with finding a replacement.

Who Can I Borrow Equipment From?

Private Individuals

The private individuals listed here are usually “film lovers” who volunteer their assistance and property to the benefit of the production company. These

individuals may be able to supply equipment, set dressings, and props for a small charge or free. While this appears to be a great alternative, you must tread carefully as the expectations of these individuals may not be clear and could result in opportunistic lawsuits or legal costs, i.e., small claims court.

Rental Agreement

To do this properly, the production company should customize a rental agreement that outlines the expectations, payments, valuations, and insurance provisions. If this alternative is selected, the main difficulty will be determining the replacement cost of the property. You may have to rely on equipment or property appraisers to provide agreed replacement costs.

Private Companies

There are business corporations that are “film lovers” and are willing to assist by allowing the production company to do *product placements*. The process is simple. The business corporations provide the production company with much needed financial support when they advertise the use of their products or services.

KEY TERM:

PRODUCT PLACEMENT A form of advertisement, where branded goods or services are placed in movies, television shows, or news programs.

The most common products that are featured in films are automobiles, food, drinks, computers, and electronics. Because studio movies reach a large audience, they are able to earn additional revenue from merchandising in addition to ticket sales and DVDs. The best example of product placement success is the film “E. T. the Extra-Terrestrial.”

Hershey's Reese's Pieces paid \$1 million to have their peanut-flavored candy presented on the big screen. In a matter of two weeks after the movie's release, Hershey's Reese's Pieces sales increased by 65%.

If this alternative is selected, the production companies receive additional funding and brand new products for the film. However, please review the business corporation's agreement specifically regarding handling, storage expectations, and insurance provisions. Before signing the agreement, make sure to determine what would happen if the product was stolen, damaged, or destroyed.

SIDE NOTE

EXAMPLE:

A client used 3 product placement cars from GMC to feature in their film. The filming went well and ended earlier than scheduled.

While waiting for the car carrier to pick up the cars, the transportation coordinator decided to park the cars bumper to bumper to prevent the cars from being damaged. As luck would have it, a truck pulls up and hits the back of one of the GMC cars causing a chain reaction in which all 3 cars got damaged.

This accident was reported to the insurance company who had to repair the cars as required by the GMC agreement to their “off the assembly line” condition.

Film Associations/Schools/Filmmaking Community

There are film associations that supply their members with camera equipment, lighting, and grip equipment. In addition, these associations provide technical classes which enable members to get hands-on training with camera, lighting, and post-production equipment.

Organizations such as local colleges, universities, and film schools lend filmmaking equipment to their students and alumni. These facilities often have state-of-the art film and video equipment that they are willing to rent. In addition, these schools provide “hands-on” experiences in courses that can range from everything from screenplay development, directing, line producing to editing. Both of these alternatives are very similar as you have to be a member or student to gain access to the filmmaking equipment. Usually, an established rental agreement will need to be completed and insurance may already be in place.

Equipment Owned by the Crew

As outlined in Chapter 3, many production companies not only hire the crew members but hire their filmmaking gear. This means that the production company includes a clause in the deal memo which allows the rental of the crew member’s equipment. In this situation, an equipment inventory must be secured and a replacement cost for these items must be determined. The equipment should be checked by the department head to see if the equipment is up to date and in good working order. As stated previously, if everything checks out, the production company would pay a weekly rental charge

for the equipment along with their salary. It is important to note that when a crew member is hired, his or her equipment is considered in the custody and control of the production company. This means the production company is responsible for the equipment if it is damaged, lost, or stolen and should obtain equipment coverage based on the replacement costs.

Vehicles Owned by the Crew

Occasionally, the production company decides to hire a film crew's vehicle. Many times these crew members that are continuously on the road for the production company this include production assistants, set decorators, or location scouts. While this action saves the production company money for rental agencies, the production company must include a clause in their deal memo that specifically requires the use of the crew member's vehicle while performing their job duties. The deal memo must require that their vehicle is in good working order and that the production company is not responsible for the maintenance of the vehicle. In addition, the crew member must provide the following:

- Copy of their vehicle registration.
- Copy of their current auto insurance.
- Copy of their driver's license.

Once all is verified, the deal memo will include the costs for renting the vehicle along with the crew member's salary and a statement which points out that the production company is not responsible for all liability or physical damage to the vehicle if an accident occurs outside the realm of their job duties, i.e., personal business or errands. As a precaution you should have your insurance broker run a Mother Vehicle Report (MVR) to check on the crew members driving records. This report can be done by supplying your insurance broker the full name of the individual, their license number, and birth date. Your insurance broker can advise you if they have any violations such as:

- Accidents
- License status—active or suspended driver's license
- Drug or alcohol related convictions—DUI (driving under influence of alcohol or drugs)
- Traffic violations—speeding or reckless driving

If the driver's history has a number of violations, the insurance company may determine that these individuals should not drive on behalf of the production company and another crew member should be selected.

While this appears to be a great alternative, you must tread carefully because vehicle accidents **happen** and the determination of which insurance company to report the accident to is usually the main concern. The first party that will be responsible is the driver and owner of the vehicle. If the driver was on his/her time, their policy would pay for their damages. However if the accident occurred while the driver was working, the production company's auto liability policy can assist. In this situation, the production company should turn this matter over to your insurance broker. The employee will need to provide full details of the accident, what they were doing for the production company, the contact information for the other party as well as contact information for witnesses.

For more information regarding vehicle insurance, please refer to Chapter 9—*Insurance*.

Buy It

Purchasing your own filmmaking equipment is the best alternative because you will not have search for the right stuff, deal with the requirements of rental houses, and pay rental costs. However, when you are starting out in the film industry you do not have access to the cash to allow you to purchase the filmmaking equipment. At a minimum, you can start purchasing a few basic pieces of professional film equipment and slowly replace the equipment for higher quality and updated models.

Where Can I Purchase Equipment?

It is essential that a filmmaker take their time and “shop around” to locate high quality professional film equipment. The filmmaker should establish a list and have a clear idea of what they need before starting the process. Before beginning this process, a filmmaker should take a look at the newest advancements in camera, lighting, grip, and electrical equipment. This will give a filmmaker an insight as to the types of advancements that are being made as well as changes that are being made to accessories. This may alert you to a particular manufacturer or identify an older model that may be more affordable.

Rental Houses

A filmmaker can find used equipment at the same locations you rent them. There are a number of rental houses that have a wide range of varied inventory and products. A representative at a rental house can advise you of particular models that may best fit your budget and needs. In addition, they can provide you with a catalog of the equipment that is available for purchase.

Production Studios and Sound Stages

Used filmmaking equipment can be found at production studios and sound stages for sale. This happens quite regularly as they are constantly updating their facilities and equipment on an ongoing basis. In the United States, there are a number of production studios and sound stages that rent and sell used equipment. Production studios have state-of-the-art inventory consisting of lighting, grip, audio, and video equipment, sound and light controllers, monitors, speakers, and microphones.

Whether you rent or buy you can not go wrong with studio or sound stage equipment. This is because they have experienced audio and visual employees working on storing and maintaining their equipment. In addition, production studios and sound stages have a large supply of props. They have everything from period furnishings, hand props, drapery/upholstery, floor coverings, and costumes. They have a property department that has knowledgeable employees that can assist you with your vision.

Film Associations

Film associations and their members must sell their filmmaking equipment so they can earn money to purchase new equipment. I would recommend that you go online and check out the film associations Web site and check their newsletters. I would suggest that you check with the film association and ask about membership benefits. Usually some of the member benefits include a newsletter that provides the following information:

- Latest production techniques or equipment
- Job and networking opportunities
- Events
- Information about members selling equipment

In the end, members would rather sell their perfectly good equipment to other up and coming filmmaking members...especially if they are moving on to bigger projects.

Insurance

When you purchase filmmaking equipment you should contact your insurance broker and have them provide an owned *equipment floater* policy. This policy will protect the production company if the equipment is stolen or damaged. To obtain this coverage you will need to determine the estimated replacement costs and provide a schedule/listing of the filmmaking equipment. There is usually a deductible that is applicable which ranges from \$1,000 or \$1,500.

Rent, Borrow, and Buy the Right Stuff—Do It All!

In the end, when it comes to securing filmmaking equipment, props, and vehicles there are many options available for the production executives and crew. Many filmmakers use a combination of renting, borrowing, and buying when securing the right stuff. The decisions that are made are dependent upon the type of film and budget that is available to the production company.

Example:

Production Company A—has a film that is strictly dialogue and very character driven set in one location. The production executives may want to spend the money on their main leads rather than on equipment so they may decide to borrow the camera and rent everything else.

Production Company B—has a film with a lot of stunts and car chase scenes that is filmed in a number of cities. They may want to buy the cameras and cars, as these items will get damaged and rent everything else.

Keeping the Right Stuff Safe

Once the “right stuff” is located or purchased it is important that the production company keep the property safe. A production company should set up a parameter around their production site and limit the access third parties have to the property. This is usually done by hiring security patrols to escort actors or administer check points around the production site. In addition, some production companies have installed temporary barriers such as fencing and concrete barriers. This helps to eliminate the potential of damage or theft of property.

In addition, at the conclusion of filming every day, all property should be locked in trailers or buildings and security patrols should be in place to guard the production site. Production sites can be broken into in the evening hours...so beware.

SUMMARY

The purpose of this chapter is to provide you with an understanding of what a production company needs to do when looking for the “right stuff.” This chapter provides information about storyboards/shot list; determining what type of filmmaking equipment is required; renting, borrowing, and buying the equipment; vehicles; props; and dealing with rental agreements. Ultimately, you must remember that a production company must locate the right contacts and utilize the right resources to get the “right stuff.”

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Imagine you were a gaffer for a production company; would you rent, borrow, or buy equipment if filming is going to take place out of state? Please provide the reasons why.
2. Imagine you are a line producer that is going to film in an area that is noted for theft and robbery. What safety measures would you put in place to protect your property and safeguard your actors/film crew?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Assemble a listing of camera, lighting, and grip equipment for your short film and determine the allotted time you will require these items. Contact equipment rental houses and determine how much the rental costs are.

CHAPTER 9

THE GAME PLAN

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Introduction
- Production Scheduling
- Computer Scheduling Tools
- Scheduling Issues
- Organizing the Script Breakdowns
- Reports at Your Fingertips
- Requirements for a Successful Film
- Results of Poor Planning

Introduction

The game plan is not only important in basketball but also in the film world. Just like any basketball team, you've got team managers who hire the players, coaches who create the plays, star players who execute the plays, and with luck win the game. The previous scenario can easily be mirrored by any film production. In order to film a movie, a production company has to accomplish the following game plan:

- Secure the right cast members
- Locate the right film crew
- Coordinate the pick up and delivery of rental property
- Obtain film permits and negotiate location agreements
- Decorate and dress the sets
- Rig lighting and set up cameras

There is a lot to do and a good game plan must be in place. To achieve a successful film, a production company must have the right people and equipment in the right places at the right time. A production company must go from logistical nightmare to organized chaos.

Production Scheduling

Production scheduling is taking a script to a customized plan that a production company uses to organize and structure the filmmaking process. Production scheduling is very time consuming and should be done well before pre-production. A well-structured and organized schedule is necessary to make a successful film. The following are the basic steps to production scheduling:

- Script Breakdown
 - List everything you need for each scene, i.e., the stars, equipment, locations, and permits
 - Provide a description of each scene
- Shooting Schedule
 - Arrange the scenes by location, cast, equipment, and other factors

- Schedule the days that filming should take place
- Determine the filming sequence for each scene

Script Breakdown

Read the Script

To begin the process of breaking down a script, the production coordinator and line producer must read the script several times to understand the story and discover the details of each scene. They should consult the *screenwriter*, *script supervisor*, or *coordinator* to inquire if there are any enhancements or modifications.

KEY TERM:

SCREENWRITER An individual who is the writer of a script.

SCRIPT SUPERVISOR An individual who is responsible for maintaining a film's continuity. This is the process in which he or she ensures the story, objects, locations, and appearance of the cast members are consistent. This is valuable because an error can be found and can be rectified during filming rather than when the film wraps. In addition, they track the production unit's daily progress in shooting the film's script.

SCRIPT COORDINATOR An individual who is responsible for producing each draft of the script, providing annotated notes, and revising the script.

The script coordinator is in charge of maintaining, revising and keeping the script up-to-date. Script revisions are an ongoing occurrence that takes place from pre-production all the way through filming. The revisions are made to enhance the dialogue, acting, and/or to add new scenes that can change the direction of the film. When a revision occurs, the script coordinator amends the existing script by changing the scene numbers and producing revised pages. Thus, a script revision may mean pages 8, 10, and 16 of the script have to be reprinted. There are times where a scene is lengthen which means the script pages can change to 88A, 88B, or 88C. In addition, a scene can be eliminated which means the script page can be reprinted with the word "OMIT" on it.

To save time and having to reprint the full script, revisions are distributed on different colored paper. The colors can vary but the typical progression

would be: blue, pink, yellow, green, gold, salmon, cherry, etc....and can keep changing throughout production. Once printed these revised pages are distributed to the entire film crew so they are aware of the changes and accommodations are made.

As this process can be daunting, the script coordinator uses computer software programs that can not only revise or omit scenes but can track revisions. Final Draft is one of the scriptwriting software that has become the entertainment industry standard.

Sample as follows:

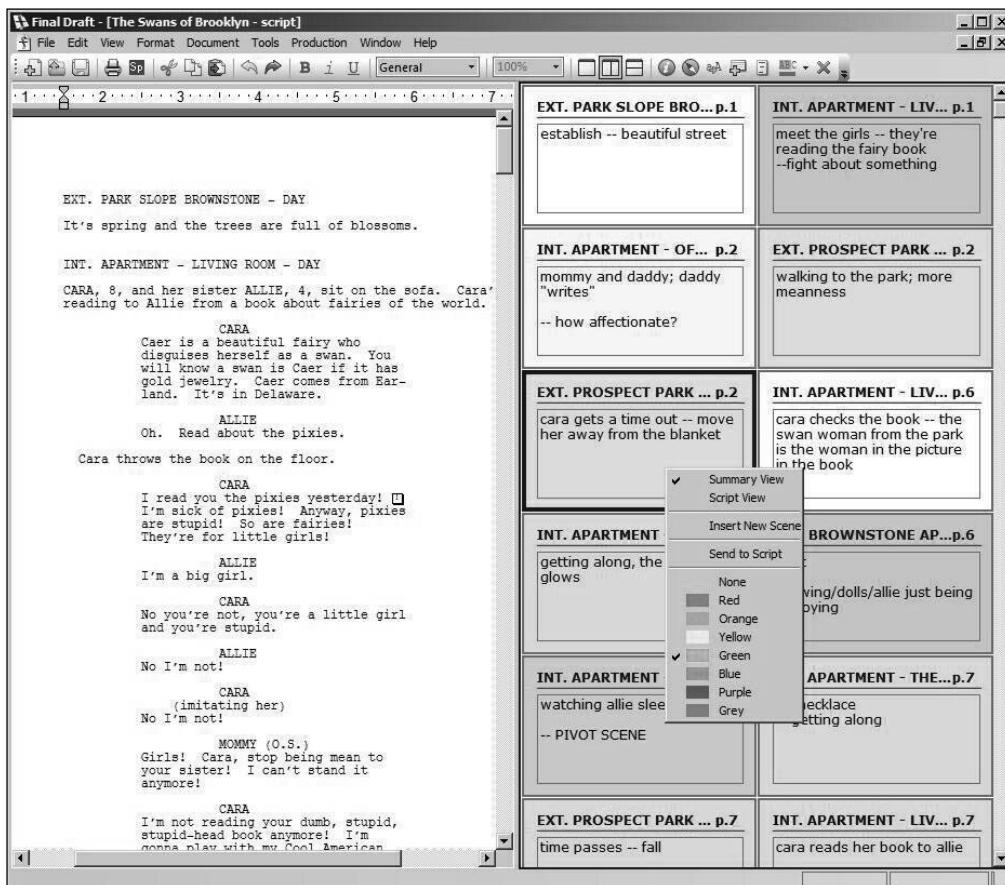


FIGURE 9.1—Final Draft—Script Program

Script Notes

Next, the *production manager* reads and categorizes the script as follows:

- Divides the script into separate *scenes* and assign a number.

KEY TERM:

SCENE Is a setting or locale of the action of a play, opera, and film.

- Writes a brief description of each scene.
- Identifies the cast members. Circles the names of the characters, notes what wardrobe goes with each character, and what they are doing. Establishes a list of characters and assigns a number to each one in the script. The character with the most scenes should be numbered 1 and so on. This information will be used to establish another schedule called the “Days Out of Days.”
- Reviews the locations and descriptions of where the scene is set, interior or exterior and its surroundings.
- Identifies any special equipment, sets, and props that may need to be ordered in advance.
- Specifies time of day (dawn, morning, midday, evening, or nighttime).
- Specifies the weather (sunny, cloudy, windy, rainy, snowy, or stormy).
- Identifies any scenes where there will be animal use, stunts, pyrotechnics, aircraft, and watercraft. These scenes will need to be broken down separately by the director, *animal wrangler*, stunt coordinator, and *pyrotechnician*.

KEY TERM:

ANIMAL WRANGLER Provides services to handle domesticated and wild animals while filming on set.

PYROTECHNICIAN Is responsible for handling special effects and pyrotechnic devices.

If any questions come to light when creating the script notes, they should be written down in the margins of the script in “red” so they can be discussed with the director and other department heads at a later date.

Script Breakdown Sheet

The next step is to create a *script breakdown sheet* in which you take each scene individually and itemize exactly the elements that are required. The breakdown allows the production company to schedule and budget the film. In the past, this was done manually and would require a production coordinator to create a form with designated boxes that allowed you to list the items you would need to shoot each scene:

Cast list the main characters that are required in a specific scene.

Equipment list of camera, lenses, lighting, and grip equipment that is required for the specific scene.

Of course all department heads will need to be consulted for their listing of equipment, props, set dressings, wardrobe special effects, and stunts.

SIDE NOTE

EXAMPLE:

SCRIPT BREAKDOWN SHEET

PRODUCTION TITLE	DIRECTOR	BREAKDOWN PAGE NO.
SCENE NO.	SCRIPT PAGE NO.	INTERIOR OR EXTERIOR
SYNOPSIS		DAY OR NIGHT
		LOCATION
CAST	WARDROBE MAKE-UP/HAIR	EXTRAS/ATMOSPHERE
SPECIAL EFFECTS	EQUIPMENT	SOUND EFFECTS/MUSIC
PROPS	SET DRESSINGS	VEHICLES/ANIMALS
STUNTS	SPECIAL REQUIREMENTS	

While breaking down each scene by hand gives you a more comprehensive look at the script, it still very tedious and time consuming. In addition, details can be missed or overlooked and errors can be made as a result.

Computer Scheduling Tools

Today, filmmakers use computer software scheduling tools to speed up the process. *Entertainment payroll service companies* have created computer software scheduling tools that can assist you more effectively.

KEY TERM:

PAYROLL SERVICES COMPANY Is a company whose employees provide the systems and software needed to process the payroll and workers compensation for production companies. They help the production companies comply with state and federal regulations, process crew paychecks, residuals, and talent payments. In addition, many production services provide scheduling and budgeting products to assist with planning and keeping a film organized.

Many payroll companies offer a variety of different software scheduling and budgeting packages. The most notable software programs that are predominately used are from the payroll services Entertainment Partners and Media Services. They are as follows:

- Entertainment Partners offers Movie Magic Scheduling and Budgeting
- Media Services offers Showbiz Software Scheduling and MediaWin for Budgeting

The cost of the software can range from \$300 to \$500 and can be purchased online. In addition to the costs, the payroll service would provide technical support, training seminars, or videos. While the cost seems significant, it is worth it because the software will make scheduling less time consuming and is easy to manipulate. These programs enable the production company to put a schedule together more efficiently and provide them the tools to make the right decisions for their film.

The production details are inputted into established scheduling templates such as:

- Sheet number
- Scene number
- Script page
- Filming interior/exterior
- Filming day/night
- Scene synopsis
- Locations
- Cast members
- Extras
- Stunts
- Vehicles
- Equipment
- Props/set dressing
- Wardrobe
- Makeup/hair
- Animals
- Special effects
- Security

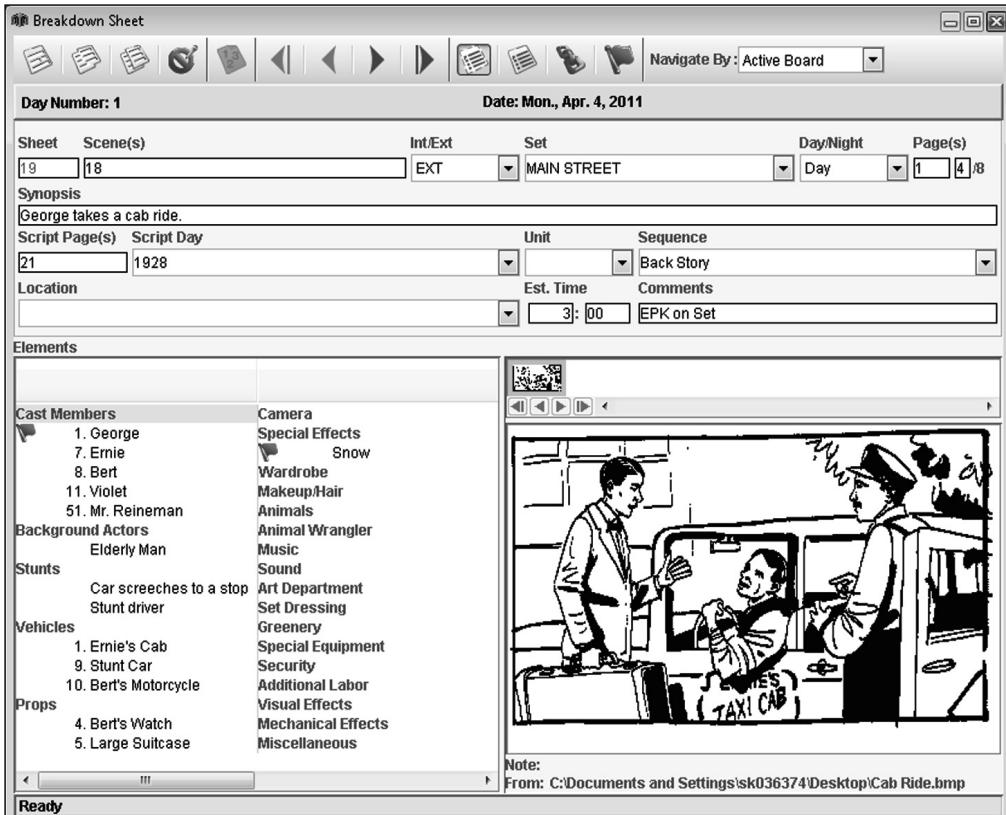


FIGURE 9.2—Movie Magic Scheduling—Script Breakdown Sheet

Once the scheduling templates are created the production coordinator can conduct discussions regarding stunts, special effects, use of aircraft, or watercraft. Many times these specific issues are not well defined and may require discussion and additional meetings with production executives, director, and stunt coordinator.

As a film is not produced in sequence, the assistant director and production coordinator must arrange the script breakdowns into a shooting schedule. In order to do this, there are various issues that affect scheduling decisions which are cast, filming locations, equipment, or props. To help simplify this, the scheduling software enables you to establish preferences and “red flag” scheduling conflicts.

For Movie Magic Scheduling, “Screen shot created using Movie Magic Scheduling software owned by DISC Intellectual Properties, LLC dba Entertainment Partners. For more information, <http://www.entertainmentpartners.com/Content/Products/Scheduling.aspx>.”

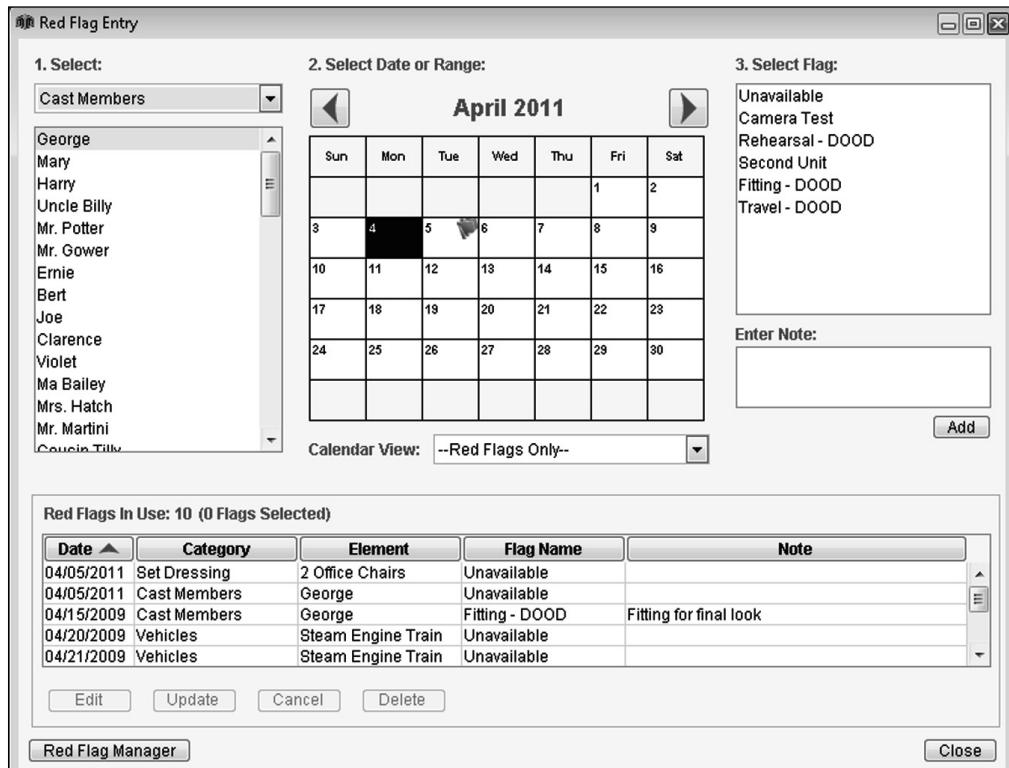


FIGURE 9.3—Movie Magic Scheduling—Red Flag Calendar

This red flag calendar will give you a clear idea of when the cast, locations, and the “right stuff” are available. This extra measure allows a production company to identify any conflicts in scheduling and allows the production company to make adjustments. The production company will then be able to efficiently use their cast members and locations in the allotted time.

Scheduling Issues

Cast

As the cast salaries are considered to be the biggest part of a budget, a production coordinator must find a way to accommodate and make the most

of their performance. For example, one of your main leads may only be required for the beginning and at the end of the film. You may want to film all his scenes together rather than spreading it out and paying him for sitting around while the other scenes are filmed. Another instance is there are cast members that are only available for a week or for a limited number of days as they have another production where they are contractually obligated to work. This is common with cast members who are filming during their television hiatus. In this case, the production company may have to strategize as to the best way to accommodate their schedule.

In addition, each crew deal memo have established dates allotted for the production and it must be observed as well.

Put your list together and determine if you can establish ways in which you film your cast members in a series of days. The point here is to be creative and find ways to be more cost effective.

Locations

As outlined in Chapter 7, finding the right filming location is very important and may cause difficulties in coordinating with the production schedule. You may find the hotel where you want to film starts renovations during the only week your lead cast person is available. This obviously means you may need to locate another suitable hotel to film or contact the cast member's agent and renegotiate their dates of photography. Another instance is that you may have a building owner who will not allow you to film in his apartment building on Saturdays. In this case, you may have to film all the scenes within a couple of days or film on a sound stage. Put your list together and determine the availability of the locations and establish ways where you can film all scenes at one location at the same time.

Right Stuff

Equipment, props, and vehicles may be hard to schedule if there are other production companies in need of the "right stuff" or if you are filming out of state. To avoid this difficulty a list of the "right stuff" should be determined while in pre-production and reserved in advance of the start date. The bottom line in these instances is to come up with a plan to determine how to get the right people and right stuff to the right place.

Organizing the Script Breakdowns

Shooting Schedule

Now that the script breakdown and cast and location listings are finished you have exactly what is needed to prepare a *shooting schedule*. A shooting schedule provides a time line as to what the production company will film. The main issues you have to contend with are:

- How many days will it take to film a scene?
- What order should we film the scenes?

How Long Is the Process?

You must be realistic when determining how many days it takes to film as a production company does not want to fall behind and be subject to reshoots. Usually the producer, director, and director of photography use the size of the budget and the type of production to determine how long filming will take. Of course, a larger budget means the script is longer, there are more cast members, more locations for filming, and more stunts and all will take longer to film. A smaller budget means the script will be shorter, have less cast members, less locations for filming, and less or no action.

The other factor that impacts the number of days of filming is the type of production that is being filmed. If the production has stunts and action scenes, filming will take longer because it will require more preparation time, numerous rehearsals to practice the stunt, and extra time to set up multiple cameras to capture the right performance.

If the film is a character driven drama, it may not take many days to film the production. This is because there are no stunts to set up, filming locations may not be numerous, and less sophisticated equipment will be needed. The only thing that the production company will need to arrange is additional rehearsal time so the cast members can perfect their acting and dialogue.

The following is a representation of the estimated number of days filming will be required based on the type of film and budget size.

- Short films with budgets from \$10,000 to \$200,000—5–10 days
- Drama, comedy, horror films budgets from \$1,000,000 to \$5,000,000—18–25 days

- Action, special effects films for budgets from \$10,000,000 and up—6–8 weeks

Using this guideline, the assistant director and production coordinator reviews the script breakdown and determines how many days filming should be allotted for each scene. While deciding this you must keep in mind variables that can impact the length of filming.

Variables that Impact Filming

Besides the budget and the type of production, there are other instances that can impact the length of filming which are as follows:

Filming inexperienced cast members. There is a chance the individual(s) you cast may not be very experienced. This means they may not be able to memorize their lines, are unable to take direction, or have performance anxieties. To remedy the situation, the director or assistant should spend a couple days rehearsing the cast member to see if they can handle the role. If their performance is poor, recasting will need to take place. *Advice:* All cast members should have plenty of rehearsal time so they can perfect their performance.

Filming outdoors with limited covered sets. When filming outdoors there is a risk that weather such as rain, high wind, or snow can interrupt filming. The production company should find another location where the weather is consistent. *Advice:* The production company should avoid areas that are subject to extreme weather conditions.

Filming with children or animals. The problem with filming with children and animals is it is hard to predict their behavior and their performance. A child may be unable to follow directions or work well with others. Children are wonderful additions to a film, however there are child labor laws that limit the hours you are allowed to work with them. The producer and director must be fully aware of the state child labor laws surrounding the welfare of child actors. In addition, child actors/performers are required to get a number of hours of schooling in each day which means you will need to hire a tutor. *Advice:* The production company should provide time to accommodate special provisions associated with working with children.

Using animals will require proper housing and appropriate safeguards to prevent overheating or excessive cooling of animals and establish safety standards when working with animals. In addition, you will need to hire the owners and/or animal wranglers to properly train and manage the animals.

Scenes that involve fights, gunfire, explosions, car chases. The production company should take extra precautions when creating scenes with *stunts*.

KEY TERM:

STUNTS Are actual or simulated dangerous physical activities undertaken during movie production or sometimes performed live, for public entertainment.

Preliminary meetings with stunt coordinators and pyrotechnicians should be held to discuss the feasibility of each stunt...can it be done or is it too dangerous? The production team has to determine how, where, and who will perform the stunts. In addition, they need to obtain the right permits from the city or state, secure approvals from the owners of property, and establish safety strategies for film crew and third parties.

Advice: The production company should allow some time to choreograph and stage their scenes. Be realistic when dealing with these variables, consult with your film crew, spend time planning and organizing your film in preproduction, rearrange your production schedule, and include additional filming dates to the schedule. Once the estimated number of days is determined this information should be shared with the production executives.

Speaking of production executives, they too can alter the production schedule by modifying the script, changing filming locations, and casting new artists. The key here is to determine how to effectively manage the production company's manpower and resources before a specific time frame is exhausted.

What Order Do You Shoot the Film?

Now that you have determined the number of shooting days, you are ready to organize the scenes in a sequence. In the early days of filmmaking, a *production board* or *production strip board* was used. Basically, it is a chart that holds color strips of paper, each containing a scene of the script. The strips were usually tacked to a cork board so they could be accessible for sorting so the scenes can be arranged into an orderly shooting schedule. This process was primarily organizing scenes based on locations or based on the availability of the cast members. The process would require repeat manipulation of each strip. The process was time consuming especially if new scenes are added or amended.

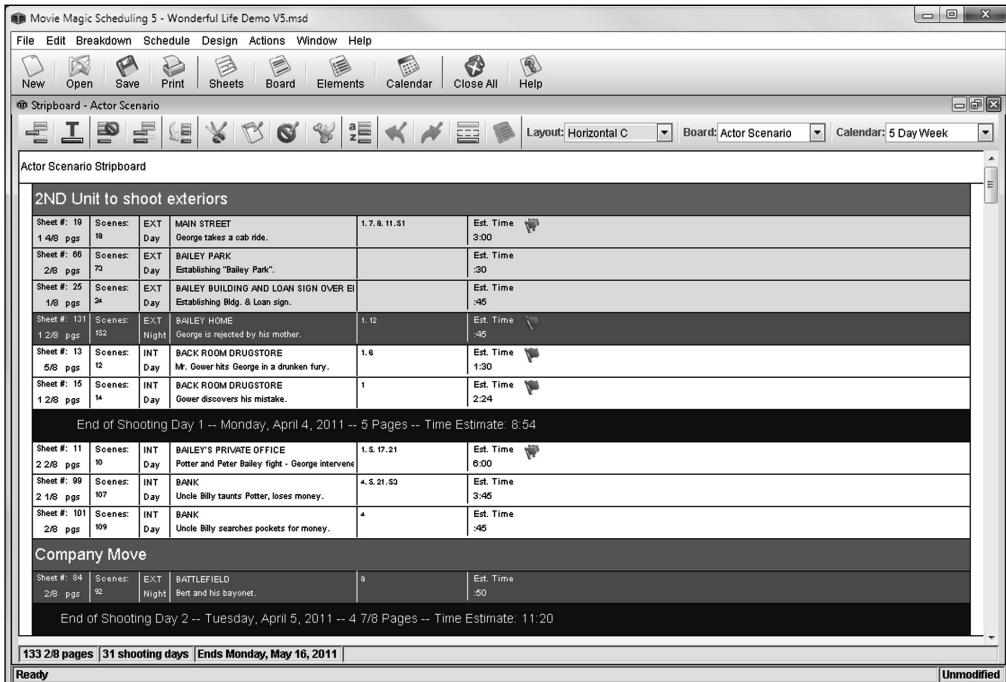


FIGURE 9.4—Movie Magic Scheduling—Production Strip Board

Thanks to the computer software, you can now manipulate the information and create a virtual *production board*. The Movie Magic program can provide you with side by side or multiple day displays. These multiple day displays assist in determining what locations, crew, equipment, and props can be entered along with various tentative principal photography dates to determine which accommodates all aspects of the production the best. The production coordinator can reorganize or shuffle the schedule with a click of a mouse.

If there are changes in cast, crew, and vendors, you can be sure that the shooting schedule will change a number of times...sigh. In the end, as everything is automated the scheduling program will enable the production coordinator to develop a perfect shooting schedule. Once all the production executives have approved the shooting schedule, it must be provided to cast and film crew so that scheduling conflicts can be handled right away.

Shooting Schedule #1 - Page 1

100% Scale Contents

IT'S A WONDERFUL LIFE

Shooting Schedule

Scene #	18	EXT	MAIN STREET	Day	1 4/8
George takes a cab ride.					
Cast Members	Props	Vehicles			
1. George	4. Bert's Watch	1. Ernie's Cab			
7. Ernie	5. Large Suitcase	9. Stunt Car			
8. Bert		10. Bert's Motorcycle			
11. Violet					
51. Mr. Reineman					
Background Actors					
Elderly Man					
Stunts					
Cars screeches to a stop					
Stunt driver					

Scene #	73	EXT	BAILEY PARK	Day	2 6
Establishing "Bailey Park".					
		Vehicles			
		2. George's Rickety Car			
		5. Martin's Rickety Truck			

Scene #	24	EXT	BAILEY BUILDING AND LOAN SIGN OVER	Day	1 8
Establishing Bldg. & Loan sign.					
		Set Dressing			
		Bldg. & Loan Sign			

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Page 1

FIGURE 9.5—Movie Magic Scheduling—Shooting Schedule

Reports at Your Fingertips

The computer software provides multiple templates such as the *one liner* and *days out of days schedules* and daily *call sheets*.

One Line Schedule

Once the shooting schedule is established, other templates can be created such as a *one line schedule*. This schedule provides basic information about the listing of scenes that will be filmed each day. The descriptions on this listing would include where it will be filmed, day or night, interiors or exteriors, and pages of the script. The one line schedule is used to enable:

- The art, transportation, grip, electrical, and sound departments to start prepping the filming locations in advance.
- The cast and crew to have an overview of the dates and locations so they can anticipate where they will have to travel and inform their families

Days Out of Days

The Days Out of Days form is a chart that lists all cast members and outlines what they will be doing every day of filming. This chart has columns on one side that itemizes the principal photography dates and the other side has rows listing the cast members. In each box a corresponding letter is inputted in each column and will evidence when the cast members do the following:

- Start work (S)
- Rehearsal (R)
- Travel (T)
- Work (W)
- Hold (H)
- Finish (F)

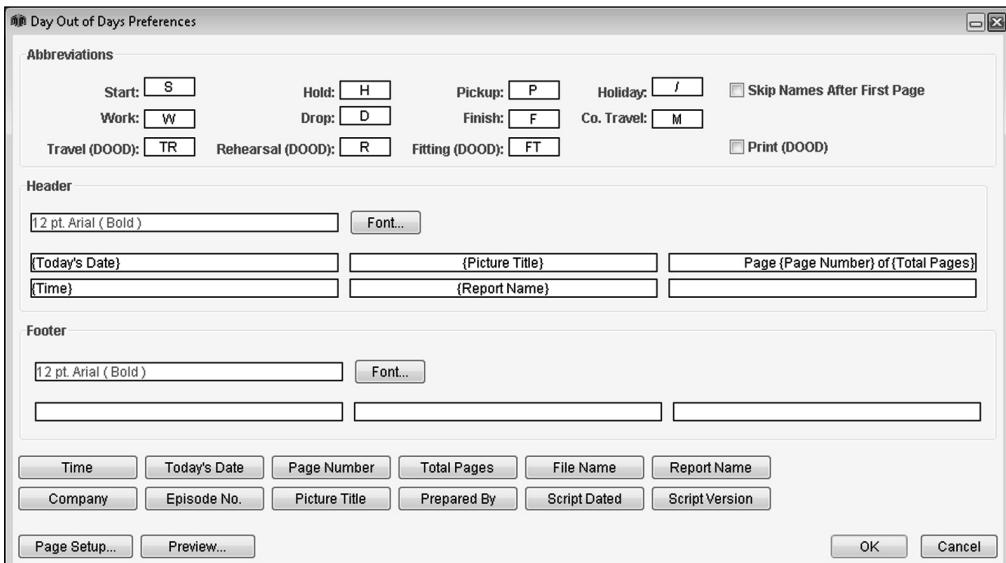


FIGURE 9.6—Movie Magic Scheduling—Day Out of Days Preferences

The significance of this chart is that it reveals the cast member's first paid day (S), their *hold days* (the individuals are given the day off), and their last paid day (F) and the total number of days each cast member works. Please note that if cast members are guild members you will have to follow the terms and pay the actors as designated by their agreements. The chart allows the director and film crew to track when they will need to schedule rehearsals and allows the production accountant to track when they pay expenses, cast, and crew members. In addition, a schedule will enable cast members to schedule rehearsal time and plan time with their families.

Call Sheet

A call sheet provides the cast and film crew information about each shoot date such as where and when to report to set, address of the filming location, script and scene to be filmed, and transportation or parking information. Depending upon the software, *production reports* can be created to keep the film on track.

KEY TERM:

PRODUCTION REPORTS The purpose of this form is to keep track of a production's progress and expenses.

Requirements for a Successful Film

Making a film takes a lot of time but the most important part of filmmaking is **PLANNING**. Many filmmaking clients who have produced films wished they had spent more time in planning and scheduling their film. Filmmaking has too many moving parts to rush into...time must be spent breaking down the film into the following tasks:

- Determine what you need—cast/crew/locations and equipment.
- Schedule the right time and place to film.
- Stay within your budget.

In addition, to further your success, a production company should be cognizant of every aspect of their film and implement a plan. The best advice is to:

- Rehearse your cast members. Have the director discuss his or her vision.
- Organize and prepare your film crew. Have a production meeting, elicit advice, and discuss your expectations and codes of conduct.
- Minimize the number of filming locations and negotiate the accessibility you need to accommodate cast, film crew, and vehicles.
- Obtain the “right stuff” and require the crew handle and store everything properly rehearse and walk through all stunts, pyrotechnics, and special effects.
- Maintain security around the perimeter of your filming locations.
- Keep the lines of communications open with your cast, crew, vendors, and property owners.

Results of Poor Planning

What happens when planning is not done properly? The production company runs the risk of exceeding their scheduled principal photography dates and causes the company to go over budget. Which means the budget will increase because of the production company's ongoing payments to cast, crew, and rental property. The production company runs the risk of losing their cast members because he or she have contractual obligations to another production and have the potential of losing the director, film crew, locations, and equipment to other production companies. This may mean the production company may have to postpone filming until all film personnel are available again. In addition, your financiers or distributor may feel you are inexperienced and irresponsible with their money which could result in them actually pulling their funding and preventing you from finishing your film. In addition, this may prevent you from receiving any type of funding for future films. In the end, even though you consider filmmaking to be creative and artistic, you must take time to establish a well-structured plan.

Putting a good “game plan” in place in preproduction is best because this is the stage where you can still manipulate the outcome. Once production begins, it is recommended that the production company follow their “game plan” by preparing or “prepping” for each scene at least 2–3 days in advance.

Unfortunately, “nothing is perfect” and you **will** encounter some conflicts with your shooting schedule. Yes, even the most well planned productions can still be subject to unexpected changes that can occur outside the control of the production company such as:

- Storms or bad weather may delay filming.
- A location may have had a devastating fire and not be available for filming.
- The building of sets may be delayed.
- The director or lead actor may decide to take another job.
- Sickness or death of a cast member can delay filming.

In these situations, some clients have had to come up with contingency plans so filming can continue. Some of the situations can easily be adjusted such as filming in an alternative location. However, other instances can actually cause long delays or the inability to complete the film, such as losing an ac-

tor and rebuilding a new set. Any additional costs can be estimated ahead of time and included in the budget under the heading of *Contingencies*.

KEY TERM:

CONTINGENCIES Additional monies that are set aside for unexpected expenses or a “rainy day” fund.

Please refer to Chapter 10—*Budget* for more information regarding contingencies.

SUMMARY

The purpose of this chapter is to provide you with the understanding the importance of production scheduling. This chapter provides information such as breaking down a script; completing a script breakdown sheet; organizing the script breakdowns, shooting schedule, one line schedule, days out of days, and computer scheduling tools.

All production companies have a lot of elements to get in place in order to do this proper planning and organization needs to be implemented. By using planning concepts and scheduling tools, you ensure the overall success of the production.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Imagine you are a production manager and have been hired for a film. Please use our Sample Scene from “Ella’s Awesome Adventure” by Liz Amsden and create a script breakdown sheet. Please be sure to add the necessary props and filming equipment that you think will be needed.

DISCUSSION / ESSAY QUESTIONS

Prior to this scene, Fitz and Ella, two veddy proper American aristocrats (who met at a veddy boring board meeting where boring investment bankers discussed boring ways of tripling the already immense wealth of their families) have ditched their respective assistants, left their Dayplanners and Blackberrys behind, and are playing hooky, taking public transportation (taxis) to experience what ordinary Americans do on a day to day basis

EXT. TONEY MARINA - DAY

A yacht club so upscale that even the rowboats have teak decking. Crews in impeccable uniforms are waxing the decks, polishing the chrome and fastening down color-coordinated canvas covers over furled sails. A few photogenic sea gulls land on a boom and are chased off.

ELLA

(looking around)

Are you sure this is where an average
American comes to spend his Saturdays?

Fitz has her by the elbow and is marching her along the parquet dock.

FITZ

Yeah, sure, boating, all the time.

ELLA

(pulling away)

So where are they?

Fitz looks up and down the dock, perplexed, then looks at his watch.

FITZ

It's Friday..

ELLA

Oh.

(looking up, way up)

These seem like awfully big boats.

In fact, they are alone on the dock amidst towering masts of immense privately owned corporate play toys.

DISCUSSION / ESSAY QUESTIONS

2.

FITZ

(puzzled)

Mmm. This must be the middle class section. Here, down this way.

They round a corner and can now see blue sky over the masts. The parquet turns to concrete and the size of the boats diminishes. These boats have no full-time crew doing make work.

ELLA

This is more like it.

Suddenly they here a chattering of voices. A couple of dozen teenagers with fancy private school uniforms under the ubiquitous school knapsacks of adolescents pile out of some second-hand Lamborghinis and Ferraris and come down some steps from the side of the club house

A couple of the guys have skateboards and do fancy tricks on the pathway.

BUFF

Bumm-mer.

CHELSEA

Double bummer.

BUFF

So, do we go back to school or what?

The teenagers huddle.

FITZ

What's up, kids?

CHELSEA

We were supposed to go on a field trip to see tides and birds and things.

BUFF

But there's a surf warning and we can't go out.

FITZ

(sincerely puzzled)

Uh, why not.

DISCUSSION / ESSAY QUESTIONS

3.

BUFF

Cause the adults said not. Duh.

ELLA

But I'm an adult. Can I say yes?

CHELSEA

(surprised)

Uh, yes.

Fitz, Ella and the teens stand for a second, retooling their plans.

FITZ

Well let's go.

He leads the pack down to a small boat at the end of the row. The smallest and shaggiest of an elite lot. Still shiny, still pristine, still out of the price range of anyone less than a multi-millionaire but getting everyone on will be a tight squeeze.

They pile on and some of the kids start taking off the covers.

ELLA

Whose is this?

FITZ

Does it matter?

She thinks a little.

BUFF

Hey, man, you got the key?

He tips up the padlock on the door leading into the cabin.

FITZ

Uh, no.

BUFF

Yo, Jason. You got that skeleton key gizmo
you were showing me?

A drop dead gorgeous hunk of a lanky teen of mixed ethnicity slips down beside Buff, pulls out a set of lock picks and has the door open in seconds.

DISCUSSION / ESSAY QUESTIONS

4.

Sails - neon orange - go up as the sun goes behind clouds.

The girls apply suntan lotion and pass the bottle to Ella who slathers up.

Jason has the cover off the inboard engine and it starts putting as a couple of the other teens cast off the dock.

EXT. TONEY MARINA - LATER

The clouds are thicker, the wind is picking up and the boat with the neon orange sails are far in the distance.

White caps start forming on the waves. A buoy's bell sounds as it swings wildly enough for the seagulls to wing away to safer perches.

EXT - SMALL YACHT - SIMULTANEOUSLY

The teens are kicking back, jackets bundled to form cushions, music on a CD player competing with discussions on make-up, the newest video game and whether Portugal or Fiji would be the better place to vacation.

Ella and Fitz are sitting in the cockpit, the wind whipping through their hair, while Jason keeps the boat on course.

ELLA

(to Fitz)

Mmm. This doesn't seem as... plebeian. As I thought it would be.

JASON

(strong Bronx accent)

So what's this all about. This ain't your boat.

(looking them up and down)

But it's not like you couldn't pay for it ten times over.

FITZ

We just wanted a day off. To do what real people do.

ELLA

Without the maids and assistants and all the... clutter of everyday life.

DISCUSSION / ESSAY QUESTIONS

5.

Jason tries not to roll his eyes.

JASON

For that you need to come down to the Bronx.
Where I'm from.

ELLA

But isn't that a dangerous neighborhood?

JASON

(laughing)
Only if you don't belong.
(to himself)
Only if you don't belong.

WIDE SHOT

The ocean is choppier, very dark clouds are sweeping in from the north. The top of the mast starts to swing side-to-side and the neon sail to flap as the changeable wind drops out.

INT SMALL YACHT CABIN - CONTINUOUS

Several couples are necking, including Chelsea and Buff

IN THE COCKPIT

Jason seems to be fighting the rudder.

JASON

Hey, guys, let's bring the sails in a bit. We
need to start heading back.

VOICE

Aw, Jason, we're just starting to have fun.

JASON

It's getting rough out here.

CHELSEA

(sticking her head out of the
cabin)

But we'll have to go back to school.

DISCUSSION / ESSAY QUESTIONS

6.

ELLA

But this is just starting to become an adventure.

FITZ

Get with it, man.

Just then a shower of rain spatters across the boat.

ELLA

Oh, my hair!

Some of the girls on the deck squeal and head for the cabin as Buff come out to check things out.

A gust of wind blows the boom around catching him on the side of the head. He sprawls across Fitz' feet, blood oozing from an ear.

CHELSEA

Oh my god.

Wordlessly, she holds out her iPhone.

NEWSCASTER

("Tornado Warning" runs below)

... heading our way. Authorities report that small craft warnings were issued early enough that there should be no one out on the water...

Ella's grin is infectious - to everyone of an IQ below 70, that is.

ELLA

It's our big adventure!

WIDE SHOT

Of the boat as a waterspout touches down blocking it from view.

DISCUSSION / ESSAY QUESTIONS

2. You are a production coordinator that is told there is a rain storm that is going to jeopardize an outdoor wedding scene in a couple of days. What would you do to your shooting schedule? Please explain.

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Create a customized shooting schedule using a scene from your short film.

CHAPTER 10

WHAT'S IN YOUR BUDGET?

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- What is a Budget Used For?
- Tips for Preparing a Budget
- Who is Involved in the Budget?
- What's in a Budget?
- Supplemental Categories
- Budget Software
- Ways to Reduce Budget Costs

What is a Budget Used For?

Film budgeting is the process where you take a script and translate it into costs. The process requires creativity, precision, experience, and determination to produce the ultimate document.

A budget has a variety of purposes in each stage of filming. First, a preliminary budget or *top sheet* is created to provide an estimation of costs for a given script. This budget is used along with the script to obtain interest from film investors, funders, financiers, and studio executives to finance your film.

KEY TERM:

TOP SHEET Summarizes all the categories of a budget on one sheet of paper. This document can constantly be revised as the production is develops.

Independent filmmakers must understand that putting together an unrealistic budget is not in their best interest. Put yourself in a film investors shoes... it is highly doubtful that they will fund your production if your figures are not solid, reliable estimates. Before they can “show you the money,” they need to feel confident that this budget will cover all elements of the film with no *overages*. In today’s film world a producer, needs a good production budget to convince the film investors that they are creative, professional, experienced as well as confident that a film can be made.

Once interest from financiers is established, the next objective is to find a talented director, marketable lead actors, and “attach” them contractually to the film. At this stage a more detailed and fully researched budget including costs for talent must be created to demonstrate how the film will be produced. This includes a top sheet and associated schedules that lists various categories such as: production staff, lighting, grip, camera, transportation, location, hair/makeup, and their costs. The budget process can take a couple of weeks and the end result can be approximately 150 pages. A good budget is a financial template that should be based on educated and reality centered numbers. Once the budget gets the “green light” (approval) from the financiers the budget will then be used to track the costs of the film.

Tips for a Preparing a Budget

Before creating a budget, a production company should apply the following concepts:

- Take your time when putting together a cost efficient budget. If you rush through the process, you may over look a category or under estimate a specific line item.
- Research and collect information by talking to experienced filmmakers, vendors, and post-production facilities. Ask for referrals, establish a list of contacts, and investigate every lead. Determine if people, places, and venders fit your needs.
- Shop around and find the most economical prices by shopping around, using the Internet, contacting other filmmakers and production directories to find the best price. Always ask if the price could be lowered and never take the first offer.

Who is Involved in the Budget?

Preliminary budgets should be prepared by a *production manager* who uses their experience to estimate the costs. Why a production manager? Because it is their job to supervise all aspects of production such as:

- Communicates with cast, department heads, and producers
- Prepares and monitors production schedules
- Prepares daily reports
- Trouble shoots and develops alternative plans if dilemmas arise
- Manages production costs and ultimately stays on BUDGET

A good production manager has a wealth of knowledge as well as established contacts with vendors, business owners, and location managers which enable them to create a realistic budget.

Once the preliminary budget is agreed to, a *production accountant* will be hired and will begin the difficult job determining actual numbers for each budget line item. A production accountant is a professional who prepares a

detailed budget to make sure that all the financial needs during production and post are met.

Besides doing number crunching, the production manager and accountant will have to deal with members of the production team and each of their agendas. First, there are the producers who are motivated in creating a “money making” film while keeping the costs of production as low as possible. Then there are the department heads, who are motivated to create a film that is innovative and achieves their “best” vision. To achieve this goal, the production executives require the “right” film crew and equipment.

This means the costs for salaries, equipment rentals, and purchases may be higher than what the producers want to spend. These varying agendas can result in battles between department heads and producers. The department heads may have to trim their budget to appease the producers or the producers may agree to increase a specific department’s budget. In the end, the production manager and accountant may have to borrow money from “Peter to pay Paul.” In addition, there may be higher paid cast members to consider or other states that may be contemplated for tax credits. As a result, there are multiple drafts of a budget created with different variables. These budget drafts are used to determine which option works best. Fasten your seat belts, you are in for a bumpy ride.

■ What's in a Budget?

A film budget is broken down into four different sections:

- *Above-the-line*
- *Below-the-line* (direct production costs)
- *Post-production* (editing, visual effects, etc.)
- *Other* (insurance, completion bond, etc.)

Above-the-Line Costs (ATL)—This section of the budget is for the creative cost and cast salaries. The best way to sum this section up is everything in front of the camera is considered above-the-line. As there are a variety of cost factors that need to be included in the budget, additional categories and subgroups are included to structure your cost factors. Depending on the film, the costs for this section can vary, however the following are the standard categories:

- *Story Rights, Writer Script, Screenplay:* Includes costs for story rights, script, screenplay, and writing as well as costs such as copyright report and title search.

KEY TERM:

STORY RIGHTS The right to produce a film based on a play, novel, or publication.

WRITER An individual who is hired to improve the screenplay or script.

SCRIPT Written without being under contract with a production company or individual.

SCREENPLAY Scripts written under contract with a production company or individual. A screenwriter can be paid substantially to create a story.

COPYRIGHT REPORT Securing exclusive right to literary works such as books, plays, scripts, screenplays, publications, productions, or sale of the rights for a specified period of time. This is done by filing paperwork through the United States Copyright Office.

TITLE SEARCH Conducted through the United States Copyright Office to check on the various uses in categories such as television, motion pictures, literature, video/DVD, books, plays, or music, to see if there are any similar titles that could cause marketing conflicts.

- *Producer—Executive Producer/Producer/Associate Producer:* This category includes:
 - Producer's fees.
 - Associate producers salaries.
 - Producer expenses.
- *Director—Director/Personal Assistants:* This category includes:
 - Director salary—An A-list director can command between \$5 to \$10 million a film. For smaller films the production company uses DGA minimum rates.
 - Director's personal assistants' salaries.
 - Director's expenses.

Please note Assistant directors' salaries are listed under the Production Staff section of the budget.

- *Cast—Lead Actors/Supporting Cast/Day Players:* The category includes:
 - Lead actor—An A-list actor can make from \$20 million to \$30 million and get a percentage of the gross profits. For smaller films, the production company uses SAG minimum rates.
 - Supporting cast members and day players' salaries.

Please note any costs for overtime should be included in this category.

KEY TERM:

LEAD ACTOR An individual who plays the main character in a film.

SUPPORTING CAST An individual that has a relationship with the lead actor.

DAY PLAYER An actor hired on a daily basis. This actor only has a few lines or scenes.

- *Stunts—Stunt Coordinator/Stunt Player/Stunt Double*

KEY TERM:

STUNT COORDINATOR Head of the stunt department. He or she hires the necessary crew and equipment to create the action that the director has envisioned. The stunt coordinator is responsible for hiring stunt doubles, stunt riggers, and stunt players.

STUNT PLAYER Highly trained individual who executes stunts for films.

STUNT DOUBLE Skilled individual who performs dangerous scenes instead of the lead cast member.

If you production calls for stunts it is in the best interest of the production company to hire an experienced stunt coordinator and his team. Stunt activities have a higher probability of going wrong in a big way.

- *Travel and Living Expenses:* The category includes:
 - Costs for plane tickets, lodging, vehicle rentals, and limos for the cast, producer, and director.

- A daily allowance known as the per diem should be given to the cast, producer, and director for daily expenses during their employment.
 - **Fringes:** This category includes:
 - Federal payroll taxes
 - Social Security and Medicare
 - State unemployment insurance (SUI)
 - Federal unemployment insurance (FUI)
 - DGA/SAG/Writers guilds
 - Established contributions for pension/health and welfare

In addition, if required an animal and trainers category can be included in this section. The costs for training, trainers, animal wranglers, rental of equipment, transportation, and expenses should be included.

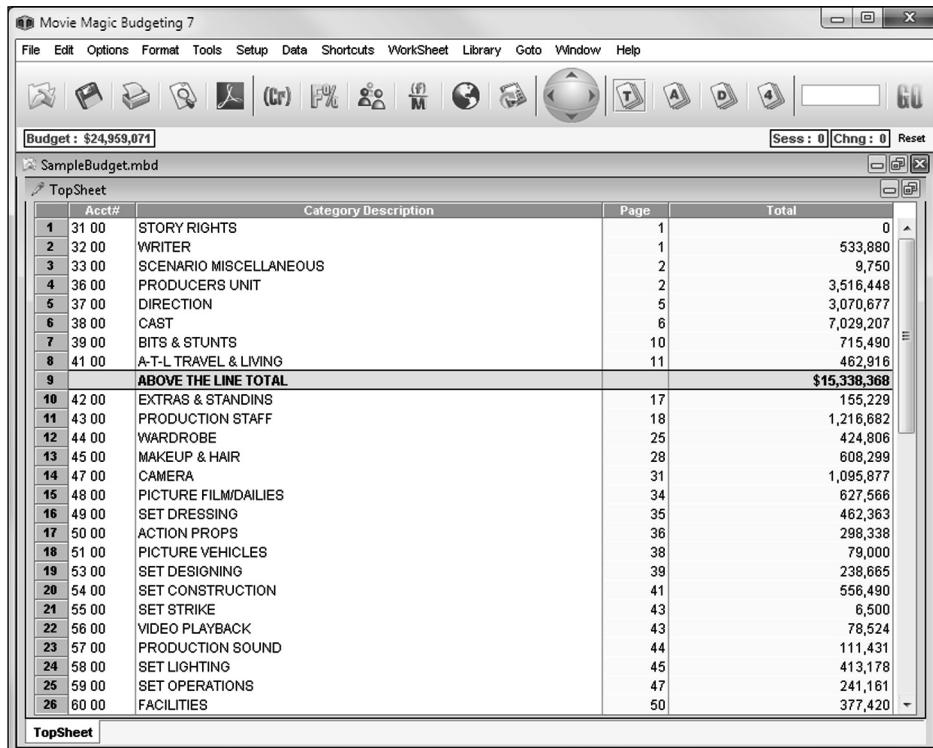


FIGURE 10.1—Movie Magic—Top Sheet/Above-the-Line Category

For Movie Magic Budgeting, "Screen shot created using Movie Magic Budgeting software owned by DISC Intellectual Properties, LLC dba Entertainment Partners. For more information, <http://www.entertainmentpartners.com/Content/Products/Budgeting.aspx>."

Below-the-line Costs (BTL)—This section of the budget is considered the direct production costs for the film which means all costs behind the camera. These costs consist of equipment rentals, purchases, and salaries of the film crew. The salaries must be broken down by the number of days the film crew will be involved in the preparation, shoot, and wrap of the film. Depending on the film, the costs for this section can vary, however, the following are the standard categories:

- *Production Staff*: Depending on the size of the budget, this category includes:
 - Production manager, assistant directors, script supervisor, production coordinator, office production assistant, and production accountant salaries.
 - *Box or kit rental* fees of the various employees can be included.

KEY TERM:

BOX OR KIT RENTAL Occurs when an employee of a production company charges the company a weekly fee for the use of his or her own tools. For instance, an assistant director can lend their lighting package to the production company during filming.

- *Extras/Stand-ins*: The category includes:
 - Salaries of individuals that are featured in the background of a film.
- *Art Department*: This category includes:
 - Art director, production designer, and art department coordinator salaries.
 - Art supplies and graphic material costs.
- *Set Dressing*: The category includes:
 - Set decorator, onset dresser, and *swing gang* salaries.
 - Set dressing rental costs.

KEY TERM:

SWING GANG Is one or more persons who make last-minute changes on a film set. This may include construction of new portions of a set or inclusion of simply striking large furniture at a set dresser's request.

- *Property*: This category includes:
 - Props master and props assistant salaries.
 - Prop rental costs.
 - Box rental fees.
- *Wardrobe*: This category includes:
 - Costume designer, wardrobe supervisor, set costumer salaries.
 - Wardrobe purchases.
 - Wardrobe rental costs.
 - Cleaning/dyeing/alteration costs.
 - Box rental fees.
- *Makeup and Hair*: This category includes:
 - Makeup artist, hair stylist, and assistant salaries.
 - Makeup/hair purchases.
 - Box rental costs.
- *Camera*: This category includes:
 - Director of photography, camera operator, assistant camera operator, *data wrangler*, unit camera operator, video assistant salaries.
 - Camera rental costs—HD camera, steadicam.
 - Box rental fees.

KEY TERM:

DATA WRANGLER An individual who deals extensively with the transfer and management of the databases for digital filmmaking and complex computer generated film.

- *Production Sound*: This category includes:
 - Sound mixer, boom operator salaries.
 - Sound equipment purchases.
 - Sound equipment rental costs—sound mixer, walkie-talkies.
- *Electrical*: This category includes:
 - Gaffer, best boy, electrician, generator operator salaries.
 - Electrical equipment purchases.

- Electrical equipment rentals—generators.
 - Box rental fees.
- *Set Operations:* This category includes:
- Key grip, best boy grip, dolly grip salaries.
 - Grip equipment purchases.
 - Grip equipment rentals—dolly and crane.
 - Box rental fees.
- *Transportation:* This category includes:
- Transportation coordinator, captain, drivers, camera car driver salaries.
 - Vehicle rentals—grip, camera, star trailer, wardrobe trailer, stake bed trucks, vans.
 - Picture vehicles—autos will vary from production to production.
 - Gas and oil/maintenance costs.
 - Waste disposal fees.
- *Locations:* This category includes:
- Location manager, location assistant, set medic salaries.
 - Production site rentals.
 - Permits/parking fees.
 - Security/police service fees.
 - Catering service fees.
 - Off-site meal costs.
- *Office/Facility Expenses:* This category includes:
- Office equipment rental costs.
 - Office supplies/expenses.
 - Shipping/postage/courier expenses.
 - Phones—office/cell phone expenses.
- *Film and Lab:* This category includes:
- Costs for download conversions/dubs.
- *Visual Effects:* This category includes:
- Costs for visual effects and stock footage.
- *Travel and Living:* This category includes:
- Costs for plane tickets, lodging, and transportation.
 - A per diem is given to selected members of the production crew.

- *Fringes*: This category includes:
 - Federal payroll taxes.
 - Social Security and Medicare.
- State Unemployment Insurance (SUI).
- Federal Unemployment Insurance (FUI).
 - IATSE/AFTRA/Writer's guilds.
- Established contributions for pension/health and welfare.

SampleBudget.mbd

TopSheet

	Acct#	Category Description	Page	Total
26	60 00	FACILITIES	50	377,420
27	61 00	SPECIAL EFFECTS	51	381,720
28	62 00	TESTS	53	15,661
29	63 00	LOCATIONS	53	695,309
30	64 00	TRANSPORTATION	56	1,772,947
31	65 00	SECOND UNIT	66	500,000
32	66 00	AERIAL/BLSCREEN/SPCL UNIT	67	0
33	68 00	ADD'L STUDIO SCENES	67	0
34	69 00	BTL TRAVEL & LIVING	67	720,160
35	TOTAL PRODUCTION			\$11,077,327
36	70 00	FILM EDITING	74	785,270
37	71 00	POST PRODUCTION SOUND	76	373,350
38	72 00	MUSIC	76	500,304
39	73 00	VISUAL EFFECTS	78	125,000
40	74 00	PREVIEWS	78	25,182
41	75 00	FILM LAB EXPENSE	78	40,456
42	76 00	DIGITAL INTERMEDIATE	79	188,253
43	77 00	VIDEO MASTER/VERSIONS	80	48,210
44	78 00	POST RESHOOTS	80	0
45	79 00	POST TRAVEL & LIVING	80	41,213
46	TOTAL POST PRODUCTION			\$2,127,238
47	85 00	INSURANCE & MEDICAL	82	426,500
48	86 00	STOCK FOOTAGE	82	10,000
49	87 00	Contingency	82	0
50	88 00	LEGAL & OTHER EXPENSES	82	67,100
51	89 00	CERTIFICATES & ROYALTIES	83	37,150
52	TOTAL OTHER CHARGES			\$540,750
53	Bond fee			\$581,674
54	Financing : 7.6%			\$2,200,000
55	Total Above-The-Line			\$15,338,368
56	Total Below-The-Line			\$13,745,316
57	Total Above and Below-The-Line			\$29,083,684
58	Grand Total			\$31,865,358
59	00 00	Michigan Tax Credit		(\$6,906,287)
60	Net Total			\$24,959,071

TopSheet

FIGURE 10.2—Movie Magic—Top Sheet/Below-the-Line Category

Post-production—Post-production is the section of the budget that includes editing the film, adding visual effects, Computer Generated Imagery (CGI), sound effects, and music. The costs for this section can vary, however, the following are standard categories:

- *Editing*: This category includes:
 - Film editor, assistant film editor, post-supervisor, music supervisor, and music composer salaries.
 - Costs for additional cast voice work—looping.
 - Film editing rental costs—Computer Generated Imagery (CGI).
 - Film editing purchases.

Please note that there may be times when you choose to use a professional post-production house because they have the established editors and post-production facility. In addition, with today's digital software such as Final Cut, many of the traditional editing costs are being reduced because filmmakers are doing it themselves.

- *Music*: This category includes:
 - Composer.
 - Recording costs.
 - Costs for musicians.
 - Song purchases.

Please note that composers can ask for a seven-figure salary to compose an hour or of original music.

- *Fringes*: This category includes:
 - Federal payroll taxes.
 - Social Security and Medicare.
 - State Unemployment Insurance (SUI).
 - Federal Unemployment Insurance (FUI).
 - Guilds for editors, music, post-production accountants.
 - Established contributions for pension/health and welfare.
- *Other Costs*: This category includes:
 - General expenses—costs for office rental, marketing/publicity, and deliverable charges such as preparing media in a format that is required by a distributor and FedEx or priority mail costs.

- Legal fees and expenses—costs for use of an attorney.
 - Accounting fees—costs for a bookkeeper and post-production accountant.
 - Production insurance—costs for insurance which are as follows:
 - General and auto liability.
 - Production package.
 - Workers compensation.
 - Errors and omissions.
- Contingencies:
As discussed previously, this category is the additional monies that are set aside for unexpected expenses that can occur.

■ Supplemental Categories

As all films are not the same, additional categories will need to be included to cover a variety of expenses such as use of aircraft, animals, stunts, and special effects. In these situations you will need to budget:

- Salaries of the independent contractors and consultants/experts.
- Costs for permits and location requirements.
- Costs for camera, grip, and equipment rental and purchases.
- Costs for housing, food for crew, and costs for caring for animals.
- Costs for editors and specialized computer equipment.

These categories need to be carefully considered by the producer and director to determine if there is a production value to these expenses. Will the daring aerial rescue really sell the film to distributors or do you conserve the money and apply it to more viable actor names? The main budgeting goal is to maximize your *production value*. Basically, the production company should make every effort to spend their money wisely and concentrate on telling the story.

KEY TERM:

PRODUCTION VALUE The elements of a film that enhance and increase audience appeal.

Budget Software

There are a number of software programs that allow you to customize, create, and edit budgets of all sizes. In addition, the budgeting program is great for providing multiple budget comparisons so you can compare possible budget options. This means you can create a budget for a different city or state or create a budget with cast payroll. Once prepared, your production team can make the best production alternative and ultimately manage the costs of any production. The most popular program is Movie Magic Budgeting 7. This program provides you with the tools to do the following:

- Apply credits for tax incentives, production rebates, or other credits. The budget software can be programmed to track multiple credits to cover complex spending requirements.
- Move with ease throughout your budget.
- Compare possible multiple budget comparisons and create multiple reports.
- Quickly change any aspect or variable and automatically update the entire budget.
- Calculate fringes by percentage or flat rate and add, calculate, and set-up fringe ranges and cutoffs.
- Establish various line items and track different scenarios within a single budget.
- Add notes to lines to provide more details of why the production company spent the money and for tracking budget changes.

Before putting together a budget the production company should be aware of the following costs and incorporate cost reduction methods:

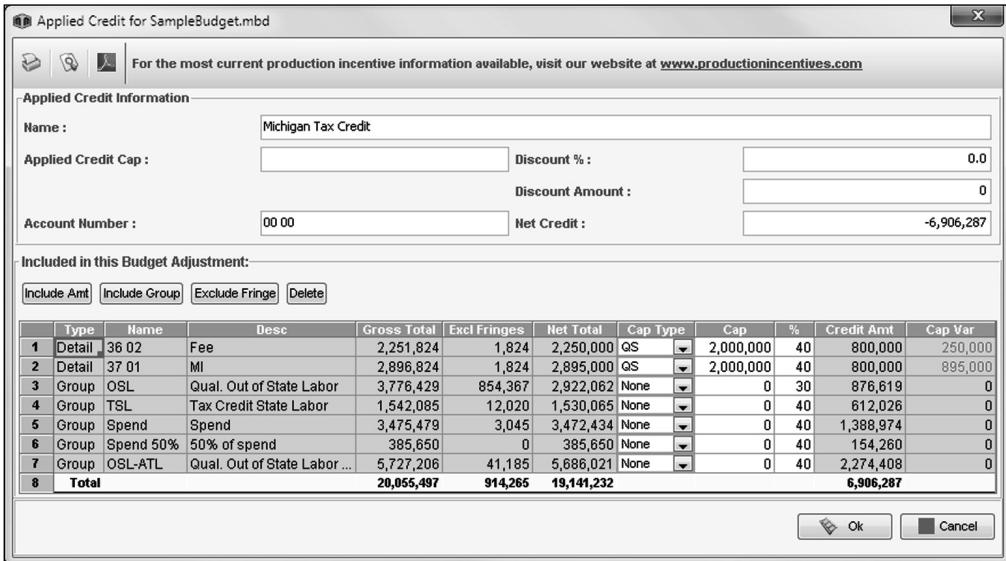


FIGURE 10.3—Movie Magic—Tracking Tax Incentive Credits

The screenshot shows a software interface for managing global variables. At the top, it says "Setup Globals for SampleBudget.mbd". Below that is a toolbar with various icons. The main area is titled "Groups" and "Globals". The "Globals" table lists numerous variables with their descriptions and calculations:

Global Group Name	In-Use	D	Name	Description	Calculation	Units	Dec	Value
Default Group - This group was created as a Default Group.	12	<input type="checkbox"/>	SAT12	Saturday 12hrs	(11.5*1.5)*(0.5*3)	Payhours	0	18.75
	0	<input type="checkbox"/>	SAT13	Saturday 13hrs	(11.5*1.5)*(1.5*3)	Payhours	0	21.75
	0	<input type="checkbox"/>	SAT14	Saturday 14hrs	(11.5*1.5)*(2.5*3)	Payhours	0	24.75
	0	<input type="checkbox"/>	SATD14	Saturday 14hrs Distant	(13.5*1.5)*(0.5*2)	Payhours	0	21.25
	2	<input type="checkbox"/>	SAGB	Weekly Rate w/10% agent	(2634*RATE)*P10	\$	0	2897.4
	2	<input type="checkbox"/>	SAGA	Daily Rate w/10% agent	(759*RATE)*P10	\$	0	834.9
	6	<input type="checkbox"/>	AFILM	A Camera Footage	(8500/4050)*2160	Feet	0	4533.333333333
	3	<input type="checkbox"/>	TFILM	Total Film Footage	(AFILM*ACAM)+(BFILM*	Feet	0	226666.666666667
	33	<input type="checkbox"/>	WD8	Weekly 8hrs Distant	(D8*5)+8	Payhours	0	48
	47	<input type="checkbox"/>	WD10	Weekly 10hrs Distant	(DD10*5)+8	Payhours	0	63
	1	<input type="checkbox"/>	WD11	Weekly 11hrs Distant	(DD11*5)+8	Payhours	0	70.5
	8	<input type="checkbox"/>	WD12	Weekly 12hrs Distant	(DD12*5)+8	Payhours	0	78
	0	<input type="checkbox"/>	WD125	Weekly 12.5hrs Distant	(DD125*5)+8	Payhours	0	81.75
	3	<input type="checkbox"/>	WD13	Weekly 13hrs Distant	(DD13*5)+8	Payhours	0	85.5
	6	<input type="checkbox"/>	WD14	Weekly 14hrs Distant	(DD14*5)+8	Payhours	0	94.25
	0	<input type="checkbox"/>	MW10	Weekly 10hrs Distant	(M10*5)+8	Payhours	0	58
	0	<input type="checkbox"/>	MW11	Weekly 11hrs Distant	(M11*5)+8	Payhours	0	65.5
	0	<input type="checkbox"/>	MW12	Weekly 12hrs Distant	(M12*5)+8	Payhours	0	73
	0	<input type="checkbox"/>	MW13	Weekly 13hrs Distant	(M13*5)+8	Payhours	0	80.5
	0	<input type="checkbox"/>	MW14	Weekly 14hrs Distant	(M14*5)+8	Payhours	0	89.25
	1	<input type="checkbox"/>	SWD105	Weekly 10.5hrs Distant	(S105*5)+8	Payhours	0	71.75
	0	<input type="checkbox"/>	SAGA10	Daily 10 Hr Day	(SAGAH*SAG10)	\$	0	1147.9875
	0	<input type="checkbox"/>	SAGA11	Daily 11 Hr Day	(SAGAH*SAG11)	\$	0	1356.7125
	0	<input type="checkbox"/>	SAGA12	Daily 12 Hr Day	(SAGAH*SAG12)	\$	0	1565.4375
	0	<input type="checkbox"/>	SAGB10	Weekly 10 Hr Days	(SAGBH)*(44+6*1.5)	\$	0	3490.05
	0	<input type="checkbox"/>	SAGB12	Weekly 12 Hr Days	(SAGBH)*(44+6*1.5+10...)	\$	0	4807.05
	0	<input type="checkbox"/>	SAGB11	Weekly 11 Hr Days	(SAGBH)*(44+6*1.5+5*2)	\$	0	4148.55
	0	<input type="checkbox"/>	SWD12	Weekly 12hrs Distant	(SD12*5)+8	Payhours	0	83
	0	<input type="checkbox"/>	SWD13	Weekly 13hrs Distant	(SD13*5)+8	Payhours	0	90.5
	1	<input type="checkbox"/>	SWD14	Weekly 14hrs Distant	(SD14*5)+8	Payhours	0	99.25

FIGURE 10.4—Movie Magic—Default Screen

Ways to Reduce Budget Costs

The following are ways that a production company can reduce budget costs:

Costs for all aspects of the script: As stated previously, script breakdowns must be consulted and used when putting together a budget. Each and every page of a script results in a different type of costs. Taking that into consideration, there are occasions where the production company rewrites the script to reduce costs. Let's take for instance your script requires that you depict the chance meeting of a pro basketball player and his long lost love at a basketball game. *Hint:* This scene can be quite costly because there is a rental fee for the arena, rental cost for lighting and grip equipment, payroll for additional film crew, and payroll for the crowd extras and security guards. Instead, the scene is rewritten to depict the chance meeting while leaving a restaurant.

Costs for director and cast members: Determining the salary of a director and actor can be difficult. Usually the bigger named actor means you pay more, however, the producer should consult with a talent agent and do some research as well before signing a deal memo. The production company should determine if the amount of compensation is realistic. *Hint:* Before the deal memo is signed, please consider the following questions:

- Will the director or lead actor help you distribute the film theatrically?
- What types of films have they done and were they profitable?
- Are they popular in the United States and internationally?
- Are they difficult to work with? Do they work well with others?
- What additional expenses will be required for their performance?
The expenses can vary from hiring a personal assistant, trainers or drivers, dialogue coach for a specific language or accent, specialty foods, and hotel accommodations.

Another idea is to defer the director or cast member salaries in exchange for a percentage of the film's *gross profits*. This means they will get the profits that are remaining after film and distribution expenses are subtracted by film revenues. While this may reduce your budget, conflicts have arisen where the accounting practices have been questioned and can lead to independent audits and litigation. Before this is agreed to, you must consult with an accountant and lawyer. If you decide to do this, you must make your financiers aware of the ramifications, establish accounting reports, provide updates on marketing, and inform all parties if distribution of the film is achieved.

Costs for outdoor and night scenes: Rewrite the script and eliminate night or outdoor scenes which would mean you can eliminate the use of expensive lighting equipment, avoid the hassle of disturbing a neighborhood, and paying possible overtime rates to the cast and crew. When it comes to filming outdoors, avoid filming in areas that can be affected by erratic weather patterns such as hurricanes, tornadoes, and winter storms. The production company should note specific weather seasons before choosing a particular state to film in. Instead of filming a basketball game at a playground, you can film in a high school gym. This alternative prevents the production company from possibly being halted by bad weather. That way the production company will not be halted by inclement weather.

Costs for stunts and pyrotechnics: There are a variety of costs for the performance of stunt and pyrotechnics. For instance, say the team bus that transports the basketball players catches fire and explodes. Of course there are salaries for hiring experienced pyrotechnicians as well as the costs for the explosives. However, there are expenses such as film permits/location fees, costs for camera and rigging equipment, purchases of fire extinguishers, rental costs of a water truck as well as the salaries for security and the fire marshal. To reduce costs, the production company does not have to blow up, they can utilize flame bars or smoke machines

Hint: Performance of the actual stunt does not have to be performed. For instance, a car crash can be duplicated by doing a “*cutaway shot*.” This means you film close ups of the cars and their impending accident. Then in the next scene, film the aftermath where you display damaged cars and their injured passengers.

KEY TERM:

CUTAWAY Is the interruption of a filmed action by inserting another scene.

Incidentally, if you are filming a car chase scene, arrange the shoot to occur early on a Sunday morning. Stopping traffic for a car chase scene is easier in the early hours of Sunday morning when traffic is at its lightest no businesses are open and there are less people on the streets. While this action does not cut costs, it is a conscience action to prevent accidents, delays, and financial hardships for business owners.

Costs for setbacks or delays of production: Extra expenses that can arise from any delay of production. To safeguard the situation there is a category in the budget called *Contingencies*. As discussed in Chapter 9, this category is additional monies that are set aside for unexpected expenses that can occur. This is the section where a financier would assume any overages would be applied. As stated before, no one can predict what occurrences will happen during the course of filming. That being said, careful consideration should be made when budgeting for this category.

Hint: I suggest that you budget in the cost of your insurance deductibles for cast, equipment, and third party property damage so that if a loss occurs the money is set aside. Usually production companies budget up to 7.5% to 10% of the combined “Above-the-Line and Below-the-Line” expenses. Others may apply the percentage to just the Above-the-Line Costs as they have a drama with high level cast members and very little crew or post costs. Still others may apply the percentage to just the Below-the-Line Costs as they have more special and visual effects films. Whatever you determine, make sure that contingencies are part of the budget...it is your rainy day fund. The budgeting process can be exhausting, however, it is very important to carefully estimate the costs of your film to prevent paying any overages.

SUMMARY

The purpose of this chapter is to provide you with an understanding of the budget and the process. This chapter provides information regarding the sections of a budget: Above-the-Line Costs, Below-the-Line Costs, Post-Production, and Other. Also, we identify standard categories that are included in a budget, demonstrated how it is processed by using budgeting software, and provided ways a filmmaker can reduce their budgets.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Image you are the transportation coordinator and have been instructed to reduce your department's budget. Please list ways you would reduce the budget.

2. Imagine you are the director of a film. Provide reasons why you want the producer to include the costs of a car chase scene into the budget.

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Based on your short film, put production budget categories outlined in the book, itemize your costs under the following categories: Above-the-Line, Below-the-Line, and Post-Production.

RESEARCH/LAB FIELDWORK PROJECTS

Can't Go Wrong Production

ExecProd: Trevor Canton

Producers: Stan Canton

Director: Harris Jordan

Writer: Aileen Snow

HD Shoot-2 Cameras

Crew: IATSE Basic Low Budget

Unions: WGA,DGA,SAG

Location: Los Angeles, Ca.

Start: 1.16.12

Shoot: 3 Wks. (15 Shoot Days)

Post: 8 Wks. (3+5)

Draft: EF10Ins

Date: 01/01/2013

Acct No	Category Description	Page	Total
11-00	STORY, RIGHTS, AND CONTINUITY	1	68,340
12-00	PRODUCERS' UNIT	1	125,000
13-00	DIRECTION	1	58,260
14-00	CAST	1	308,313
16-00	SECOND RUN	3	121,148
TOTAL ABOVE THE LINE			681,061
20-00	PRODUCTION STAFF	4	154,347
21-00	EXTRA TALENT	6	22,844
22-00	PRODUCTION DESIGN	6	25,244
23-00	SET CONSTRUCTION	7	38,664
24-00	SET DECORATIONS	8	24,884
25-00	SET OPERATIONS	8	48,742
26-00	PROPERTY	10	18,319
27-00	WARDROBE	10	48,909
28-00	MAKEUP and HAIR	11	34,803
29-00	LIGHTING and ELECTRICS	12	53,416
30-00	CAMERA DEPARTMENT	14	87,752
31-00	PRODUCTION SOUND	15	20,514
32-00	TRANSPORTATION	16	126,408
33-00	LOCATION DEPARTMENT	17	19,812

RESEARCH/LAB FIELDWORK PROJECTS

Acct No	Category Description	Page	Total
34-00	PICTURE VEHICLES	18	1,000
35-00	PRODUCTION FILM and LAB	18	2,650
36-00	LOCATION EXPENSE	18	130,381
TOTAL PRODUCTION			858,689
45-00	EDITING (Digital)	21	62,034
46-00	MUSIC	21	15,000
47-00	POST-PRODUCTION SOUND	21	23,000
48-00	POST-PRODUCTION FILM and LAB	21	12,000
49-00	MAIN & END TITLES	21	1,500
52-00	DELIVERY REQUIREMENTS	21	1,196
TOTAL POST PRODUCTION			114,730
65-00	PUBLICITY	23	2,000
67-00	INSURANCE	23	21,000
68-00	OFFICE RENTALS AND EXPENSES	23	41,619
69-00	AUDITING AND ACCOUNTING	24	26,000
TOTAL OTHER			90,619
	Total Above-The-Line		681,061
	Total Below-The-Line		1,064,038
	Total Above and Below-The-Line		1,745,099
	Grand Total		1,745,099

FIGURE 10.5—Top Sheet of Budget

CHAPTER 11

ACCOUNTING

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Who Manages the Money?
- Production Accountant Responsibilities
- Selecting a Production Accountant
- Accounting Basics 101
- Managing Cash Flow
- Accounting Transactions/General Ledger
- Cost Reports
- Expect the Unexpected
- Audits
- Accounting Checks and Balances
- Mandated Costs

Who Manages the Money?

Once the budget is in place, the next step is to manage the money...wisely.



FIGURE 11.1—Spend, Spend, Spend

Management of the budget is important because without accountability a production company can SPEND, SPEND, SPEND until it eventually runs out of money. This will lead to budget overages and/or the inability to complete the film.

In addition, without controls in place the production company could run into labor, tax, and accounting practice violations. These violations can result in disciplinary actions, fees, and lawsuits. To stay out of trouble, the production company needs to rely on experienced accounting professional(s) to properly manage the finances of a production company.

Production Accountant Responsibilities

A production accountant usually works on a freelance basis and works closely with all production departments, he/she is committed to managing the budget, with proper accounting practices and financial reporting methods. The production accountant is a trusted custodian and has the following responsibilities in the filmmaking process:

- Pre-production
 - Assist the producers and production manager in preparing the film budget.
 - Open accounts with banks and establish signatories on bank accounts.
 - Create cash flow charts.
- Production
 - Establish and manage accounting systems:

- Accounts payable and accounts receivable
 - Bank reconciliation
 - Petty cash/credit/purchase cards
 - Payroll
 - Ensure that state, federal, union, and contractual obligations are met.
 - Supervise assistant accountants and accounts trainees.
 - Assist department heads in managing their individual budgets.
 - Prepare daily/weekly cost reports.
 - Identify expenses that qualify for state rebates or tax incentives and track these costs.
- Post-Production
- Process audits for labor unions, tax incentives, rebates, banks, and financiers.
 - File taxes and abide by federal and state regulations.

The production accountant serves as a liaison with producers, department heads, investors, financiers, banks, and completion bond guarantors who need to be kept informed of the latest budget costs.

Selecting a Production Accountant

No matter where you are, there is an abundance of accounting professionals who can process payables, receivables, payroll, and reports. However, a production accountant is much more specialized and requires an individual who understands the filmmaking processes, as well as labor laws, guild and union agreements. A filmmaker should call and schedule meetings to interview several production accountants. During your conversations you should obtain the following information:

- What is the educational background of the production accountant?
Hint: Some individuals may hold an actual accounting degree or a certified management accountant (CMA) designation. However, it is not uncommon for a production accountant to have only a liberal arts degree. As this is the case, it is imperative that the accountant has the training and experience to perform the duties. It is best to find an accountant that has been working in the independent film community for 5 to 10 years.

- Does the individual specialize in film? How many years?

Hint: Request the accountant to provide you with a resume that outlines their employment history and a listing of films they have worked on to verify they have the experience in the type of budget you are working on.

- Request the production accountant provide at least three client references that you can contact.

Hint: Contact all references and ask extensive questions regarding.

- Communications skills—Do they work well with others?
- Work ethics—Are they hard working and did they get the job done?
- Moral or ethical standards—Were there any issues of misappropriations?

- Request the production accountant provide specific situations where a problem was discovered, the actions that he or she took, and the outcome of these actions.

Hint: The answer should include establishing a schedule, using accounting software, providing weekly cost reports to monitor the costs, and supervising work delegated to others.



Figure 11.2—Accountant at Work

The ideal individual should have great communication skills, be trustworthy, and a team player. Overall the main contributing factors when it comes to selecting a production accountant is his or her experience and the reputation they have established in the film industry. Having the right qualifications and experiences are important not only for the success of your film but it instills confidence with financiers, guarantors, and studios who are involved in the production. Several filmmakers have reported that they conducted a criminal background and credit check before hiring an accountant and staff.

Depending on the size of the budget, the production accountant may require additional accounting personnel composed of the following individuals:

- *Assistant accountant*—acts as an office manager overseeing *accounts payable* and *account receivable*. This includes purchase order, vendor invoices, and obtaining approvals from department heads and line producer.
- *Payroll accountant*—collects, calculates, and secures approval of time cards by department heads and line producer.
- *Accounting clerk*—performs clerical work in support of the accountants. This person must compile, analyze, reconcile, and verify financial data as well as perform related work as assigned by their superior.

KEY TERM:

ACCOUNTS RECEIVABLE Monitors cash flow, prepares bank deposits, posts transactions to the journals, assists with internal audits, and processes cost projections.

ACCOUNTS PAYABLE Handles invoices from vendors, assembles check requests for approval by appropriate managers, and processes checks to send to vendors.

Hiring additional accounting personnel is necessary as the job can be overwhelming and requires a variety of expertise in: budgeting, payroll, cost reporting, and taxes. You will find that when it comes to staffing the accounting department, the accountant may already have an established group of individuals they have successfully worked with in the past. If this is the case, you should still interview the applicants, review their resume, and contact their references to verify their experience before you hire anyone. Remember, you need not feel obligated to hire the accountant's preference, after all it is your decision.

In summary, a production accountant must have knowledge of the following:

- Budgeting
- Accounting principles and practices
- Cost reporting
- Audit principles and practices
- Accounting software
- Labor laws, union rates, and regulations

Accounting Basics 101

Establish the Company

The first thing that needs to be done is to establish a production name which usually includes the title of the film. Next, a legal structure for the production company must be established. There are a number of options to choose from such as limited liability corporations, S-corporations, and limited partnerships. An attorney should be consulted to obtain legal and tax advice. (More information can be found in Chapter 12—*Legal*).

Once a legal structure is established, the production accountant can visit the IRS Web site (www.irs.gov) and fill out a Form SS-4 for an *Employer Identification Number* (EIN).

KEY TERM:

EMPLOYER IDENTIFICATION NUMBER (EIN) Is also known as a Federal Tax Identification Number, and is used to identify a business entity.

This process is mandatory and must be done in order to process all federal, state, and local payroll withholding taxes. Have your attorney check with your state or local government agency to see if you need state and local tax numbers.

Form **SS-4**

(Rev. January 2010)

Department of the Treasury
Internal Revenue Service**Application for Employer Identification Number**

(For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.)

► See separate instructions for each line. ► Keep a copy for your records.

OMB No. 1545-0003

EIN

Type or print clearly.	1 Legal name of entity (or individual) for whom the EIN is being requested Can't Go Wrong Productions							
	2 Trade name of business (if different from name on line 1)		3 Executor, administrator, trustee, "care of" name					
	4a Mailing address (room, apt., suite no. and street, or P.O. box) 123 Success Road,		5a Street address (if different) (Do not enter a P.O. box.)					
	4b City, state, and ZIP code (if foreign, see instructions) Hollywood, CA		5b City, state, and ZIP code (if foreign, see instructions)					
	6 County and state where principal business is located Los Angeles, CA							
	7a Name of responsible party Trevor Canton		7b SSN, ITIN, or EIN 123-45-6789					
	8a Is this application for a limited liability company (LLC) (or a foreign equivalent)?		8b If 8a is "Yes," enter the number of LLC members					
	8c If 8a is "Yes," was the LLC organized in the United States?				□ Yes □ No			
	9a Type of entity (check only one box). Caution. If 8a is "Yes," see the instructions for the correct box to check. <table border="0" style="width: 100%;"> <tr> <td style="width: 40%; vertical-align: top;"> <input checked="" type="checkbox"/> Sole proprietor (SSN) 123 : 45 : 6789 <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation (enter form number to be filed) ► _____ <input type="checkbox"/> Personal service corporation <input type="checkbox"/> Church or church-controlled organization <input type="checkbox"/> Other nonprofit organization (specify) ► _____ <input type="checkbox"/> Other (specify) ► _____ </td> <td style="width: 40%; vertical-align: top;"> <input type="checkbox"/> Estate (SSN of decedent) _____ <input type="checkbox"/> Plan administrator (TIN) _____ <input type="checkbox"/> Trust (TIN of grantor) _____ <input type="checkbox"/> National Guard <input type="checkbox"/> State/local government <input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military <input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises </td> <td style="width: 20%; vertical-align: top; text-align: right;"> Group Exemption Number (GEN) if any ► _____ </td> </tr> </table>					<input checked="" type="checkbox"/> Sole proprietor (SSN) 123 : 45 : 6789 <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation (enter form number to be filed) ► _____ <input type="checkbox"/> Personal service corporation <input type="checkbox"/> Church or church-controlled organization <input type="checkbox"/> Other nonprofit organization (specify) ► _____ <input type="checkbox"/> Other (specify) ► _____	<input type="checkbox"/> Estate (SSN of decedent) _____ <input type="checkbox"/> Plan administrator (TIN) _____ <input type="checkbox"/> Trust (TIN of grantor) _____ <input type="checkbox"/> National Guard <input type="checkbox"/> State/local government <input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military <input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises	Group Exemption Number (GEN) if any ► _____
	<input checked="" type="checkbox"/> Sole proprietor (SSN) 123 : 45 : 6789 <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation (enter form number to be filed) ► _____ <input type="checkbox"/> Personal service corporation <input type="checkbox"/> Church or church-controlled organization <input type="checkbox"/> Other nonprofit organization (specify) ► _____ <input type="checkbox"/> Other (specify) ► _____	<input type="checkbox"/> Estate (SSN of decedent) _____ <input type="checkbox"/> Plan administrator (TIN) _____ <input type="checkbox"/> Trust (TIN of grantor) _____ <input type="checkbox"/> National Guard <input type="checkbox"/> State/local government <input type="checkbox"/> Farmers' cooperative <input type="checkbox"/> Federal government/military <input type="checkbox"/> REMIC <input type="checkbox"/> Indian tribal governments/enterprises	Group Exemption Number (GEN) if any ► _____					
9b If a corporation, name the state or foreign country (if applicable) where incorporated		State CA	Foreign country					
10 Reason for applying (check only one box) <table border="0" style="width: 100%;"> <tr> <td style="width: 40%; vertical-align: top;"> <input checked="" type="checkbox"/> Started new business (specify type) ► Film <input type="checkbox"/> Hired employees (Check the box and see line 13.) <input type="checkbox"/> Compliance with IRS withholding regulations <input type="checkbox"/> Other (specify) ► _____ </td> <td style="width: 40%; vertical-align: top;"> <input type="checkbox"/> Banking purpose (specify purpose) ► _____ <input type="checkbox"/> Changed type of organization (specify new type) ► _____ <input type="checkbox"/> Purchased going business <input type="checkbox"/> Created a trust (specify type) ► _____ <input type="checkbox"/> Created a pension plan (specify type) ► _____ </td> <td style="width: 20%; vertical-align: top; text-align: right;"> _____ </td> </tr> </table>					<input checked="" type="checkbox"/> Started new business (specify type) ► Film <input type="checkbox"/> Hired employees (Check the box and see line 13.) <input type="checkbox"/> Compliance with IRS withholding regulations <input type="checkbox"/> Other (specify) ► _____	<input type="checkbox"/> Banking purpose (specify purpose) ► _____ <input type="checkbox"/> Changed type of organization (specify new type) ► _____ <input type="checkbox"/> Purchased going business <input type="checkbox"/> Created a trust (specify type) ► _____ <input type="checkbox"/> Created a pension plan (specify type) ► _____	_____	
<input checked="" type="checkbox"/> Started new business (specify type) ► Film <input type="checkbox"/> Hired employees (Check the box and see line 13.) <input type="checkbox"/> Compliance with IRS withholding regulations <input type="checkbox"/> Other (specify) ► _____	<input type="checkbox"/> Banking purpose (specify purpose) ► _____ <input type="checkbox"/> Changed type of organization (specify new type) ► _____ <input type="checkbox"/> Purchased going business <input type="checkbox"/> Created a trust (specify type) ► _____ <input type="checkbox"/> Created a pension plan (specify type) ► _____	_____						
11 Date business started or acquired (month, day, year). See instructions. 4/22/12		12 Closing month of accounting year 4/12/13						
13 Highest number of employees expected in the next 12 months (enter -0- if none). <p>If no employees expected, skip line 14.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 33%; text-align: center;">Agricultural</td> <td style="width: 33%; text-align: center;">Household</td> <td style="width: 33%; text-align: center;">Other 20</td> </tr> </table>					Agricultural	Household	Other 20	
Agricultural	Household	Other 20						
15 First date wages or annuities were paid (month, day, year). Note. If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year)								
16 Check one box that best describes the principal activity of your business. <table border="0" style="width: 100%;"> <tr> <td style="width: 40%; vertical-align: top;"> <input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-other <input type="checkbox"/> Retail <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input checked="" type="checkbox"/> Other (specify) Film </td> <td style="width: 60%; vertical-align: top; text-align: right;"> _____ </td> </tr> </table>					<input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-other <input type="checkbox"/> Retail <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input checked="" type="checkbox"/> Other (specify) Film	_____		
<input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-other <input type="checkbox"/> Retail <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input checked="" type="checkbox"/> Other (specify) Film	_____							
17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided. Film program								
18 Has the applicant entity shown on line 1 ever applied for and received an EIN? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," write previous EIN here ► _____								
Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.								
Third Party Designee	Designee's name Trevor Canton			Designee's telephone number (include area code) (310) XXX-XXXX				
	Address and ZIP code 123 Success Road, Hollywood, CA			Designee's fax number (include area code) ()				
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete. Name and title (type or print clearly) ► Trevor Canton								
Signature ►		Date ►		Applicant's telephone number (include area code) ()				
				Applicant's fax number (include area code) ()				

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 16055N

Form **SS-4** (Rev. 1-2010)**FIGURE 11.3—Employer Identification Number Application**

Managing Cash Flow

In the world of production, the only money that is earned is when the film is sold to a distributor and released in theatres, television, cable, direct to video, or on the Internet. This means that the only asset a production company has is the monies allocated in their budget. It is the production accountant's job to make everyone aware of the spending and to report overages immediately.

The accounting department is the hub of all production companies and works with all departments to do the following:

- Purchase something—goods or services
- Pay someone—vendors, third parties, and employees
- Project costs—production executives

As this is the case, it is essential that the production accountant establish rules and regulations and provides proper training to the members of the accounting staff. The production accountant should establish *checks and balances* for the production company as well as set accounting standards.

KEY TERM:

CHECKS AND BALANCES Refers to a mechanism designed to limit abuse of power and prevent corruption.

The accountant needs to understand the *cash flow* which means, the movement of money that is received by the bank or financier and the payment of operational expenses. They must analyze each element of the production company's cash flow and be able to predict if there are any gaps during the filming process. Basically, the production accountant should be able to predict periods when cash outflows exceed cash inflows and have a plan in place to protect against this. It is standard practice for the production accountant to allocate more cash during the periods of pre-production and production to support the larger operational expenses.

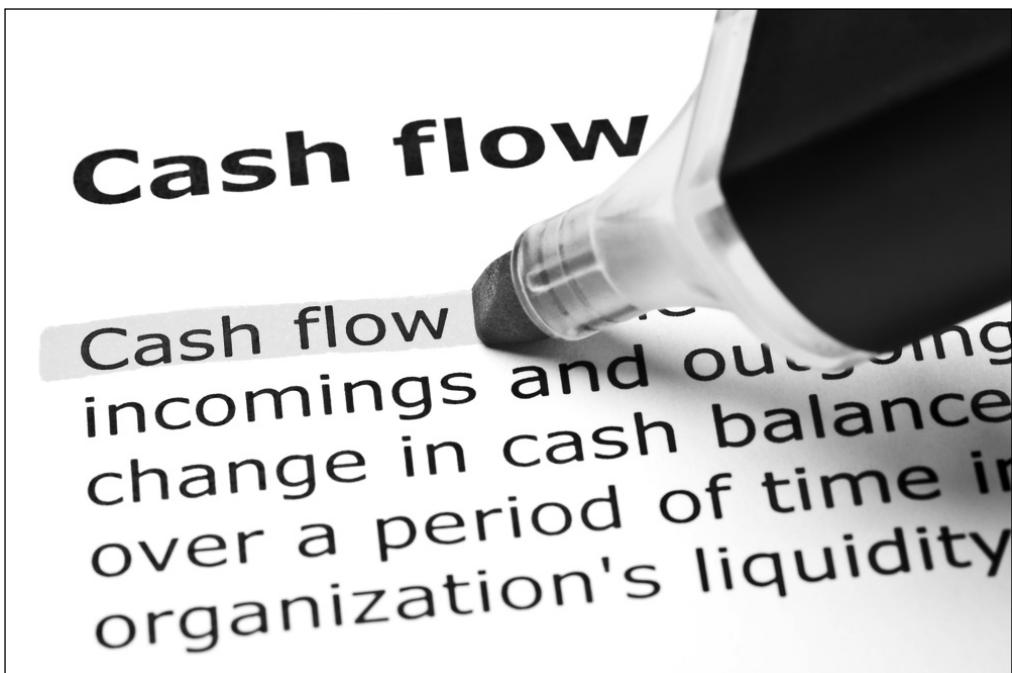


FIGURE 11.4—Cash Flow

Accounting Transactions/General Ledger

All production accountants need to maintain records so it is clear where the money is coming from, how the money is spent, and the resulting service or tangible item that has been obtained. These accounting transactions must be broken down into a variety of accounts such as:

- *Assets*: any tangible items that can be converted into money. The tangible assets are touchable such as equipment, furnishings, computers, vehicles, and props.
 - These types of assets are itemized and should be accounted for in the general ledger.
- *Equity*: any and all monies provided by the owner(s) of the production company.
- *Revenue*: is earned when the film is sold to a distributor.

- **Liabilities:** requires payment for goods or services and repaying the vendor, property owner, and bank by a specified dates.
 - These liabilities are itemized and monitored by an accountant and results in an *accounts payable* journal. This report records what a company must pay within a given period of time.
- **Expenses:** costs of doing business in the effort to generate revenue.

Besides posting the transactions into accounts receivable and payable journals, an accountant must consolidate all the above transactions into a *general ledger*. A general ledger provides a clear, concise picture of a company's financial records and outlines every transaction or *journal entry* that takes place during a particular period of time. Each journal entry has a monetary value and must have some type of documentation such as an invoice, bill, or receipt.

E	ACCT #	ACCOUNT TITLE/DESCRIPTION	POSTED	AMOUNT
		To Record Rental of Post Office Box		
/02	503	Travel Expenses (Gasoline)	X	
	200	Credit Card Payable	X	
		To Record Gasoline Charge for Travel to Gilette Castle		
/02	505	Office Supplies Expense	X	
	508	Sales Tax Expense	X	
	200	Credit Card Payable	X	
		To Record Purchase of Monthly Receipts Folder		
/02	506	Office Expenses	X	
	200	Credit Card Payable	X	
		To record purchase of postage		
/02	100	Checking		
	404	Other Income (Interest on Bonds)		
	102	Investments		
		To record retirement of bonds and checking		
/02	501	Prepaid Expenses		
	502	Development Payable		
	502	Enlargements/Reprints		
		Postage		

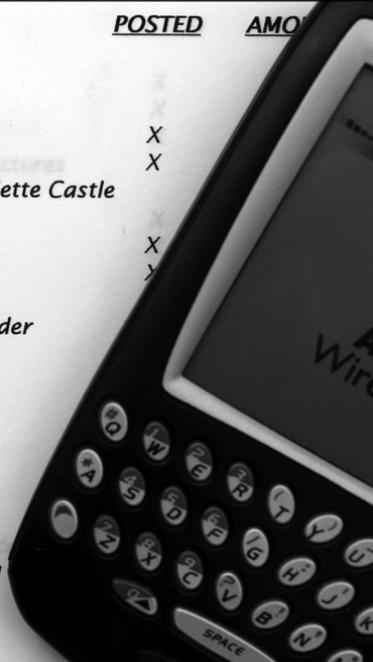


FIGURE 11.5—General Ledger

It is the production accountant's job to always follow general accounting policies and practices. *Debits* are entries that increase the asset and decrease the liability or income. *Credits* are entries that will increase the liability and

decrease an asset. The accountant will use a *double entry* method as there are a variety of ways where debts or credits can be applied.

KEY TERM:

JOURNAL ENTRY—DOUBLE-ENTRY BOOKKEEPING Is a method where a transaction is entered as both a debit to one account and a credit to another account, so that the totals of debits and credits are equal.

SIDE NOTE

To simplify this further, please refer to the following examples of how typical business transactions would be posted:

If you purchase goods and or services:

Cash Purchase

The company gets a product or service from a vendor and pays via cash or check to the vendor.

Accounts Posted:

Debit: Expense

Credit: Cash

Credit Card Purchase

The company gets a product or service from a vendor and provides a promise to pay to their vendor by a certain date.

Accounts Used:

Debit: Expense

Credit: Accounts Payable

Once the journal entries are posted to the general ledger, an accountant must check to ensure the debits and credits columns equal each other. If not, revenues or expenses should be checked, verified, and re-posted. A traditional production accounting practice is closing the books at the end of every week and preparing account *reconciliation* and cost reports.

KEY TERM:

RECONCILIATION Is used to ensure that the money leaving an account matches the actual money spent.

Cost Reports

In the film world, it is all about “the spending” of the budget. One of the most significant roles a production accountant must undertake is tracking the *daily hot costs*. The intent of *hot costs* is to determine how much was spent that day, compared to what was projected in the budget, and how many scenes were completed.

All this information is compiled into a weekly *cost report*. This report details the current costs and determines the *cost variance* in each corresponding section of the budget. A cost variance is the difference between an actual cost and the budgeted or estimated costs to complete the film. The purpose of this calculation is to determine if there is enough money to complete the film and to anticipate any overages/savings in advance. Each week the production accountant will hold a cost report meeting with the production executives and communicates his or her discoveries. The discussion usually results in either maintaining the budget through “cost cutting” measures such as modifying or removing a scene from the film or requesting additional monies from financiers or funders.

Expect the Unexpected

Throughout the filmmaking process, a production accountant can be called upon to assist with various inquiries from the producer and director. The production executives may request the accountant provide cost forecasts to better evaluate the financial impact of a new scene, another actor, and alternative location.

In addition, there are unexpected events such as the death of a lead actor or weather conditions that can impact the completion of the film. In these situations, the accountant will play a collaborative role with the producers in providing separate cost estimates to facilitate the understanding of the financial impact of the occurrence.

Audits

It is important that your general ledger is well maintained as it becomes a permanent record or history of all your financial transactions and will be required when an *audit* is conducted.

KEY TERM:

AUDIT An examination and verification of a company's accounting records by a professional. Audits are performed to ascertain the validity and reliability of information; also to provide an assessment of a system's internal control.

The word “audit” can strike fear in your heart because there are a number of entities in the film world that will require an audit. They are as follows:

- Guild audits—SAG, WGA, and DGA want to verify their members were paid correctly.
- Tax incentive or rebate audits—states want to verify the amount of money spent.
- IRS audit—a production company is considered to be a business and is not exempted from an audit from the federal government.
- Internal audit—an independent financier may require an audit to determine how the money was spent and identify any discrepancies.

An audit seeks to obtain assurance that the financials are accurate and free from error. Auditing is a vital part of accounting and helps to determine if procedures are being followed and identifies any misappropriations. A well-maintained general ledger is essential because it reveals the financial standing of a company.



FIGURE 11.6—IRS Audit

Accounting Checks and Balances

These procedures allow the filmmaker to understand all costs incurred during filming. Thanks to the budget, each department has preapproved amounts that they are allowed to spend. In order to control the spending, the accountant employs various tools which are purchase orders, check requests, petty cash envelopes, or debt cards.

Purchase Orders

A purchase order (PO) is a document to inform an accountant of the costs and items a production department has committed to rent or purchase but not yet paid. The accountant assigns each production department a limited number of purchase orders and sets a ceiling based on their budget. Each department head completes the purchase order by itemizing a listing of items or services they want to rent or buy. The order form should include the following:

- Date of purchase or rental dates
- Quantities required
- Description of all items

FIGURE 11.7—Purchase Order Form

If the amount does not exceed the budgeted amount, the accountant will process the payment. If any purchases exceed the budgeted amount, this will require the approval of the production manager. The benefit of the purchase order prevents over spending and assures the vendors that the amount has been approved and they will get paid.

Check Requests

There may be times when processing a purchase order may take too long. If this is the case, the department head can use a check request. To process a check request, a production accountant must establish procedures in which a form must be completed and an invoice, contract, or documentation to substantiate the required amount be provided and approved by the production manager or producer before a check can be issued.

The following items should appear on the check request form:

- Date
- Federal ID number of the company/Social Security of individual
- Department or individual requesting the check
- Description of what the payment is for (property rented or purchased or services)
- The amount of the check and description of the type of payment the check is:
 - Full payment
 - Partial payment
 - Deposit with installments
 - Refundable expense
- When the check is required and whether it will be mailed or picked up

FIGURE 11.8—Check Request

Any checks should be signed by two individuals and these individuals should not be responsible for the bank accounts. The separation of these accounting duties helps maintain the integrity of accounting department, maintain audit standards, and helps prevent possible embezzlement.

Petty Cash aka Cash

Because anything can happen while filming, it is best to have *petty cash* on hand to help pay for minor expenses such as parking fees, gas, props, wardrobe, and office supplies. A predetermined amount of cash is provided to each department head while filming on location. The petty cash amounts can range from \$100 to \$500 for low budgeted films to \$10,000 for studio films. Before providing the cash, you should have the designated department crew member sign a user agreement that simply states they will not spend the cash on personal items. All petty cash requests that exceed the established amount must be approved by the production manager.

Once the money is received, each film department will be given a petty cash envelope so they can recap their cash expenses by providing:

- Date
- Description of what was purchased
- A copy of the receipts

These envelopes or any remaining cash must be returned to the accountant so they can qualify the cost and reimburse each department.

Bank Debit Card

To handle spending more efficiently, production accountants are dispensing prepaid bank debit cards that have a predetermined amount on the card. Again, before providing the cards, the designated department crew member should sign a user agreement that simply states he or she will not spend the cash on personal items.

A bank debt card is an invaluable tool for an independent film company because it gives production departments an opportunity to purchase an item(s) much more quickly as opposed to waiting for a check to be processed. The advantage of this tool is the accounting department can go online and view

all transactions and print a statement. The use of these types of cards provides better security and job accountability.



FIGURE 11.9—Debit Cards

Mandated Costs

Per Diem

A *per diem* is a specific amount of money that a production company provides per day to cover living and traveling expenses in connection with a film. The various guild signatory agreements have designated amounts that must be paid to their members. Depending on the position, some per diems are determined in contracts or through negotiations with an agent. The average cost of meals range from \$50 to \$100 per day per the Internal Revenue Service (IRS) mandated amount.

In addition, living allowances may be given to cast members and director as they may prefer not to reside in the same housing as the film crew for privacy and safety reasons. If separate accommodations need to be arranged payments can be included into weekly pay checks.

Auto Allowance

The purpose of the auto allowance is to help subsidize the costs associated with the use of an employee's car. This allowance is usually written into a designated employee's deal memo. The advantage to providing this allowance is the production company does not have to rent vehicles for the employee to do his or her job. This, of course, saves the production company additional costs. However, the production company must request the employee provide proof that they are a licensed driver and have their own auto insurance. (More details regarding this topic can be found in Chapter 13—*Insurance*.)

Please note the IRS considers a car allowance to be an income and must be paid through payroll and be subject to income tax withholdings.

Mileage Reimbursement

The IRS mandates that when employee is driving on behalf of their company that their mileage be reimbursed. Each year the IRS sets a predetermined rate per mile travelled. The present rate is \$0.55. A mileage report must be completed stating the starting location, purpose of the drive, ending location, and mileage. The mileage report form must be approved by the department head and sent to the accounting department for processing. The accounting department can process the payment by check request or petty cash. Please note that there are set limits on per diems and mileage which means that if any amounts exceed the limit it will be considered income and must be taxed.

Processing Payroll—The Alternatives

As the production payroll for a film can make up as much as 50% of a film's budget it is important that these costs be processed with care. Processing film payroll is not a simple matter of processing a check and applying federal, state, and local taxes...it requires dispensing union/non-union payroll, paying taxes and fringes, tracking residuals, and providing workers compensation coverage. In addition, it is more complicated because of the following variables:

Guild requirements—Guild associations set wage, hours, pension, and welfare contributions for their members. All production accountants must understand and follow every nuance of guild requirements.

Loan out corporations—A company formed by an actor, director, or line producer who provide services under a corporate entity. Because the production company is paying a corporation rather than an individual, the individual can deduct business expenses, such as office rental fees, salaries, travel expenses, and computers. The production accountant does not need to withhold taxes from the payments to a loan out company. The loan out company is responsible for its own taxes and payroll.

Independent contractors—An individual that provides services under terms specified in a contract. Unlike an employee, an independent contractor does not work regularly for an employer but on a freelance or “per job” basis. It has been a common practice for decades to hire crew members as independent contractors on a “1099” basis. This was done to save money on payroll taxes and workers compensation insurance, however, this is a misconception and can lead to legal issues including fines and penalties at both the federal and state levels.

Under federal regulations, a crew member of a film or other similar type production should be categorized as an employee and should be subject to federal and state withholdings. In addition, the employer should be subject to payroll tax payments to the government. According to the IRS, the general rule is that if you have the right to “control or direct” how a job will be performed, the individual is considered an employee. Please remember that even if you have a written independent contract agreement the law will still prevail. If you have not taken the employee and employer payroll taxes out, the production company will be subject to an audit, be required to pay the original taxes as well as be subject to additional fines and penalties. Please do not try to attempt this as it is not worth the risk to the production company, your associates, and your investors.

Film payroll can be processed only two ways:

Manual payroll—Your production accountant calculates the payroll each pay period and processes the pay checks. The calculation includes federal, state income tax withholdings, union pension, and welfare contributions. The advantage of processing your own payroll is it is considered inexpensive, with virtually no start-up costs. However the disadvantage is this can be a very time consuming activity and requires the services of an experienced accountant and staff. It is very easy to make mistakes when processing payroll manually, paperwork can be mishandled, guild requirements can be misunderstood,

errors can be made preparing taxes which results in penalties and can be costly. As one production accountant friend puts it they have had to clean up “train wrecks” left behind by incompetent accountants. Some of these instances resulted in lawsuits from the state and federal labor boards. In addition, numerous unions such as SAG, WGA, and DGA have been known to shut down a production company due to the results of their audit.



FIGURE 11.10—Payroll Checks

The majority of filmmakers elect not to process their payroll manually. The only instances have been when the budget of the film is small and is scheduled for less than 2–3 weeks. The reason is simple. A small film means less cast and crew to manage.

Processing Payroll Manually

To process your own payroll, you will need to do the following:

- Determine what day of the week you will pay your actors and crew members.
- Provide *W-4 form*. It is a form that must be completed by an employee so the production company can withhold the correct amount of federal income tax from his or her pay, i.e., dependents and deductions. The form can be downloaded by going to the IRS Web site (www.irs.gov). The form will show the withholding status for each employee for federal and state withholding taxes.

Form W-4 (2012)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Consider completing a new Form W-4 each year and when your personal or financial situation changes.

Exemption from withholding. If you are exempt, complete **only** lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2012 expires February 18, 2013. See Pub. 505, Tax Withholding and Estimated Tax.

Note. If another person can claim you as a dependent on his or her tax return, you cannot claim exemption from withholding if your income exceeds \$950 and includes more than \$300 of unearned income (for example, interest and dividends).

Basic instructions. If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 further adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-earners/multiple jobs situations.

Complete all worksheets that apply. However, you may claim fewer (or zero) allowances. For regular wages, withholding must be based on allowances you claimed and may not be a flat amount or percentage of wages.

Head of household. Generally, you can claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See Pub. 501, Exemptions, Standard Deduction, and Filing Information, for information.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 505 for information on converting your other credits into withholding allowances.

Nontax income. If you have a large amount of nontax income, such as interest or dividends, consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax. If you have pension or annuity

income, see Pub. 505 to find out if you should adjust your withholding on Form W-4 or W-4P.

Two earners or multiple jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others. See Pub. 505 for details.

Nonresident alien. If you are a nonresident alien, see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing this form.

Check your withholding. After your Form W-4 takes effect, use Pub. 505 to see how the amount you are having withheld compares to your projected total tax for 2012. See Pub. 505, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

Future developments. The IRS has created a page on IRS.gov for information about Form W-4, at www.irs.gov/w4. Information about any future developments affecting Form W-4 (such as legislation enacted after we release it) will be posted on that page.

Personal Allowances Worksheet (Keep for your records.)

- | | |
|--|--|
| <p>A Enter "1" for yourself if no one else can claim you as a dependent A _____</p> <p>B Enter "1" if: { • You are single and have only one job; or
• You are married, have only one job, and your spouse does not work; or
• Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less. } B _____</p> <p>C Enter "1" for your spouse. But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.) C _____</p> <p>D Enter number of dependents (other than your spouse or yourself) you will claim on your tax return D _____</p> <p>E Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above) E _____</p> <p>F Enter "1" if you have at least \$1,900 of child or dependent care expenses for which you plan to claim a credit (Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.) F _____</p> <p>G Child Tax Credit (including additional child tax credit). See Pub. 972, Child Tax Credit, for more information.
• If your total income will be less than \$61,000 (\$90,000 if married), enter "2" for each eligible child; then less "1" if you have three to seven eligible children or less "2" if you have eight or more eligible children.
• If your total income will be between \$61,000 and \$84,000 (\$90,000 and \$119,000 if married), enter "1" for each eligible child G _____</p> <p>H Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.) ► H _____</p> <p>For accuracy, complete all worksheets that apply. { • If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the Deductions and Adjustments Worksheet on page 2.
• If you are single and have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$40,000 (\$10,000 if married), see the Two-Earners/Multiple Jobs Worksheet on page 2 to avoid having too little tax withheld.
• If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.</p> | |
|--|--|

Separate here and give Form W-4 to your employer. Keep the top part for your records. -----

W-4
Form
Department of the Treasury
Internal Revenue Service

Employee's Withholding Allowance Certificate

OMB No. 1545-0074

2012

► Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.

1 Your first name and middle initial	Last name	2 Your social security number
Home address (number and street or rural route)		3 <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.
City or town, state, and ZIP code		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. ► <input type="checkbox"/>
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2) 5		
6 Additional amount, if any, you want withheld from each paycheck 6 \$		
7 I claim exemption from withholding for 2012, and I certify that I meet both of the following conditions for exemption. • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability , and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability . If you meet both conditions, write "Exempt" here 7		

Under penalties of perjury, I declare that I have examined this certificate and, to the best of my knowledge and belief, it is true, correct, and complete.

Employee's signature

(This form is not valid unless you sign it.) ►

Date ►

8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)	9 Office code (optional)	10 Employer identification number (EIN)
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For Privacy Act and Paperwork Reduction Act Notice, see page 2.

Cat. No. 102200

Form **W-4** (2012)

Deductions and Adjustments Worksheet		
Note. Use this worksheet only if you plan to itemize deductions or claim certain credits or adjustments to income.		
1	Enter an estimate of your 2012 itemized deductions. These include qualifying home mortgage interest, charitable contributions, state and local taxes, medical expenses in excess of 7.5% of your income, and miscellaneous deductions	1 \$ _____
2	Enter: { \$11,900 if married filing jointly or qualifying widow(er) \$8,700 if head of household \$5,950 if single or married filing separately }	2 \$ _____
3	Subtract line 2 from line 1. If zero or less, enter “-0-”	3 \$ _____
4	Enter an estimate of your 2012 adjustments to income and any additional standard deduction (see Pub. 505)	4 \$ _____
5	Add lines 3 and 4 and enter the total. (Include any amount for credits from the <i>Converting Credits to Withholding Allowances for 2012 Form W-4</i> worksheet in Pub. 505.)	5 \$ _____
6	Enter an estimate of your 2012 nonwage income (such as dividends or interest)	6 \$ _____
7	Subtract line 6 from line 5. If zero or less, enter “-0-”	7 \$ _____
8	Divide the amount on line 7 by \$3,800 and enter the result here. Drop any fraction	8 _____
9	Enter the number from the Personal Allowances Worksheet , line H, page 1	9 _____
10	Add lines 8 and 9 and enter the total here. If you plan to use the Two-Earners/Multiple Jobs Worksheet , also enter this total on line 1 below. Otherwise, stop here and enter this total on Form W-4, line 5, page 1	10 _____

Two-Earners/Multiple Jobs Worksheet (See Two earners or multiple jobs on page 1.)		
Note. Use this worksheet only if the instructions under line H on page 1 direct you to here.		
1	Enter the number from line H, page 1 (or from line 10 above if you used the Deductions and Adjustments Worksheet)	1 _____
2	Find the number in Table 1 below that applies to the LOWEST paying job and enter it here. However , if you are married filing jointly and wages from the highest paying job are \$65,000 or less, do not enter more than “3”	2 _____
3	If line 1 is more than or equal to line 2, subtract line 2 from line 1. Enter the result here (if zero, enter “-0-”) and on Form W-4, line 5, page 1. Do not use the rest of this worksheet	3 _____
Note. If line 1 is less than line 2, enter “-0-” on Form W-4, line 5, page 1. Complete lines 4 through 9 below to figure the additional withholding amount necessary to avoid a year-end tax bill.		
4	Enter the number from line 2 of this worksheet	4 _____
5	Enter the number from line 1 of this worksheet	5 _____
6	Subtract line 5 from line 4	6 _____
7	Find the amount in Table 2 below that applies to the HIGHEST paying job and enter it here	7 \$ _____
8	Multiply line 7 by line 6 and enter the result here. This is the additional annual withholding needed	8 \$ _____
9	Divide line 8 by the number of pay periods remaining in 2012. For example, divide by 26 if you are paid every two weeks and you complete this form in December 2011. Enter the result here and on Form W-4, line 6, page 1. This is the additional amount to be withheld from each paycheck	9 \$ _____

Table 1		Table 2	
Married Filing Jointly	All Others	Married Filing Jointly	All Others
If wages from LOWEST paying job are—	Enter on line 2 above	If wages from LOWEST paying job are—	Enter on line 2 above
\$0 - \$5,000	0	\$0 - \$8,000	0
5,001 - 12,000	1	8,001 - 15,000	1
12,001 - 22,000	2	15,001 - 25,000	2
22,001 - 25,000	3	25,001 - 30,000	3
25,001 - 30,000	4	30,001 - 40,000	4
30,001 - 40,000	5	40,001 - 50,000	5
40,001 - 48,000	6	50,001 - 65,000	6
48,001 - 55,000	7	65,001 - 80,000	7
55,001 - 65,000	8	80,001 - 95,000	8
65,001 - 72,000	9	95,001 - 120,000	9
72,001 - 85,000	10	120,001 and over	10
85,001 - 97,000	11		
97,001 - 110,000	12		
110,001 - 120,000	13		
120,001 - 135,000	14		
135,001 and over	15		

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Internal Revenue Code sections 3402(f)(2) and 6109 and their regulations require you to provide this information; your employer uses it to determine your federal income tax withholding. Failure to provide a properly completed form will result in your being treated as a single person who claims no withholding allowances; providing fraudulent information may subject you to penalties. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation; to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws; and to the Department of Health and Human Services for use in the National Directory of New Hires. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

FIGURE 11.11—W-4 Form

- Determine the federal, state, Medicare, and social security withholding taxes for payroll.
- Determine deductions such as payroll tax exception, fringes, and insurance.
- Complete state forms for unemployment taxes.
- Contact your local department of labor for laws and guild associations to obtain information about sick pay, overtime, vacation, breaks, and lunches.
- Establish a computerized filing system to store time cards and payroll records. In addition, scan important papers such as W-4 forms and driver's license information.
- Process paychecks and distribute them to the cast and crew.
- Send W-2 forms. The form the production company must send to an employee and the IRS on a designated date, January 31st. The W-2 form reports an employee's annual wages and the amount of taxes withheld from his or her paycheck.

22222	Void <input type="checkbox"/>	a Employee's social security number	For Official Use Only ► OMB No. 1545-0008				
b Employer identification number (EIN)			1 Wages, tips, other compensation	2 Federal income tax withheld			
c Employer's name, address, and ZIP code			3 Social security wages	4 Social security tax withheld			
			5 Medicare wages and tips	6 Medicare tax withheld			
			7 Social security tips	8 Allocated tips			
d Control number			9	10 Dependent care benefits			
e Employee's first name and initial			11 Nonqualified plans	12a See instructions for box 12			
			13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>	12b			
			14 Other	12c			
				12d			
f Employee's address and ZIP code							
15 State	Employer's state ID number		16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
W-2 Wage and Tax Statement Form Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable. Do Not Cut, Fold, or Staple Forms on This Page — Do Not Cut, Fold, or Staple Forms on This Page							
2011 Department of the Treasury—Internal Revenue Service For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D. Cat. No. 10134D							

FIGURE 11.12—W-2 Form

Payroll service—You hire a company and the team of accounting experts to calculate the payroll each pay period and process pay checks. In addition, the following is a list of the other services they provide:

- Comply with entertainment industry wage and hour laws.
- Calculate federal and state income tax withholdings.
- Calculate union pension and welfare contributions.
- Provide 48 hour turnaround with direct deposits for staff payroll.
- Prepare taxes payments and process filings.
- Complete state forms for unemployment taxes.
- Manage union, guild, and trust funds.
- Provide workers' compensation for your cast and crew. In addition, provide service for ongoing issues that can occur during production such as adding new crew members, insuring the performance of stunts, and processing claims for injured cast or crew.
- File W-2 and distribute them to actors and crew members.

Payroll services providers are specialists who know all the ins and outs of payroll related tax laws and guild requirements. As this is the case, the main advantage of using a payroll service provider is they will process your payroll accurately and it is less likely they will make a serious error than your accounting staff. There are really no disadvantages when using a payroll service except that you will have to input each production hires hours manually...not too tough.

Yes, there is a charge for the services of a payroll service however the costs are worth it. A reliable entertainment payroll service avoids mistakes that can anger your crew—and more ominously—the government if there are labor law violations. It is good to know that if an error is made, the payroll service team can spot and alert you of issues in advance such as applying the wrong rate or adding a “phantom” or non-existent hire. On the other hand, if an error does occur on their end you can hold the payroll service company and their employees accountable.

Do the math, you will find that you can free up the production accountants time from having to devote it to payroll related duties. In addition, do not forget to factor the additional accounting staff you will need to hire to calculate, process, and distribute the payroll checks and create tax documents.

Contact and interview several payroll service providers and discuss the plans they offer and the costs involved.

The following is a listing of entertainment payroll services:

Entertainment Partners—LA

2835 North Naomi Street
Burbank, CA 91504-2024
Phone: 818-955-6000
Website: *www.entertainmentpartners.com*
E-mail: via Web site
Computer program: Global Vista

Entertainment Partners—NY

875 6th Avenue, 15th Floor
New York, NY 10001-3507
Phone: 646-473-9000
Fax: 212-947-4787

In addition, they have offices in Connecticut, Florida, Georgia, Louisiana, New Mexico, North Carolina, Pennsylvania, and Canada.

Media Services—LA

500 S. Sepulveda Blvd., 4th Floor
Los Angeles, CA 90049
Toll Free: 800-333-7518
Phone: 310-440-9600
Fax: 310-472-9979
Web site: *www.media-services.com*
Computer program: MediaWin

Media Services—NY

30 West 22nd St., 5th Floor
New York, NY 10010
Toll Free: 866-414-9615
Phone: 212-366-9390
Fax: 212-366-9398

In addition, they have offices in Louisiana and Boston.

Ease Entertainment Services – LA

8383 Wilshire Boulevard, Suite 100
Beverly Hills, CA 90211
Phone: 310-469-7300

Fax: 310-775-9738
E-mail: info@easentertainment.com
Web site: *www.easeentertainment.com*
Computer program- Ease software

Ease Entertainment Services - NY
213 West 35th Street, Suite 807
New York, NY 10001
Phone: 212-651-8248

In addition, they have offices in Connecticut, Ohio, Georgia, Louisiana, Florida, New Mexico, and Canada

Cast & Crew Entertainment Services—LA
2300 Empire Avenue, 5th Floor
Burbank, CA 91504
Phone: 818-848-6022
Web site: *www.castandcrew.com*
Computer program: PSL3

Cast & Crew Entertainment Services—NY
450 Seventh Ave., Suite 1703
New York, NY 10123
Phone: 212-594-5686

In addition, they have offices in Michigan, Pennsylvania, Georgia, Louisiana, North Carolina, New Mexico, and Canada.

For small budgeted films, use the following:

ABS Entertainment Payroll & Production Accounting Services—LA
2600 West Olive Ave., 5th Floor
Burbank, CA 91505
Phone: 818-848-9200
Web site: *www.abspayroll.net*
E-mail: info@abspayroll.net

ABS Entertainment Payroll & Production Accounting Services—NY
1115 Broadway Suite 1200
New York, NY 10010
Phone: 212-675-4600

PES Payroll—LA

4100 W. Burbank Boulevard

Burbank, CA 91505

Phone: 818-729-0080

Web site: www.pespayroll.com

PES Payroll—NY

260 W. 36th Street, 8th Floor

New York, NY 10018

Phone: 212-695-6622

In addition, they have offices in Michigan, Georgia, Louisiana, and New Mexico.

SIDE NOTE**Highlights of Media Services Film and TV Payroll Processing**

- One-on-one personal payroll specialists
- Low handling fees
- “Pool” savings on FICA that are passed on to you
- Competitive SUI and Workers’ Compensation rates
- Free installs and 24/7 support for MediaWin Production Accounting Software
- On-location paycheck printing
- Health insurance and direct deposit for staff employees
- E-mail estimates on your film and TV payroll
- No handling fee for kit rentals and reimbursements
- Free film production software training and informative seminars

Accounting Software

Payroll services have their own accounting software systems that have established templates that enable you to create an entry, assist with tracking the entry, apply the costs to your accounts payables, print out a detailed purchase order log, and budget for future purchases. In addition, they will provide seminars, technical resources such as instruction and provide technical support when required. All you need to do is download the software and input the information about the cast and crew. Once that is completed the software program can process the most complex payrolls at lightning speed.

SUMMARY

In summary, production accounting is very important to all production departments because all business related activities must flow through it. A production accountant must abide by labor laws, implement guild requirements, establish solid accounting practices, follow tax laws, conduct audits, and ultimately, monitor production costs. Cost reports provide the information necessary to forecast the completion of a film or change the course of production. The changes may require new creative decisions, changes in management, or an increase to the production budget.

A good accountant can make or break a film. If the accounting practices are not in good order the production company may run into labor issues, tax violations, and the inability to complete the film.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you the following question for discussion in class or as the subject of a paper:

1. Please identify three (3) “checks and balances” that a production accountant should have in place when working on a film.
2. Imagine that you are a newly hired production accountant on a film that is about a hijacking that takes place on a plane. The production executives are trying to decide whether they should construct a set that resembles the inside of a plane or rent a plane. In your department meeting which option would you suggest and why?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

1. Contact two entertainment payroll services and discuss the services they provide. Create a chart and identify which payroll service you would use and why?

Example:

Entertainment Partners	Media Services
Payroll Services	Payroll Services
Accounting Services	Accounting Services
Software	Software
Education/Seminars	Education/Seminars

CHAPTER 12

PRODUCTION LEGAL

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- What Does an Entertainment Attorney Specialize In?
- What Types of Services Do Entertainment Attorneys Provide?
- Selecting an Entertainment Attorney
- Clearance Procedures
- Ways to Avoid Copyright Infringement Issues
- Why Is Errors & Omissions Necessary?
- What Do I Need to Obtain an Errors & Omissions Quotation?

■ Why Do I Need an Entertainment Attorney?

As a filmmaker, you enter a world of celebrity, glamour, wealth... life in the “spotlight.” Even if you achieve only a modicum of fame there still is a public perception that a “filmmaker” has deep pockets “full of money.” This perception is, of course, a disadvantage for filmmakers as this means there is a probability of being subject to *lawsuits*.

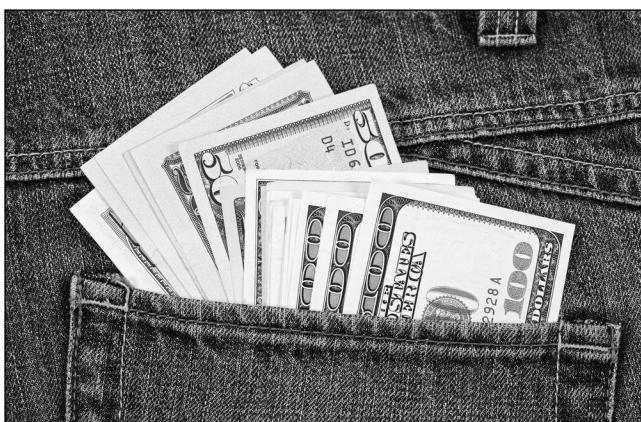


FIGURE 12.1—Pocket Full of MONEY

Of course, filmmakers are “human” and fallible which could result in lawsuits such as breach of contract, copyright infringement, emotional distress, personal injury, property damage, and issues regarding the content of the film. As an added bonus, many filmmakers encounter *frivolous lawsuits* that can waste time, money, and legal costs in order to vindicate themselves.

KEY TERM:

LAWSUITS Is a civil action brought to a court to recover damages for wrongful actions and injury and legal disputes. It usually involves dispute resolution of private law issues between individuals, business entities, or non-profit organizations.

FRIVOLOUS LAWSUITS Are suits that lack supporting factual grounds and legal argument. Frivolous lawsuits may be filed for purposes of harassment into paying more or accepting less money.

A filmmaker should be cognizant of these issues and be more diligent throughout the filming process. The best way to do this is to work with an entertainment attorney. Using an attorney’s expertise can assist with mitigating disputes before they happen or dealing with disputes regarding copyright, trademark, music clearance, and contracts. Although there is no way you can avoid all legal issues when producing a film, the best way to minimize

potential lawsuits is to use an attorney at every stage of the production process, i.e., development, production, post, and ultimately distribution. They can be used as an “extra pair of eyes” and assist in eliminating possible issues that may occur. Filmmakers are reluctant to use an entertainment attorney because they want to devote their time, money, and efforts to the filming process.

However, you must ask yourself, “What is at stake?” A small investment for legal advice now can ultimately enable you to satisfy contractual requirements, prevent risk of litigation, and save you from legal bills in the future. Ultimately, you want to minimize anything that may seriously affect your finances. It is far better to be safe than... sorry.



FIGURE 12.2—Legal Contracts

For example, a filmmaker produces a micro budgeted horror film that catches the attention of a cable television distributor. The cable channel thinks the film is perfect for their “Month of Horror” series and offers to air it. The producer cannot believe his good fortune and is ecstatic that he will be able to make some money on this film. However, he receives his *distribution agreement* and learns in horror that there are various *deliverables* that are due in 3 weeks.

KEY TERM:

DISTRIBUTION AGREEMENT Is a document that transfers or licenses the rights of a film to a media distributor (theatrical, television, cable, DVD, and Internet) for specific licensing period. This agreement enables the distributor to promote, advertise, and release the film.

DELIVERABLES Refers to a collection of materials that are required before a distributor of media can release a film.

The following are standard deliverable materials:

- *Legal Documentation*: Paperwork that is required by the distributor to prove that you have all the appropriate rights to make and distribute the film. This will include copyright reports, release forms, cast and crew contracts, music licenses, and location consents.
- *Print Materials*: The actual film in the form of negatives and video/digital transfer. These materials are used to create prints for release in theaters, television, cable, and DVDs.
- *Publicity Materials*: Materials used to advertise the film. The materials are photos, resumes/biographies of the cast and crew, synopsis of the film, and press releases.
- *Insurance*: Errors and omissions coverage protects the production company from financial losses due to an assortment of lawsuits that can come from the development or distribution of a film. (More discussion is found later in this chapter)

Out of all the deliverables listed, the producer's biggest hurdle was the legal documentation. As with many independent producers, he simply did not bother obtaining the necessary rights or releases before or during principal photography. Of course, this is not a great idea as you can encounter problems obtaining rights which delays the delivery of your film to the distributor and prevents them from releasing your film.

Unfortunately for the producer, he had not established contracts with film crew, the writer, and the composer. In addition, he did not secure permissions from the artist whose beautiful paintings and sculptures appear in the background of the film. To obtain all the legal documents the producer hired an attorney who had to get the crews deal memos signed, negotiate a deal with the writer and composer, and secure permission from the artists. Happily, the film aired but it ended up costing the producer a lot more money because during negotiations he had to reveal that the film had secured distribution which meant all parties requested more money before signing their agreements. Obtaining clearance in reverse...not a good thing.

LEGAL DELIVERY CHECKLIST

= Customize areas in yellow

Licensor - "Title"

Due Date: Todays date:

I. Music Documentation;

- a. Music Cue Sheet - Must conform to ASCAP and BMI specifications:
 - i. Name of Production company, address, phone #, email and contact person
 - ii. Type of program (i.e. feature film, TV show etc.)
 - iii. Total running time of program
 - iv. Cue #'s
 - v. Cue/Song title
 - vi. Usage code
 - vii. Composer performing rights society affiliation (ASCAP, BMI)
 - viii. Composer ownership % splits
 - ix. Publisher performing rights society affiliation (ASCAP, BMI)
 - x. Publisher ownership % splits
 - xi. Timing of cues

b. Music clearance documentation and licenses:

- i. Composer Agreement (1)
 - 1. Work-made-for-hire or grant of master use and synchronization rights to licensor.
NOTE: Please include grant of rights for all splits if the rights are split between different owners.
 - 2. Territory i.e. US/CAN
 - 3. Term i.e. 12 years from release
 - 4. Media i.e. all media

- ii. Composer Agreement (2) - If applicable
 - 1. Work-made-for-hire or grant of

1. Work made for hire or grant of master use and synchronization rights to licensor
 2. Territory i.e. US/CAN
 3. Term i.e. 12 years from release
 4. Media i.e. all media

iii. Master use and synch licenses for all licensed-in tracks in the film.

Please organize by music cue #. All music licensing agreements must have:

1. Licensor in distribution agreement should be licensee or accompanied with an assignment of rights to Licensor.
 2. Territory i.e. US/CAN
 3. Term i.e. 12 years from release
 4. Media i.e. all media
 5. **NOTE:** Please include grant of rights for all splits if the rights split between different owners.

Proof of payment of music licenses

- v. Label waiver (if applicable for concert and musical artist titles)
trailer cue sheet (if licensor provides trailer)

- d. *Trailer music clearance documentation and licenses (if licensor provides trailer)*
 - e. *Bonus feature cue sheets (if licensor provides bonus features)*
 - f. *Bonus feature music clearance documentation and licenses (if licensor provides bonus features)*

II. Chain of Title:

- a. Chain of Ownership from Source Material to Licensee:
 - i. Chain of Ownership Chart/List

Page 1 of 3

LEGAL DELIVERY CHECKLIST

= Customize areas in yellow

Licensor - "Title"

	Licensor Check (check off when you send)	Distributor Check	Comment
If ownership of the property has changed hands more than once please provide a simple chart or list showing who grants rights to whom ending with the licensor (i.e. Joe Writer to Jane Producer to Bob Financier to Sales Agent LLC)			
ii. Option purchase agreement to original underlying rights, if applicable (i.e. screenplay, life rights, book, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	
iii. Assignment agreements from each seller to buyer, if applicable (i.e. writer to production company, prod. co. to licensor etc.)	<input type="checkbox"/>	<input type="checkbox"/>	
iv. Short Form Assignment of rights from each seller to buyer (this is a 1 page summary of the assignment agreement to register with the copyright office)	<input type="checkbox"/>	<input type="checkbox"/>	
v. Copyright office registration of each Short Form Assignment of rights (This is proof that the short forms are registered with the copyright office to let the world know who owns the copyright)	<input type="checkbox"/>	<input type="checkbox"/>	
ix. NOTE: If agreements do not link source material to Licensor then <u>CHAIN OF TITLE WILL NOT BE APPROVED.</u>			
b. Short Form Assignment between licensor and distribution company	<input type="checkbox"/>	<input type="checkbox"/>	
c. Screenplay Copyright Registration or Application with proof of payment	<input type="checkbox"/>	<input type="checkbox"/>	
d. Finished Film Copyright Registration or Application with proof of payment:	<input type="checkbox"/>	<input type="checkbox"/>	
e. One Notarized Original Certificate of Origin (mostly for foreign films)	<input type="checkbox"/>	<input type="checkbox"/>	
f. Production Contracts (only the agreements below are needed):			
i. Writer(s) (certificate of authorship if they own the company)	<input type="checkbox"/>	<input type="checkbox"/>	
ii. Director (certificate of authorship if they own the company)	<input type="checkbox"/>	<input type="checkbox"/>	
iii. Producer(s) (certificate of authorship if they own the company)	<input type="checkbox"/>	<input type="checkbox"/>	
iv. Full cast list	<input type="checkbox"/>	<input type="checkbox"/>	
v. Key talent (top 5 actors or "named talent" on billing block)	<input type="checkbox"/>	<input type="checkbox"/>	
Please note if there are any "dubbing restrictions"			
1 _____	<input type="checkbox"/>	<input type="checkbox"/>	
2 _____	<input type="checkbox"/>	<input type="checkbox"/>	
3 _____	<input type="checkbox"/>	<input type="checkbox"/>	
4 _____	<input type="checkbox"/>	<input type="checkbox"/>	
5 _____	<input type="checkbox"/>	<input type="checkbox"/>	
g. <i>Bonus feature clearances (if licensor provides bonus features)</i>			
i. Complete list of all bonus features provided	<input type="checkbox"/>	<input type="checkbox"/>	
ii. Writer agreements	<input type="checkbox"/>	<input type="checkbox"/>	
iii. Director agreements	<input type="checkbox"/>	<input type="checkbox"/>	
iv. Producer/production company agreements	<input type="checkbox"/>	<input type="checkbox"/>	
v. Cast list	<input type="checkbox"/>	<input type="checkbox"/>	
vi. Talent releases	<input type="checkbox"/>	<input type="checkbox"/>	
h. <i>For documentaries</i>			
i. Spotting List for all video clips used	<input type="checkbox"/>	<input type="checkbox"/>	
ii. Licenses for all video clips used	<input type="checkbox"/>	<input type="checkbox"/>	
iii. Spotting List for all still photos used	<input type="checkbox"/>	<input type="checkbox"/>	
iv. Licenses for all still photos used	<input type="checkbox"/>	<input type="checkbox"/>	
i. <i>For Stand-Up Comedy and Musical Concerts:</i>			
i. Location Agreement	<input type="checkbox"/>	<input type="checkbox"/>	
III. Contractual Obligations and Restrictions:			
a. Contractual Obligation and Restrictions Statement	<input type="checkbox"/>	<input type="checkbox"/>	

Page 2 of 3

LEGAL DELIVERY CHECKLIST

= Customize areas in yellow

Licensor - "Title"

Licensor Check
(check off when you
send)

Distributor
Check

Comment

A statement setting forth the names of all persons to whom Licensor is contractually obligated to accord credit on-screen, or in any advertising, publicity or exploitation of the Program and to include in such statement excerpts from such agreements defining and describing the form and nature of such required credits.	<input type="checkbox"/>	<input type="checkbox"/>	
b. Name and Likeness Restrictions/Paid Ad Statements	<input type="checkbox"/>	<input type="checkbox"/>	
IV. Certificate of E&O (Errors and Omissions) Insurance:			
Must have "a" and/or "b" below.	<input type="checkbox"/>	<input type="checkbox"/>	
a. Must be an "occurrence" policy NOT "claims-made" policy. If you have a claims-made policy and your distribution agreement is longer than 3 years you should acquire excess insurance up to 7 years after release.	<input type="checkbox"/>	<input type="checkbox"/>	
b. A "Rights Period Endorsement" (or "Term of Contract Endorsement") for the term of the Distribution Agreement	<input type="checkbox"/>	<input type="checkbox"/>	
c. Insured should be within chain of title	<input type="checkbox"/>	<input type="checkbox"/>	
d. No "Non-Standard Exclusions" to avoid unusual exclusions	<input type="checkbox"/>	<input type="checkbox"/>	
e. Music coverage	<input type="checkbox"/>	<input type="checkbox"/>	
f. Title coverage	<input type="checkbox"/>	<input type="checkbox"/>	
g. <u>Language should read:</u> "(insert distributor name), its parent company, affiliates, subsidiaries, franchisees, sub-distributors, licensees and each of their officers, directors, employees, agents, successors and assigns (collectively, ' _____ Parties')."	<input type="checkbox"/>	<input type="checkbox"/>	
h. Coverage that:	<input type="checkbox"/>	<input type="checkbox"/>	
i. Does not exceed \$25,000 deductible per occurrence	<input type="checkbox"/>	<input type="checkbox"/>	
ii. Has liability limits not less than \$1,000,000 per occurrence	<input type="checkbox"/>	<input type="checkbox"/>	
iii. Has liability limits not less than \$3,000,000 in the aggregate	<input type="checkbox"/>	<input type="checkbox"/>	
V. Completed Tax Forms for payment (i.e. W9)	<input type="checkbox"/>	<input type="checkbox"/>	

FIGURE 12.3—Distributor Legal Delivery Checklist

■ What Does an Entertainment Attorney Specialize In?

An entertainment attorney serves as a risk manager and advisor for filmmakers in the feature, television, and cable film business. In the film world, an entertainment attorney specializes in a large spectrum of issues such as *copyright*, *trademarks*, *intellectual properties*, *contracts*, and *litigation* issues.

KEY TERM:

COPYRIGHT The legal rights to reproduce, publish, sell, or distribute literary, musical, and artistic works.

TRADEMARKS A name, symbol, or other device identifying a product, officially registered and legally restricted to the use of the owner or manufacturer.

INTELLECTUAL PROPERTIES Something produced by the mind, of which the ownership or right to use may be legally protected by a copyright, patent, and trademark.

CONTRACTS A written document that commemorates terms between two or more parties.

LITIGATION The act or process of filing or defending a lawsuit; a judicial contest; any dispute.

■ What Types of Services Do Entertainment Attorneys Provide?

The following is an outline of the types of services an entertainment attorney provides:

- Establish the legal structure for your production company and provide legal and tax advice.
 - Choose a legal structure for the production company
 - There are many types of business structures such as:
 - *Limited Liability Company (LLC)*—An LLC is owned by its members, who are not personally liable for the LLC's debts

and liabilities. Owners of an LLC are called members. Because most states do not restrict ownership, members may include individuals, corporations, other LLCs, and foreign entities.

- *S Corporation*—S corporations elect to pass corporate income, losses, deductions, and credit through to their shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates.
- *Limited Partnership (LP)*—An LP is similar to a general partnership in where two or more people agree to form a working group, but in an LP there must be at least one partner who is liable for the LP's debts and liabilities.
- Register the business name and secure an Employer Identification Number also known as the Federal Tax Identification Number (FEIN). This can be done online by going to the Internal Revenue Service (IRS) Web site (www.irs.gov) and complete a SS-4 form. A sample is provided in Chapter 11. Your attorney should check with your local government agency to see if you need state and local tax numbers.

■ Clearance Work

- *Copyright Investigation*—Check the legal history of underlying book rights, existing works, and films produced by others. This includes clearances from third parties such as music or film clips.
- *Script Clearance Report*—A review of the script to identify any legal issues that can arise from the use of character names, business names, product names, organization names, locations, artwork, music, and copyrighted or trademarked material.
 - *Trademarks and Intellectual Property*—Obtain the rights from other companies for the use of slogans, logos, and artwork for marketing materials.

■ Contracts

- Negotiate and draft contracts for artists, film crew, writers, directors, agents, and composers.
- Negotiate and draft contract terms with location, equipment, and prop vendors.
- Negotiate and draft contract terms with a distributor.
- *Personal rights*—Obtain the rights of publicity and privacy rights.
- *E&O Application*—Assist in the completion of the application.

- *Title Review*—Determine the availability of the title of the film.
- *Lawsuit and Dispute Resolution*—Handle lawsuits and litigation that may arise.

When working with an attorney, you will need to determine their specialty and pinpoint exactly what stage (development, production, post, and distribution) you will need their services. For instance, the production company may have an original story/script and only need an attorney for the development stage of the project. These services could include the incorporation of the production company, copyright registration, negotiating talent, and crew deal memos. If this is the case, a short term or “flat fee” agreement can be negotiated based on the attorneys’ hourly fees. On the other hand, if you envision complex issues resulting from an unauthorized docudrama, legal issues surrounding a remake, difficult talent contract negotiations, complicated location agreements, and music rights issues, you may want to consider a long term agreement.

In addition, you may require services of several attorneys who specialize in a specific practice. There are attorneys who are experts in dealing with copyright issues and others who are well versed in contractual issues.

In the end, you will need to determine the length of time you will need the attorney’s services and discuss their rates. It is important to set a fee structure and establish an agreement to avoid any misunderstandings. One idea is to establish an attorney retainer agreement. This means the attorney or law firm agrees to represent the filmmaker based on pre-negotiated rates, terms, and conditions. This agreement enables you to specify the amount of time you may require his or her services. For example:

Stage of Production	Number of Weeks	Services
Pre-production	3	Secure story rights, file copyrights, and negotiate talent agreements
Production	1	Review location contracts and assist ongoing clearance issues
Post-production	3	Clear music and title of the film and finish completing the E & O application

Once the terms and fees are negotiated, you should include these costs under a line item entitled “production legal” in your budget.

Selecting an Entertainment Attorney

You will find the most knowledgeable entertainment attorneys are located in New York and Los Angeles. This is because both cities are considered to be hubs of the film industry. A filmmaker should contact friends and people involved in film production for referrals. The next step is to schedule meetings to interview several attorneys. During your conversations you should obtain the following information:

- Does the attorney specialize in entertainment law? How many years?
Hint: Request the attorney provide you with a resume that outlines where they have graduated from and law firms, studios, or production companies where they worked. You can obtain most of this information on the law firm's Web sites.
- Can the attorney provide a listing of films or cases they have litigated?
Hint: Ask the attorney for at least three client-references you can call. In addition, the attorney should provide you with a listing of films to verify they have the experience in the type of production you are working on.
- Has the attorney ever been published? If so, ask them to provide books titles, publications, or blogs.
Hint: See if you can Google the attorney and see what they are doing in the film community. Do they teach courses, participate on panels, and act as a resource for filmmakers?
- Does the attorney have enough time and staff to fulfill your production needs? Ask him or her to assess the length of time it will take to work on your film.
Hint: An experienced attorney should be able to determine the scope of your needs and estimate the allotted time to complete their job.
- Can the attorney provide you with introductions to sales agents and distributors?
Hint: Established attorneys may have direct communication with distributors and are aware of the types of films that fit their catalog.

While narrowing down your search for the right individual, check and see if there have been any complaints filed with the city or state against the attorney. You can find this information out by contacting The Better Business Bureau or local State Bar Association. Depending on the state bar association,

some have this available on their Web site. Here's a listing of distinguished entertainment attorneys:

Donaldson & Callif, LLP
Michael Donaldson/Lisa Callif/Dean Cheley
400 S. Beverly Drive, Suite 400
Beverly Hills, CA 90212
Phone: 310-277-8394
Fax: 310-277-4870
E-mail: med@donaldsoncallif.com
lisa@donaldsoncallif.com
dean@donaldsoncallif.com

Ted Gerdes
Gerdes Law
8950 West Olympic Boulevard, Suite 382
Beverly Hills, CA 90211
Phone: 310-385-9501
Fax: 310-858-6703
E-mail: ted@gerdeslaw.com

Michael Morales
Michael Morales Law Office
10880 Wilshire Blvd, #2070
Los Angeles, CA 90024
Phone: 310-278-0066
E-mail: michael@entatty.com

Clearance Procedures

One of the primary responsibilities that an entertainment attorney must undertake is making sure all aspects of the film is cleared of all issues so the production company is not vulnerable to any litigation. So where do I we begin? As stated previously, one of the deliverables for distribution is Errors & Omissions (E & O) insurance. This coverage protects the production company from financial losses due to an assortment of lawsuits that can come from the development or distribution of a film. To obtain this coverage the insurance company requires a completed application.

Included in the application are clearance procedures that the insurance company wants the production company to follow. You will find that clear-

ance procedures are usually outlined at the end of all applications. Please find the sample of Hiscox Insurance clearance procedures below.

SIDE NOTE

Hiscox Insurance Company

Clearance procedures

Please read the following section carefully.

Accordingly, you and your attorneys should be sure before first exhibition of the insured production that:

1. All necessary rights have been obtained, covering domestic and foreign territories, including any extensions and renewals, for all literary material (other than original and unpublished material) contained in the insured production. If full copyright is not obtained, any limitations and/or reservations must be notified to us. If you are acquiring the insured production as a completed work (such as a pick-up of a motion picture) rights must also be secured covering the completed work. The origin of all works on which the insured production is based must be traced and cleared in order to ascertain that you have all the required rights in the work.
2. Written agreements must exist between you and the creators, authors, writers and owners of all material, including quotations from copyrighted literary works, film, television, and audio clips, clips of pre-existing music, featured copyrighted props such as maps, etc., used in the insured production, authorising you to use the material in the insured production (except in the case of approved ‘fair dealing’). All agreements should include a waiver of so-called ‘moral rights.’
3. If the subject matter of the insured production is potentially defamatory, or for any other reason legally contentious, it has been cleared by a suitably qualified libel attorney, as has any ‘fair use’ and all recommended changes have been made.
4. In the case of fictional characters, a full cast script clearance check has been carried out, also of business names, etc. and again, all recommended changes have been made.
5. All contracts and releases must give you the right to market the insured production for use in all media and markets (e.g. DVD, video cassette, digital format, Internet etc.). In particular, any gaps in respect of underlying rights must be notified.

SIDE NOTE

6. Synchronization and performance licenses must be obtained from the composer or copyright owner of all music used in the insured production. Licenses are unnecessary if the music (and its arrangement) is in the public domain. Licenses must also be obtained from the owners of recordings for the use of previously recorded music.
7. If the insured production contains any film clips, you have obtained authorization to use the film clip from the owner of the clip who has the right to grant such authorisation and have obtained authority from the owners of and contributors to the film clip e.g. underlying literary and musical rights, owners, actors, and musicians etc. All releases must give you the right to edit, add to and/or delete any or all of the material supplied by the releaser.
8. You must be sure that you or any of your partners or directors have not received any unsolicited submissions of any literary or dramatic material, program ideas, formats or storylines from any third parties which are similar in content or style to the insured production. If you have, you must have a process for dealing with them and quit claims must be obtained where appropriate.
9. Any problems relating to the insured production which are not known at the time of completing this application form must be notified to us as soon as they arise.
10. Any bonus material, interviews or outtakes included on a DVD or any other media version of the production must go through the same clearance procedures as the insured production.
11. Any uses of copyrighted material in its renewal term must be authorized by persons or entities entitled by statute to renew.
12. All contracts, releases, grants of rights of every kind (including all prior grants in your chain of title) must authorize you to use the acquired material in your production and to assign or sublicense it in any form.

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Securing Copyrights

Original Works

As you will note in the clearance procedures, it emphasizes registering your work. To accomplish this you must register your work with the U.S. Copyright Office. You can file online via Electronic Copyright (eCO) or by mail by going to their Web site (www.copyright.gov/forms/). Before using the service, you should first read the FAQs or tutorial (available in PowerPoint and Adobe). The process is as follows:

- Select which method you want to file your work—via online or mail.
 - Online filing—Utilize Electronic Copyright Web site. You will need to register first by providing the mailing address, contact information, and to create a login password.
- Complete an application online by following prompts for information.
- Remit payment of registration fee via credit, debit card, or electronic funds transfer.
 - Online filing—\$35 (at the time of this writing)
 - Mail filing—\$65 (at the time of this writing)
- Provide a copy of your work such as a screenplay, book, play, or short story.
 - Online—you can download a copy of your work to their secure Web site
 - Mail—you can download a 2D barcode to mail your document.

Average processing time for online filing: A certificate should be received in 4.5 months.

Average processing time for paper forms: A certificate should be received within 15 months of submission.

Acquisition of Underlying Works

On the other hand, you may want to develop a film from an existing book or screenplay. The first step is to establish an *option agreement* which gives the production company a length of time to decide if the project is worthwhile, obtain informal agreements with directors/lead actors, and secure funding, if possible.

If the producer decides to exercise the option, a *purchase agreement* needs to be established. In some instances, you should use an attorney when finalizing a purchase agreement because there may be times where the writer may want to reserve certain rights or request a large payment. Once the negotiation and the purchase agreement is signed the producer will acquire the rights. The purchase agreement should require the owner of the work to warrant that they own all the rights without any stipulations. The owner of the work should provide their copyright registration number so that you can check the copyright records with the U.S. Copyright Office and Library of Congress by going to the following Web site (www.catalog.loc.gov). A *copyright report* should be requested as a due diligence measure to determine the current ownership and registration status of the books, screen plays, motion picture, and television works.

KEY TERM:

COPYRIGHT SEARCH Covers:

- Copyright status and publication history of underlying works.
- Authorship data, including address, death date, and information regarding heirs.
- Identifies derivative works.
- History of assignments of rights as recorded in the U.S. Copyright Office.
- Licenses and rights information, such as television and video distribution rights, publication, or licensed rights.
- Future projects or plans based on the work.

There are a number of organizations and attorneys that assist with providing a comprehensive copyright report. Here are some recommended companies:

Dennis Angel
The Law Offices of Dennis Angel
1075 Central Park Avenue, Suite 306
Scarsdale, NY 10583
Phone: 914-472-0820
Fax: 914-472-0826
E-mail: requests@dangelesq.com
Web site: www.dangelesq.com

Suzy Vaughan
Clearance Unlimited
6848 Firmament Avenue
Van Nuys, CA 91406
Phone: 818-988-5599
Fax: 818-332-5091
E-mail: suzy@clearanceunlimited.net
Web site: *www.suzyvaughan.com*

Thomson CompuMark
Franklin Square North
1100 13th Street NW, Suite 300
Washington, DC 20005
Phone: 800-356-8833
Web site: *www.compumark.thomson.com*
Office locations and phone numbers are on their Web site (Boston, New York, Dallas, Los Angeles)

The Law Offices of
Dennis Angel
1075 Central Park Avenue, Suite 306
Scarsdale, New York 10583

Telephone: (914) 472-0820
(212) 239-4225
Fax: (914) 472-0826

Of Counsel:
Robert Angel
Washington, D.C.
Rebecca A. Moodie

What is a Copyright Report?

A Copyright Report provides available information relating to the ownership of rights in specific works such as motion pictures, books, plays or musical compositions. This report includes a search of possible copyright registrations and recorded documents from the U.S. Copyright Office in Washington, D.C.

FIGURE 12.4—What Is a Copyright Report?

The copyright report should reveal that there are no gaps or ambiguity with the *chain of title*. In the film world, the chain of title is a series of documents that identifies who owns the rights of a particular work or film. Please remember that a copyright report is only a summary of documents that are recorded with the copyright office. This may require that you request the original owner of the work to provide documentation corroborating copyright ownership to fill in any gaps. A copyright report should provide you with information regarding other options that have been offered and if other works have been made. What is unique about copyrights is other parties can own other parts of specific work. Someone can own the book or stage play rights and another can own the television rights.

A clear copyright report allows you to start developing the book into a script or hiring a writer to rewrite the script. At this stage, production companies establish a “*work for hire*” agreement with an individual to write or rewrite the script. Usually a person who creates a work is considered the author. However, copyright law states that if a work is “made for hire” the employer, not the employee, is considered the author. According to copyright law as long as there is a mutually signed agreement the work is considered a made for hire. That being said, make sure you have written agreements between you and the creators, authors, writers, and owners of all material.

SIDE NOTE

SAMPLE WORK FOR HIRE LANGUAGE:

COPYRIGHT OWNERSHIP. Artist acknowledges that the Work is being created by Artist for use in a Film and that each form of Work is being created by Artist as a “work made for hire” under the United States Copyright Act and, at all stages of development, the Work shall be and remain the sole and exclusive property of the Filmmaker.

Definition of Work for Hire

Section 101 of the Copyright Act defines a “work made for hire” as:

1. A work prepared by an employee within the scope of his or her employment
2. A work specially ordered or commissioned for use as a contribution to a collective work:
 - as a part of a motion picture

- as a part of other audiovisual work
- as a translation
- as a supplementary work
- as a compilation
- as an instructional text
- as a test
- as answer material for a test
- as an atlas

Source: Copyright – United States Copyright Office

Once the script is completed, you should have the work copyrighted by filing a form PA with the Library of Congress/U.S. Copyright Office. The copyright protection for a work made for hire is “95 years from the date of publication or 120 years from the date of creation” whichever expires first.

A producer should copyright their script before principal photography. One of the reasons for this is SAG will require proof of the script’s copyright registration before you can hire an actor for your film. The other reason is that registering the script will allow you to formally state that you own this script and in most cases will protect you from copyright infringement lawsuits.

Ways to Avoid Copyright Infringement Issues

The following are the best ways to avoid a copyright infringement issue:

- Research all underlying works and make sure you own all rights.
- Make sure you have a “work for hire” agreement with the writer of your film.
- When registering your work, obtain both domestic and foreign copyrights.
- Extend or renew copyrights, if necessary.
- Register and copyright all completed works.
- Review the script and discuss with your attorney instances where defamation, invasion of privacy, and/or failure to obtain clearances from persons, firms, or corporations. If there are concerns with a scene, it can be rewritten or removed.

- Discuss any possible issues regarding an individual alleging “*piracy*” with your attorney. Your attorney may be able to negotiate with this individual before matters get out of hand.

KEY TERM:

PIRACY Is the unauthorized use of another another’s production, invention, or conception.

Occasionally, you may encounter an instance where you are unable to find a copyright owner and may believe that a work is in the *public domain*. Public domain works do not have a copyright which means these materials can be used freely by anyone for any purpose. Of course some filmmakers are tempted to use this methodology as this is surely easier than finding and negotiating with an owner of a particular work. However, be warned when it comes to public domain, the laws are complex.

After reading this passage, how many think the song “Happy Birthday” is in the public domain? The answer is “No.” The song is actually owned by AOL Time Warner. It is reported that Warner collects about \$5,000 per day (\$2 million per year) in royalties for the song. This includes use in film, television, radio, anywhere open to the public, or even among a group where a substantial number of those in attendance are not family or friends of whoever is performing the song.

To prove that a public domain assumption is correct, an entertainment attorney should be consulted. He or she obtains a copyright report and provides you with an opinion letter that gives you solid reasons that the works fit in the public domain reasoning. Please note that the Errors & Omissions insurance companies will need to see the attorney’s opinion letter before approving coverage. Insurance companies prefer concrete copyrighted works than works in the public domain.

Script Research Report

Even if a script is entirely fictional, there may be instances where litigious issues may arise due to the portrayal of a character, slanderous comments made about a business, locations featured, or products used in the story. Of course, it is impossible to know what to expect until your film is released, however, wouldn’t it be nice to find a way to risk manage the situation? The

solution is to have a *script clearance report* completed prior to the commencement of filming. This involves having a reputable script clearance company read and break down your script. They will identify items that represent possible conflicts such as: character names, business names, product names, organization names, locations, artwork, music, and copyrighted or trademarked material.

When a conflict exists, the script clearance company will provide alternative suggestions and solutions. They will point out inaccurate facts, suggest alternative conflict-free names, and provide alternative location names. If there is a concern with copyrighted or trademarked works, they will provide you with the copyright owners so you can request permission. As this review only points out issues, they are not a legal service and you should have the report reviewed by your entertainment attorney.

Please note that a review will not dramatically change your script or the vision of your film. All the script clearance company is trying to do is to identify potential risks before you begin filming and reduce the possibility of litigation. Here are a couple of examples why a script research report is important:

- Filmmaker had a fictional romantic lead named John Smith (not real name) that lived in Alaska and had a flying business. Later the production company learned that they had inadvertently used the name of an actual man who lived in Alaska and had a flying business.
- There was an existing business that had issues with disparaging remarks that the lead actor made about its products.

The following is a listing of script clearance companies:

Marshall/Plumb Research
4150 Riverside Drive, Suite 209
Burbank, CA 91505-4149
Phone: 818-848-7071
Fax: 818-848-7702
E-mail: info@marshall-plumb.com

IndieClear
1150 Highland Avenue
Glendale, CA 91202
Phone: 818-956-6049
Fax: 818-956-6059
E-mail: scriptclearance@indieclear.com

Hollywood Script Research Company
1012 Justin Avenue
Glendale, CA 91201
Phone: 818-553-3633
Fax: 818-553-3624
E-mail: Info@HollywoodScriptResearch.com

Employment Agreements

As stated in Chapter 3—*Deal Memos*, there must be written agreements with all individuals that work on the film—authors, writers, directors, actors, editors, and composers. Some of the agreements may already be pre-determined because the agreements are all designed by the various guild associations such as WGA, DGA, and SAG. That being said, if you are not a signatory to a guild association, please make sure that every agreement has a “work for hire” statement. As stated previously, this means even though there are various individuals assisting in creating the film, they are not considered the owners and have no rights to the film. In addition, all agreements must give you the right to market the insured production in all media and all markets (e.g., DVD, video cassette, digital format, Internet, etc.).

Location Releases

Now, that you have secured all rights and releases from writers, the director, and crew, a production company will need to secure written releases from the owners of all locations where any of the film is shot and may need permission from the filming of distinctive landmarks, shopping centers, hotels, office buildings, apartments, condos, homes, and mansions.

As stated in Chapter 7, your location agreements should include written release that allows the producer and production company the rights to film and depict the owner or tenants property. If you are using a property owner’s agreement, a separate location release should be presented, signed, and dated.

Please note that obtaining a release from a property owner does not satisfy *all* the exposures. The owner of the property does not have rights to all items in a building. A production company must obtain releases from the owners of everything that is in the scope of the camera. When shooting interiors, you will need to secure permission and a signed release from the tenants, vendors, stores, and homeowners.

Artwork, Sculptures, Photographs, and Posters Releases

When dressing the set, make sure that you do some research and locate the copyright owner of all the works of art. A sculpture in the middle of a hotel lobby may not be owned by the hotel. A homeowner will not hold the rights to allow the filming of a painting that is in their living room. If you are renting artwork, a prop house does not secure clearance for you, however, they may be able to provide you with the artists name and contact information.

Your set designer should have a clear idea of the artwork that they would like to use. They should have a schedule outlining the name of the work, the artist that created the work, and their contact information. This can be rather difficult as not all artists file paperwork with the U.S. Copyright Office and Library of Congress. Please note that any artwork that is copyrighted only protects the physical aspects of the work, not the ideas or concepts. If you are able to find the artist or find their heirs (if the artist has passed on), a release should be executed and signed. As this may be difficult to do, your prop department can create their own artwork and register it with the U.S. Copyright Office. Please make sure what is created is an original and not a duplication.

Believe it or not, artists do watch films and have been known to be litigious. In one instance, a filmmaker filmed a short segment in a dentist's office and failed to clear a painting that was hanging on the wall. The artist sued the production company based on the fact that he had not given them permission to use the art. The artist actually won a small settlement.

Identifiable Individuals

All individuals that are featured and recognizable in a film should sign a written release allowing their name and likeness to be used. Children under the age of 18 who are featured in a film must have his parents or legal guardian sign their consent. In situations when a recognizable individual is deceased, you must obtain releases from his or her heirs or representatives. This is because the family members may be litigious because they have a problem with how their loved one was portrayed in the film.

The release should grant rights to the production company and allow them the right to edit, delete, or change the individual's likeness. (See sample Name Likeness Agreement.)

In addition, if the production company plans on filming random crowd scenes they will need to post "*Filming in Progress*" signs around the filming

site. Take a digital picture of the signs to make sure that you have proof that they were posted in the area of filming. (See Chapter 7 for sample wording.) Basically, this sign informs the general public in the vicinity that they may be filmed and that they collectively agree that the production company can use their likeness. In addition, an announcement can be made via megaphone to warn the general public before filming begins. It is not necessary for people in a crowd scene to sign a release, especially if their image is unidentifiable.

A filmmaker had a situation where they filmed a crowd scene where a man was with a woman who was not his wife. Two weeks later, he called and informed the production company that the release of the film caused the collapse of his marriage and that he was going to sue the production company because they had not asked him for his personal release. All the production company had to do was produce a picture of the posting and no lawsuit was filed.

SIDE NOTE

NAME, LIKENESS RELEASE

Can't Go Wrong Productions has the rights to use, incorporate, broadcast, telecast, exhibit, distribute, re-use, publish, re-publish, alter and/or edit (in Producer's sole discretion) the Material and/or my Likeness in whole or in part, alone or in conjunction with other material in connection with the Program or any episode thereof and/or in any other television series, motion picture, new media programming for the internet and/or any other project, in any and all media, in any and all forms and versions, now known and hereafter devised, throughout the universe and in perpetuity, including without limitation all forms of television, DVD and any successor devices, books, and ancillary exploitation, promotion, merchandising, publicity and advertising of and for the Program and/or Exhibitor. Producer has no obligation to use the Material and/or my Likeness. I shall have no rights of review or approval regarding the Program or the exercise of the granted rights and Producer shall have the right to edit or delete the Material and/or my Likeness, juxtapose any part of the Material with any other materials, change the sequence of events or of any questions posed and/or answers I give, and make any other changes in the Materials as Producer chooses in Producer's sole discretion; and

(b) To copyright the Material in Producer's own name or in any other name (the Material shall be considered a "work made for hire"). I understand that all rights in and to the Material, including the negatives, outtakes, sounds and the images contained therein, shall be Producer's sole and absolute property. I also understand and agree that my appearance in the Program is not, and will not be deemed,

SIDE NOTE

employment or an engagement to perform any services and there will be no payment due in connection with the use of the Material. Notwithstanding the foregoing, in the event and to the extent the Material or any portion thereof is not deemed a "work made for hire," such will not affect the rights therein granted in Paragraph 1(a) above.

2. I represent and warrant that I have the right to grant Producer all of the rights set forth above without obtaining the permission of, or making any payments to, any third party or entity. I confirm that, to the best of my knowledge any statements made by me in the Material will be true and will not violate or infringe upon any third party's rights. I hereby release Producer, its licensees and assigns (including without limitation Exhibitor) and each of their respective officers, directors, shareholders and employees thereof ("Released Parties") from, and covenant not to sue Released Parties for, any claim or cause of action, whether known or unknown, for libel, slander, invasion of right of privacy, publicity or personality, or any other claim or cause of action (whether based on the common law or federal or state statute), based upon or relating to the use of the Material or the exercise of any of the rights referred to herein or arising in connection with the Program. I agree to indemnify and hold harmless Released Parties, from and against any liabilities, losses, claims, demands, costs (including without limitation attorneys' fees) and expenses arising in connection with any breach or alleged breach by me of any of the above representations, warranties, obligations or agreements hereunder.

3. I acknowledge that, in the event of any breach by Producer or any third party, the damage, if any, caused me thereby will not be irreparable or otherwise sufficient to entitle me to seek injunctive or other equitable relief. My rights and remedies in such event will be strictly limited to the right, if any, to recover compensatory (but not punitive or consequential) damages in an action at law, and I will have neither the right to rescind or terminate this agreement or any of Producer's rights hereunder, nor the right to enjoin the production, exhibition, or other exploitation of the Program or any subsidiary or allied rights with respect thereto. I further agree that this Name and Likeness Release shall be construed by and governed in accordance with the laws of the State of California and that, with respect to any dispute arising from this Name and Likeness Release, sole and exclusive jurisdiction and venue shall lie with the state and federal courts located in the County of Los Angeles, State of California. Producer may freely assign its rights and obligations hereunder as it deems appropriate. This Name and Likeness Release constitutes our entire understanding and agreement with respect to the subject matter hereof and cannot be amended except by a written instrument signed by the parties hereto. This Name and Likeness Release will inure to the benefit of and will be binding upon our respective affiliates, successors, licensees, assigns, heirs, and representatives.

SIDE NOTE

4. I warrant that I am at least eighteen (18) years of age (or, if not, that my parent or legal guardian has agreed to the foregoing and signed below) and that I have the full, complete and unrestricted right and authority to enter into this Name and Likeness Release. I acknowledge that Producer will rely on this permission potentially, at substantial cost to Producer and hereby agree not to assert any claim of any nature whatsoever against anyone relating to the exercise of the permissions granted hereunder.

NAME: Bill Nee

DATE: 3/13/2013

ADDRESS: San Francisco

TEL. #: 415-XXX-XXXX

CONSENT OF PARENT OR GUARDIAN (IF APPLICABLE)

As the parent or guardian of the minor named above, I hereby expressly approve and consent to this Name and Likeness Release and waive all obligations and rights which I may have in connection therewith. For good and valuable consideration, I hereby guarantee that the minor shall not at any time disaffirm the Name and Likeness Release by reason of the minor's minority or otherwise and hereby agree to indemnify Released Parties from any and all loss arising from or relating to any claims made by or on behalf of the Minor relating to the subject matter of this Name and Likeness Release or from any and all loss arising from or relating to the breach of any guarantee(s) made by the undersigned in this parental consent. The consideration provided for and/or referenced in the Name and Likeness Release shall be deemed to be the consideration in full for all rights granted to Producer and for all obligations undertaken pursuant to the Name and Likeness Release and pursuant to this parental consent, not only by the minor but also by the undersigned.

PARENT/GUARDIAN NAME: _____

DATE: _____

ADDRESS: _____

TEL. #: _____

Use of Trademarks and Products

While filming on location you will undoubtedly capture store signs, billboards, and company logos. These elements may hold a *trademark* which means they are registered with the U.S. Patent and Trademark Office.

KEY TERM:

TRADEMARK Identifies who made the goods and provided the services. The main reason for trademark law is to “prevent consumer confusion.”

A production company may include a product or service with a trademark as long as it is “not being utilized abnormally” and “not being disparaged in any manner.” If your script calls for disparaging remarks to a specific product or service, discuss this with your script clearance company or attorney as they can assist with locating a fictitious name in place of a real name. As a last resort, you may need to rewrite the scene. This is because these products and services are owned by larger corporations who have the money and a staff of attorneys that can file a lawsuit very easily for “tarnishing” their reputation.

A filmmaker had a copyright and trademark infringement lawsuit filed against him by the owners of a pinball machine that was featured in the background of a film. In the end, the court ruled in favor of the production company mostly because the machine was never featured or in focus and the scene was only 2–3 minutes long.

Even though the production company prevailed in this case, it is important to emphasize the importance of having an attorney conduct a clearance review of a film during post-production. This review would help identify copyright infringement, trademark infringement, and music clearance issues. If potential issues are identified, the film can be edited or revised to avoid litigious issues. This review is recommended so that the production company can avoid a time consuming lawsuit and devote more time to the marketing and distribution of their film.

Music Clearance

Music is usually considered the last clearance issue to contend with and is usually tackled when filming has concluded. That being said, the process of music clearance can start as early as pre-production especially if your film is

based on other works of composers or singers. There are two ways music is used in film:

- **Soundtrack/Score**—This is used as a background to a film to create a particular mood and complement the story, i.e., dramatic or terrifying scenes.
- **Source Music**—Music being played by a particular source. For example, music playing as part of a television show and on a radio.

Overall music is a very important element as it accentuates a scene and enhances a film. Clearing music requires a lot of attention to detail and any lapses can result in an *injunction* halting the release of your film and requiring you remove the music or pay for the music.

It is best to have an experienced *music supervisor* review the script and have discussions with the director/producer to get an idea of what they are envisioning. He or she will begin the process of selecting the music for the film. When dealing with music, you have two alternatives:

- Pre-existing music
- Original music

Pre-existing Music

If the production company decides on pre-existing music, the music supervisor will need to use their detective, negotiation, and financial skills. First, the music supervisor will need to find the copyright holder which is usually a music publisher...Yes, that is what I said. This is because a composer or songwriter often assigns his or her copyright to a *music publisher* (just like books) through a publishing agreement. In return, the music publisher licenses the music, monitors where the music is used, and collects and distributes a percentage or *royalties* to the composers.

KEY TERM:

MUSIC PUBLISHER Is a copyright administrator and royalty collector for songwriters and composers.

ROYALTIES Is compensation paid for the use of a copyrighted work.

That being said...there is no central location to obtain this information. To assist you, below are composer and publishers associations, music publisher associations, directories, and music search companies:

- ***The American Society of Composers, Authors and Publishers (ASCAP)***—This association is a performing rights organization which licenses and collects royalties for performance of its members. Web site: www.ascap.com. You can search their ACE/Repertory to find titles, writers, and publishers. Web site: www.ascap.com/ace/.
- ***Broadcast Music, Inc (BMI)***—This association collects license fees on behalf of its songwriters, composers, and music publishers and distributes them as royalties to their members. Web site: www.bmi.com. BMI provides you with an ability to “Search the Repertoire.” As outlined on their Web site, their catalog consists of “more than 6.5 million musical works and more than 475,000 songwriters, composers and music publishers.” You can search for the artist, publisher, or songwriter/composer. If the artist is found, it will reference a BMI work number: www.bmi.com/search/.

For assistance with publisher contact information call: 800-800-9313.

- ***SESAC***—This association is a performing rights organization designed to represent songwriters and publishers. Web site: www.sesac.com. Contact information can be found at: www.sesac.com/contact/contactus.spx.
- ***Music Publisher Association of United States***—This association provides a directory of Music Publishers. You do not need to be a member to review the directory. Web site: www.mpa.org/directories/. In addition, the association can provide assistance through their copyright search center. It even provides forms for obtaining permission from the publisher. You can e-mail inquiries to admin@mpa.com.

Mailing address:

Music Publishers Association of United States
243 5th Avenue, Suite 236
New York, NY 10016

- ***Music Search Services***

Megatrax Production Music

This company assists with music searches, custom scoring, soundtrack consultation, and digital music editing.

Contact information:

7629 Fulton Avenue
North Hollywood, CA 91605
Phone: 818-255-7100
888-MEGA-555
Fax: 818-255-7199
E-mail: info@megatrax.com

Once the detective work has been completed and you find the music publisher, the next step is to negotiate a deal. The publisher will request details of what the film is about, the music you wish to use, specify the scene(s), and the length needed. The publisher will then provide a quote to you that is valid for 30–90 days. Of course, composers and their heirs may want a sizeable amount of money so this means you will need to negotiate the deal. Using your attorney to assist in negotiations may not help this situation because the publisher/composer may get the perception that you must have enough money to afford his or her services. Do your best to relay that you are a struggling filmmaker and sincerely feel the music would enhance your film. In addition, many of filmmakers are able to negotiate a reduced rate for limited or festival release. If this is accomplished, do not forget to go back to the publisher and get the rights you need **before** you distribute your film. If you do not, a lawsuit can be filed and you pay dearly.

If recordings are purchased, you will need permission from the record company that controls this recording. If it is an unsigned artist, they may still control the rights to the recording.

For all music in a film, the production company must establish a *music cue sheet* which identifies the following elements.

- Title of film
- Song/cue title
- Composer
- Publisher
- Music length/timing
- Performing rights society (i.e., BMI/ ASCAP)
- Usage (opening, background, vocals, instrumental, and closing)

This music cue sheet functions like an invoice to ensure that proper performance royalties are paid to the composers and publishers.

Original Music

Using existing music can be difficult so many independent producers create their own original music as there are plenty of aspiring composer/musicians who are looking for film projects to achieve “fame and fortune.” When it comes to original music, a music supervisor will be responsible for hiring a composer, hiring performers, administrating the recording process, overseeing finances, and finalizing post-theatrical uses of the soundtrack. The first step is to find a composer who will decide what type of music would best fit your film. If your film is action packed, you may need instrumental new age music or if your film is a romantic story, you may need jazz music. To find the right composer, you may want to consult with a music talent agency. These agencies represent film and television composers, songwriters, and even music supervisors. You will need to put a list together and start interviewing composers. Provide the composer with a preview of a scene of your film and have them advise you of their ideas. In addition, you should contact their references and listen to a sampling of music they have composed.

When a composer is selected, the production company will need to establish a composer agreement. The composer agreement should include the following:

- *Delivery date*—Date the music will be presented to the production company.
- *Composer’s services*—This entails creating the work, writing the orchestration, conducting, and recording the music.
- *Compensation*—Creative fee (determined under the jurisdiction of the AFM—American Federation of Musicians). These fees can include the costs for musicians, recording studio, engineers, and mixers.
- *“Work for hire” language*—This warrants that the music is owned and controlled by the production company.
- *Indemnity language*—The composer indemnifies the production company for any breaches of warranties and that the music is an original work and not composed by another.

These agreements should include recording/synchronization licenses and performing rights. These rights allow the music to be “synced” into the film

and allow the performance of the music in film, television, cable, DVD, or Internet. Please note that low-budget films usually allow the composer to keep part of the publishing of the music. This allows the composer to receive a share of royalties if the music is sold to other third parties, i.e., movie sound track.

Errors & Omissions

As this coverage ties in with clearance procedures, information relating to Errors & Omissions insurance coverage is included in this section.

The purpose of Errors & Omissions (E&O) is to protect the production company from financial losses due to an assortment of lawsuits that can come from the development or distribution of a film in the following mediums: theaters, television, cable, direct to video, and Internet.

Basically, even if a filmmaker does everything right (obtain rights and clearances), you never know if someone in the movie-going audience will have an issue with the film, hire an attorney, and file a lawsuit. The policy provides coverage for the following:

- Libel and slander
- Invasion of privacy
- Unauthorized use of an individual's name or likeness (rights of publicity)
- Copyright infringement
- Plagiarism
- Piracy and misappropriation of ideas

In addition, this coverage will provide for defamation, product disparagement, infliction of emotional distress, right of publicity, outrage and outrageous conduct, false light, wrongful entry, false arrest, or malicious prosecution lawsuits. Even with this exhaustive list, the insurance company does not cover all claims. For instance, the insurance company does not provide coverage for *breach of contract*. This exclusion is in place because insurance companies do not want to be involved with disputes regarding the performance of someone's duties. This is counterproductive as the insurance coverage is meant to cover professionals doing their job.

KEY TERM:

BREACH OF CONTRACT One party of a contract refuses or does something against the intent of the contract.

There are a number of insurance companies that write Errors & Omissions coverage. They are as follows:

- Axis insurance/Axis Pro
- Chubb Group of Insurance Companies
- Hiscox Insurance Company, Inc.
- One Beacon Insurance Company

All the above insurance companies have “A” ratings which means they are financial sound and can support losses that can occur well past the initial release of the film. Besides Errors & Omissions for production, policies are available such as:

- *Acquisition and development coverage*—Protects a production company while engaged in pre-production activities.
- *Distribution*—Protects the studios, broadcasters, networks, and cable companies who are distributing a list of titles.
- *Library*—Protects the owner of a group of films.

Why Is Errors & Omissions Necessary?

Firstly, E&O protects you from third parties who file lawsuits against the production company during the making or after the release of the film. If the claim falls within the scope of the policy and is deemed coverable by the insurance company, they will pay the judgment or settlements as well as pay your attorney fees and court costs. The main advantage of this policy is the insurance company will pay the legal expenses subject to a deductible which can range from \$10,000 to \$25,000.

Second, this coverage is a key requirement for all producers when securing distribution deals with studios, broadcasters, and/or direct-to-video companies. While these distributors of media want your film, they do not want to

be held liable for any lawsuits that may result from the release of your film or disputes relating to music and title.

The distributors simply do not have any insight into your clearance procedures and production activities. A distributor's agreement will include the word *indemnify* which means you will be required to cover them with your Errors & Omissions policy should a claim arise. To show proof of this, the distributor will require the production company include them as an additional insured on a certificate of insurance. In the end, your insurance policy will defend you and the distributor as well.

KEY TERM:

INDEMNIFY To protect another party from injury, loss, or damage.

When Should This Coverage Be Obtained?

Unlike the other previously outlined insurance policies, this coverage can be purchased in pre-production, before the start of principal photography or after distribution is achieved. The traditional approach is for the filmmaker to place this coverage in pre-production or before the start of principal photography. This is most applicable for big budgeted productions as lawsuits can arise when acquiring rights and developing a film. News of an upcoming film may be publicized in trade magazines like *Variety* and *The Hollywood Report*.

There can be instances where an A-list director or actor announces the particulars of a film while being interviewed by a talk show host. These instances, while great for publicity, can result in third parties asserting their rights and filing lawsuits. In addition, as stated before, financiers, banks, and bond companies can mandate that Errors & Omissions coverage be in place before they can "green light" the financing of a film. That said, it is not always an error that is made by the producer that causes lawsuits. The lawsuits are usually frivolous and unfounded claims. This is because it is assumed that the big profiled films have "deep pockets full of MONEY" that can afford to pay large settlements.

When it comes to small budgeted films that are independently financed and do not have distribution in place, the production company holds off placing

this coverage. Many filmmakers feel that their film is very small and should not result in any litigious actions. While this is true, be aware that without insurance any legal costs resulting from a lawsuit will have to come out of your pocket.

If you decide to obtain coverage, request an application from your insurance broker (see upcoming pages) complete the form, return it to the broker and they will provide you with a premium quotation. Of course, there will undoubtedly be issues that still need to be cleared such as music and the title however you will be protected.

Another option is to obtain a premium estimate from your insurance broker and simply earmark the cost in your budget. Allocating the estimated cost in the budget enables you to set the money aside and purchase the coverage when you need it. If you decide to delay purchasing Errors & Omissions until distribution, it is important to note that you follow the clearance procedures (provided earlier) throughout the filming process so you are not scrambling at the last minute or delaying or breaching a distributor's contract.

I recommend that all filmmakers review and follow these procedures to satisfy the insurance company's requirements and answer the questions on the application. Following these clearance procedures will make the E & O application process go smoothly.

What Do I Need to Obtain an Errors & Omissions Quotation?

The following are elements that the insurance underwriter requires to obtain a quotation:

- Application
- Title report
- Synopsis or DVD of the production
- Resume or bio of the producer or director



Hiscox Insurance Company Inc.

Video, film and television producers application

Notice: This insurance coverage provides that the policy limit available to pay damages shall be reduced by amounts incurred for defense costs. Further note that amounts for defense costs shall be applied against the retention amount.

Your business	1. Name of applicant: <input type="text"/>
	Address: <input type="text"/>
	Zip code: <input type="text"/> Telephone: <input type="text"/>
	Website: <input type="text"/>
	When was your business established? <input type="text"/>
Your coverage request	2. Desired term of policy: one year <input type="checkbox"/> two years <input type="checkbox"/> three years <input checked="" type="checkbox"/>
	Desired policy limit: <input type="text"/> Desired retention <input type="text"/>
Your production details	3. Title of the production: <input type="text"/>
	4. Please give your estimated gross production budget and revenues for the production: Production budget <input type="text"/> Revenues <input type="text"/> \$
	5. Names of the script writers: <input type="text"/> Name of the producer/executive producer: <input type="text"/>
	6. Is this production: a. Entirely original to you? Yes <input type="checkbox"/> No <input type="checkbox"/> b. Based on another work (published or unpublished)? Yes <input type="checkbox"/> No <input type="checkbox"/> If the answer to b. is Yes, please advise the name of the author(s) and the title(s) and date(s) of the publication of the work upon which the production is based: <input type="text"/>
	7. The production is: Film for theatrical release <input type="checkbox"/> Film for television release <input type="checkbox"/> Television series <input type="checkbox"/> Television pilot/special <input type="checkbox"/> Direct to DVD/video <input type="checkbox"/> Radio series <input type="checkbox"/> Theatrical stage production <input type="checkbox"/> Documentary <input type="checkbox"/> Commercials <input type="checkbox"/> Industrial, training or educational films/videos <input type="checkbox"/> Infomercials <input type="checkbox"/> Music videos <input type="checkbox"/>
	8. If the production is for DVD release: Will additional bonus material be included on the DVD? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, will this bonus material go through the same clearance procedures as the rest of the production? Yes <input type="checkbox"/> No <input type="checkbox"/>
	9. Is the production: a. Entirely fictional? Yes <input type="checkbox"/> No <input type="checkbox"/> b. Fictional, but inspired by specific events and/or occurrences and/or characters? Yes <input type="checkbox"/> No <input type="checkbox"/>



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Video, film and television producers application

c. A dramatic portrayal of actual facts which includes fictionalization? Yes No

10. Please provide a brief description of the storyline (including time frame and setting):

11. If the production is a 'series', please advise the number of episodes:

12. Running time of production (hr/min per episode):

13. Distributor of the production:

14. Length of rights period: Territory of distribution:

15. Estimated date for first release or air date:

Clearance procedures

16. Is the name or likeness of any living person used in the production? Yes No

If Yes, will all necessary rights be obtained prior to the first airing, distribution or public display of the production? Yes No

17. Is the name or likeness of any deceased person used in the production? Yes No

If Yes, will all necessary permissions be obtained prior to the first airing, distribution or public display of the production? Yes No

18. Have you obtained a title report from a recognized agency? Yes No

If Yes, please attach a copy of the title report.

19. a. If your production is not entirely original, have copyright reports been obtained? Yes No

b. Are there any ambiguities, gaps or problems in the chain of title? Yes No

c. Has the chain of title of all works on which the production is based been thoroughly investigated and cleared back to the original copyright owners to determine that all grants or transfers in the chain of title permit you to assign or sublicense the material as incorporated in your production? Yes No

20. a. If the production is based upon an original format, are you aware of any similar format or concept? Yes No

b. Has any similar format or similar material been submitted to you at any time? Yes No

If Yes, to a. or b., has your attorney confirmed that they are satisfied you can safely proceed with your exploitation of the work? Yes No

If No, please explain:



Hiscox Insurance Company Inc.

Video, film and television producers application

21. a. Have you obtained, from all writers and other content providers to the production, written warranties that the content with which they provide you does not infringe the rights of any third party and have you obtained an indemnity for any breach of this warranty? Yes No
- b. Have you obtained a written agreement from all performers or persons appearing in your production consenting to their appearance? Yes No
- If No to a. or b. above, will warranties and agreements be obtained prior to the first airing, distribution or public display of the production? Yes No
22. Will any film clips, TV clips or photographs be used in this production? Yes No
- If Yes:
- a. have all licenses and consents been obtained from the copyright owner without restriction and are you authorized to assign or sublicense the licensed materials as incorporated in your production? Yes No
- b. do you have the authorization of any person or entity depicted in the film clip, TV clip or photograph to use their depiction in your production and to assign or sublicense that depiction in your production? Yes No
- If No, to a. or b. above, will all licenses and consents be obtained prior to the first airing, distribution or public display of the production? Yes No
- If No, please give details:
23. Have the following musical rights been obtained from the composer and/or performers of specially commissioned music and/or cleared with the owners of pre-existing music and/or recordings:
- a. Recording and synchronization? Yes No
- b. Performing rights? Yes No
- c. Right to distribute for all forms of distribution contemplated (home video, etc.)? Yes No
- If No to a., b., or c. above, will all musical rights and/or all clearances be obtained prior to the first airing, distribution or public display of the production? Yes No
24. Have you or any of your agents been unable to obtain or been refused an agreement or release after having:
- a. negotiated for any rights in literary, musical or other materials? Yes No
- b. negotiated for release from any persons in respect of any material incorporated in the production? Yes No

If Yes, please explain:

Attorney used for clearances

25. Name of your attorney (individual's name):

Firm name and address:

Telephone:

Email:



Hiscox Insurance Company Inc.

Video, film and television producers application

26. Have you and your attorney read and agreed to exercise due diligence to insure that the 'clearance procedures' attached are followed? Yes No
If No, please explain

Claims declaration

27. a. Have you suffered any loss or has any claim, whether successful or not, ever been made against you that would be covered by this insurance? Yes No
If Yes, please attach details including the date of each claim or loss, the amount of the claim and any remedial action taken.

- b. Are you aware of any problem which is likely to lead to you suffering a loss or a claim being made against you that would be covered by this insurance? Yes No
If Yes, please attach details of each problem.

It is understood and agreed that with respect to questions 27 a. and b., that if such knowledge of information exists any claim or action arising there from is excluded from this proposed coverage.

Supplemental information

Please attach the following additional information:

- Video/DVD copy of the production or copy of script if production is not complete
- Title and Trademark Reports
- Experience resume of Producer and Executive Producer (if less than three years experience)

Declaration

I declare that this application form has been completed after proper inquiry and, based on this inquiry, I declare the application contents are true, accurate, and not misleading.

I declare that I will immediately notify Hiscox, before any contract of insurance is concluded, of any additional information that might render the contents of this application untrue, inaccurate, or misleading, or if any new fact or matter arises which is material to the consideration of this application for insurance.

I declare that I understand and agree that if any of the contents of this application are intentionally untrue, inaccurate, or misleading, in any material respect, or if I fail to notify Hiscox of additional information that might render the contents of this application untrue, inaccurate, or misleading, in any material respect, then Hiscox is entitled to rescind any policy issued pursuant to this application.

I declare that I understand and agree that this application and all materials submitted in connection with this application are incorporated into and form the basis of any policy issued by Hiscox pursuant to this application.

I declare that by signing this application I am representing that I am duly authorized to execute insurance contracts on behalf of the entity applying for this coverage and that all representations (whether verbal or written) made in connection with this application are made on behalf of and shall be fully binding upon such entity.



Hiscox Insurance Company Inc.

Video, film and television producers application

NOTICE TO ALASKA RESIDENT APPLICANTS: A person who knowingly and with the intent to injure, defraud, or deceive an insurance company files a claim containing false, incomplete, or misleading information is guilty of a felony.

NOTICE TO ARKANSAS RESIDENT APPLICANTS: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance may be guilty of a crime and subject to fines and confinement in prison.

NOTICE TO CALIFORNIA RESIDENT APPLICANTS: For your protection California law requires the following to appear on this form. Any person who knowingly presents false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in prison. Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

NOTICE TO COLORADO RESIDENT APPLICANTS: It is unlawful to knowingly provide false, incomplete or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policy holder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

NOTICE TO DELAWARE RESIDENT APPLICANTS: Any person who knowingly, and with the intent to injure, defraud or deceive an insurer, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony.

NOTICE TO DISTRICT OF COLUMBIA RESIDENT APPLICANTS: WARNING: It is a crime to provide false or misleading information to an insurer for the purpose of defrauding the insurer or any other person. Penalties include imprisonment and/or fines. In addition, any insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

NOTICE TO FLORIDA RESIDENT APPLICANTS: Any person who knowingly and with intent to injure, defraud or deceive any insurer files a false statement of claim or an application (or any supplemental application, questionnaire or similar document) containing any false, incomplete or misleading information is guilty of a felony of the third degree.

NOTICE TO HAWAII RESIDENT APPLICANTS: For your protection, Hawaii law requires you to be informed that presenting a fraudulent claim for payment of a loss or benefit is a crime punishable by fines, imprisonment or both.

NOTICE TO IDAHO RESIDENT APPLICANTS: Any person who knowingly, and with the intent to defraud or deceive any false, incomplete or misleading information is guilty of a felony.

NOTICE TO INDIANA RESIDENT APPLICANTS: A person who knowingly and with the intent to defraud an insurer files a statement of claims containing any false, incomplete or misleading information commits a felony.

NOTICE TO KENTUCKY RESIDENT APPLICANTS: Any person who knowingly and with the intent to defraud an insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

NOTICE TO LOUISIANA, MAINE AND TENNESSEE RESIDENT APPLICANTS: Any person who knowingly and with the intent to defraud any insurance company or another person, files a statement of claim contain any materially false information, or conceals for the purpose of misleading, information concerning any fact, material thereto, commits a fraudulent insurance act, which is a crime, subject to criminal prosecution and civil penalties. Insurance benefits may also be denied.

NOTICE TO MINNESOTA RESIDENT APPLICANTS: A person who submits an application or files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

NOTICE TO NEBRASKA RESIDENT APPLICANTS: Any person who knowingly presents false information in an application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison.

NOTICE TO NEVADA RESIDENT APPLICANTS: Pursuant to NRS 686A.291, any person who knowingly and willfully files a statement that contains any false, incomplete or misleading information concerning a material fact is guilty of a felony.

NOTICE TO NEW HAMPSHIRE RESIDENT APPLICANTS: Any person who, with the purpose to injure, defraud or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is subject to prosecution and punishment for insurance fraud, as provided in RSA 638:20.

NOTICE TO NEW JERSEY RESIDENT APPLICANTS: Any person who includes any false or misleading information on an application for an insurance policy is subject to criminal and civil penalties.



Hiscox Insurance Company Inc.

Video, film and television producers application

NOTICE TO NEW MEXICO RESIDENT APPLICANTS: Any person who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to civil fines and criminal penalties.

NOTICE TO NEW YORK RESIDENT APPLICANTS: Any persons who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

NOTICE TO OHIO RESIDENT APPLICANTS: Any person who, with the intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

NOTICE TO OKLAHOMA RESIDENT APPLICANTS: WARNING: Any person who knowingly and with the intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

NOTICE TO PENNSYLVANIA RESIDENT APPLICANTS: Any person who knowingly and with the intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact thereto commits a fraudulent insurance act, which is a crime and subjects such a person to criminal and civil penalties.

NOTICE TO UTAH RESIDENT APPLICANTS: For your protection, Utah law requires the following to be included in this application: Any person who knowingly presents false or fraudulent underwriting information, files or causes to be filed a false or fraudulent claim for disability compensation or medical benefits, or submits a false or fraudulent report or billing for health care fees or other professional services is guilty of a crime and may be subject to fines and confinement in state prison.

NOTICE TO VIRGINIA RESIDENT APPLICANTS: It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

NOTICE TO WASHINGTON RESIDENT APPLICANTS: It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purposes of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

NOTICE TO WEST VIRGINIA RESIDENT APPLICANTS: Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

Signature

Date (mm/dd/yyyy)

Title

Agent's License
Number:

Agent's Name:

A copy of this application should be retained for your records.



Hiscox Insurance Company Inc.

Video, film and television producers application

Clearance procedures

Please read the following section carefully

Clearance has the simple purpose of ensuring that the insured production is not vulnerable to litigation. You should ensure that:

- a. if the insured production carries any risk of libel, or a related legal problem, it is cleared; and
- b. all rights necessary to production, exhibition, and distribution in all media are secured before you fill in this form, or will be as soon as practicable. We must be informed of any rights problems related to material included in the insured production, as soon as you become aware of them, and you must seek advice on such problems from your own attorneys.

Accordingly, you and your attorneys should be sure before first exhibition of the insured production that:

1. All necessary rights have been obtained, covering domestic and foreign territories, including any extensions and renewals, for all literary material (other than original and unpublished material) contained in the insured production. If full copyright is not obtained, any limitations and/or reservations must be notified to us. If you are acquiring the insured production as a completed work (such as a pick-up of a motion picture) rights must also be secured covering the completed work. The origin of all works on which the insured production is based must be traced and cleared in order to ascertain that you have all the required rights in the work.
2. Written agreements must exist between you and the creators, authors, writers and owners of all material, including quotations from copyrighted literary works, film, television, and audio clips, clips of pre-existing music, featured copyrighted props such as maps, etc, used in the insured production, authorising you to use the material in the insured production (except in the case of approved 'fair dealing'). All agreements should include a waiver of so-called 'moral rights'.
3. If the subject matter of the insured production is potentially defamatory, or for any other reason legally contentious, it has been cleared by a suitably qualified libel attorney, as has any 'fair use' and all recommended changes have been made.
4. In the case of fictional characters, a full cast script clearance check has been carried out, also of business names, etc and again, all recommended changes have been made.
5. All contracts and releases must give you the right to market the insured production for use in all media and markets (e.g. DVD, video cassette, digital format, internet etc.). In particular, any gaps in respect of underlying rights must be notified.
6. Synchronization and performance licenses must be obtained from the composer or copyright owner of all music used in the insured production. Licenses are unnecessary if the music (and its arrangement) is in the public domain. Licenses must also be obtained from the owners of recordings for the use of previously recorded music.
7. If the insured production contains any film clips, you have obtained authorization to use the film clip from the owner of the clip who has the right to grant such authorisation and have obtained authority from the owners of and contributors to the film clip e.g. underlying literary and musical rights, owners, actors, and musicians etc. All releases must give you the right to edit, add to and/or delete any or all of the material supplied by the releaser.
8. You must be sure that you or any of your partners or directors have not received any unsolicited submissions of any literary or dramatic material, programme ideas, formats or storylines from any third parties which are similar in content or style to the insured production. If you have, you must have a process for dealing with them and quit claims must be obtained where appropriate.
9. Any problems relating to the insured production which are not known at the time of completing this application form must be notified to us as soon as they arise.
10. Any bonus material, interviews or outtakes included on a DVD or any other media version of the production must go through the same clearance procedures as the insured production.
11. Any uses of copyrighted material in its renewal term must be authorized by persons or entities entitled by statute to renew.
12. All contracts, releases, grants of rights of every kind (including all prior grants in your chain of title) must authorize you to use the acquired material in your production and to assign or sublicense it in any form.



Hiscox Insurance Company Inc.

Video, film and television producers application

The above clearance procedures are not exhaustive, nor do they cover all situations which may arise, given the great variety of productions. You and your attorneys must continually monitor the insured production at all stages, and in light of any special circumstances, make certain that the insured production contains no material which could give rise to a claim.

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US PRO APP_HICI 01.1 (A) (ed. 10/08)

FIGURE 12.5—Errors & Omissions Application

Application

A formal application is needed because the insurance underwriter needs more in-depth information about the production details and the clearance procedures that are being followed by the production company before agreeing to insure the film. Once the application is completed, the underwriting process may be as short as 3–5 days or as long as 2–3 weeks so give yourself plenty of time. As with any documents, contact your insurance broker or your attorney should you have problems understanding any of the questions.

Applications vary depending on the insurance company however the questions are all similar. An Errors & Omissions application is broken down into the following sections:

Production Details

Name of applicant—In the film world, a single purpose production company is established for a specific film. The purpose of this is to separate any liability that can occur from the individual producers and financiers. In addition, it separates accounting and tax issues that surround a film. When a policy is placed, the company will then be considered the *Named Insured*. Please note that the named insured protects *all individuals* that work on the film which includes cast and film crew members.

KEY TERM:

NAMED INSURED Is the policyholder who establishes an insurance policy and whose interests are protected under the policy.

Address/Phone Number—A legal address is necessary so that copies of the policy and any claims documentation can be officially received by an individual that has full knowledge of the films activities.

Web site—Many production companies promote their films on the Internet. Please supply your various sites so the insurance underwriter can view the trailers of the film as well as the bios of the director and actors.

Limits/Deductibles/Policy Term— Usually, the distributor's agreement will designate the limits, deductible, and policy terms.

Higher limits may be required by various theatrical, television, and cable distributors (see below). The distributor requires this primarily to ensure that there are ample limits available to protect them from lawsuits and legal costs that can exceed millions of dollars.

There is a far greater potential of lawsuits arising from theatrical television and cable distribution because a larger audience will see the film. In addition, as stated before, there is a perception that a production company has “deep pockets” and can afford to pay out large settlements.

Limits—Unlike other insurance policies, the limits for this coverage are broken down two ways:

- *Limit per claim*: The maximum amount the insurance company will pay for a single claim.
- *Aggregate*: The total policy limit that will be paid for the policy term.

The standard limits are as follows:

Limit: \$1,000,000 per claim and \$3,000,000 aggregate

Deductible: \$10,000

The higher limits are as follows:

Limits: \$3,000,000 per claim and \$5,000,000 aggregate or \$5,000,000 per claim and \$5,000,000 aggregate

Self-insured Retention

Besides the above limits, the coverage is subject to a “self-insured retention” also known as a *deductible* which means the producer must pay a portion of the loss if a claim occurs. The standard deductible for films can range from \$10,000 to \$25,000. Typically, the higher deductible of \$25,000 is applicable if the film’s budget is larger than \$2,000,000, being theatrically released (domestic or international), and if higher limits are required by the distributors.

There are occasions when higher deductibles may be warranted because the film has a potential legal issue that the insurance underwriter feels has a high probability of occurring. An example would be an unauthorized biography about an actor’s life. The higher deductibles can range from \$50,000 to \$100,000. Increased deductibles are used by the insurance underwriter to cover potential legal issues.

Policy Term

The standard policy term is one or three years. For feature productions, a three year is the best option because it allows the producer more time to secure alternative distribution thorough cable/television, DVD, Internet, and foreign markets.

Securing a distributor is not always easy...it just does not always happen overnight. A filmmaker produced a film with a relatively unknown actress however within a year her career took off and she became a superstar. The demand for this actress was so great that my client's film become popular and ended up securing additional distribution. It's a good thing the filmmakers purchased a three year policy as they were able to include the distributors as an additional insured under their policy. If they had purchased a one year policy, they would have had to renew their policy or perhaps need to secure a new policy.

To accommodate the length of a distributor's licensing period (7 or 10 years), insurance companies can provide a *rights period endorsement* or *term of insurance* to the policy. This means an endorsement can be added to the policy that would protect the distributor for the length of their contract. All the insurance underwriter will require is a copy of the executed (signed and dated) agreement and the licensing term would be endorsed.

Title

The insurance company will require that you obtain a title report. While a title cannot be copyrighted, there is a possibility that a similar title can cause confusion in the media marketplace. This means another production company can file an *injunction* and allege that the new film is infringing on their ability to continue selling their film. To avoid this, the insurance company requires a title search be done by the same companies that do copyright searches. They will check all media in the U.S. Copyright Office and Library of Congress records to see if there are any similar uses in film, television, music, books, magazines, and the Internet. The report they produce can identify other films with the same title. The report enables the insurance company to know if the title is clear for use.



CLEARANCE UNLIMITED

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TITLE SEARCH

CONSISTS OF THE RESEARCHING IN THE FOLLOWING CATEGORIES:

- MOTION PICTURES/VIDEOS
- SCREENPLAYS
- TELEVISION PROGRAMS
- VIDEO GAMES
- BOOKS
- MAGAZINES
- PLAYS
- MUSICAL COMPOSITIONS
- U.S. AND CANADIAN TRADEMARKS
- WEBSITES
- INTERNET USAGES
- NEWSPAPER REFERENCES

FIGURE 12.6—Title Search Categories

Title Opinion

If there are similar titles the insurance company will require a title opinion letter. This opinion letter is provided by an attorney who provides his or her opinion as to whether the title can be used.

Hint: During preproduction it is best to do a simple search on the Internet or IMDB to see if there is a similar film title already established. This will enable you to know if there are other titles with the same title. If this is the case, you should decide upon another title or have a title report and opinion letter completed.

Please note that at the time of completing your application, there may be an instance when the title may be changed by the distributor. If this is the case, the underwriter can exclude coverage for title until a new title report is received and approved.

Hint: If the distributor is changing the title of your film, you should request that they obtain a title report on your behalf as it is they are requesting the title change.

Estimated gross production budget and revenues for the production

The insurance company requires the film's estimated budget to help determine how a policy will be rated. The budget is one of the elements that the underwriter uses to determine the insurance premium. With regards to revenues for the production, you cannot predict the revenues of the film so you are not obligated to respond to this question.

Name of the producer/executive producers

Providing a list of producers is another important element because the insurance company wants to verify the experience level of the production executives. The more experience these individuals have, the less likely errors can arise like failing to obtain proper rights or releases.

The production destination of distribution

Insurance underwriters use this information to assist in rating a film. The categories for film are as follows:

- Film for theatrical release
- Film for television/cable release

- Television pilot/special
- Direct to DVD/video

As stated previously, films that are destined to be released theatrically have a potential of being viewed by a larger movie going audience. This means the more “eyes” that see a film (domestically and internationally), the higher probability that a lawsuit may arise so the insurance company will charge a higher premium. Of course, this means the premium charged for films being released for television/cable, DVD, and Web would be much less.

Fiction/Non Fiction

The main issue here is to determine where the story’s inspiration comes from. The questions are broken down as follows:

- *Entirely fictional*—Means the script is not based on actual facts or circumstances.
- *Fictional, but inspired by specific events and/or occurrences and/or characters*—Means that a fictional story may contain actual events or individuals in the film. For instance, a fictionalized story about a general and his family during World War II.
- *Dramatic portrayal of actual facts which includes fictionalization*—In this situation, the story is considered a docudrama which means it is based upon actual individuals, facts, or actual events. If this is the case, the insurance company will require a copy of an annotated script. Each notation should refer to factual works such as court records, newspaper stories, and books. Please note, for scenes that have sensitive dialogue it is important to have documentation from several sources. I recommend that you consult with an entertainment attorney experienced in this area so that he or she can evaluate your film carefully.

Brief description of the storyline (including timeframe and setting)

In this section the underwriter requires a synopsis of the film so they can get a better understanding of what the production is about and make a decision as to whether the content of the film is insurable. Please do not be alarmed. Entirely fictional films usually have no problems with obtaining a quotation. If your film has elements of fact, you should attach a more detailed synopsis. To assist the insurance underwriters further, please include the era and the country that the film is depicting. Your insurance broker will advise if more information is necessary.

Clearance Procedures

- *Name and Likeness*

Is the name or likeness of any living person used in the production? Will necessary rights be obtained? The insurance company wants to know if the production company is featuring *actual* individuals in the film and wants to make sure that you have obtained their permission.

Is the name or likeness of any deceased person used in the production? Will necessary rights be obtained? While depicting a deceased person is less of a concern, there are still remaining heirs, family members, and personal representatives that need to grant their permission.

- *Copyright/Chain of Title*

Have copyright reports been obtained? Are there any ambiguities, gaps, or problems with the chain of title?

A copyright report is a search of the records at the U.S. Copyright Office to determine the history of a particular work. If you are using underlying works such as books, plays, or short stories, you must verify the individual(s) who holds the rights of a work and if there are any gaps or ambiguity in the copyright ownership.

Written Warranties

Have you obtained from all writers and other content providers written warranties that the content they provide does not infringe the rights of any third party? In a nutshell, an insurance company wants to make sure that the production company's agreement includes a statement that the work provided does not infringe on the rights of any other party

- *Film Clips/Photographs*

Have all licenses and consents been obtained from the copyright owner, any person or entity depicted in the film clip and photographs? Although film clips and photographs are not normally included in feature films, the production company will need to obtain permission from the copyright owner and permission from people being depicted in the film clip.

- *Music*

Have musical rights been obtained from the composer and/or performers, owners of preexisting music and/or recordings?

When it comes to music, a production company relies on third parties to either provide original music or recordings for their specific film. The production company must make sure they obtain permissions from the composer, music publisher, and record company. As stated previously, once the production company decides which way to go creatively, they need to obtain music cue sheets or establish a contract that will vouch for the originality of the music.

Please note that at the time of completing your application, the insurance company is aware there will be instances when you do not have the music issues finalized. In this case, the underwriter can exclude coverage for music until you confirm in a letter that all music rights have been secured.

A number of filmmakers have released soundtracks to promote their independent film and develop another opportunity to earn revenue. If this is the case, you should notify your insurance broker and get this exposure included under the existing E & O policy. A supplemental application may be required and an additional premium may be charged.

Risk Management—Attorney

Name of your attorney (individual's name, address, phone number)

When it comes to rating an E & O policy, the insurance underwriter will provide a better premium if you use an experienced entertainment attorney and list one on your application. To the insurance company, it means you used an extra “pair of eyes” to manage the clearance process, i.e., obtaining necessary licenses and permissions. There is a cost to hiring an attorney, however in many cases their presence has made it easier to secure better premiums and provide coverage to filmmakers who have very complicated legal or rights issues.

Have you and your attorney read and agreed to exercise due diligence to ensure that the “clearance procedures” attached are followed?

As discussed earlier, the insurance company provides *clearance procedures* for the production company to follow. Simply said, obtaining insurance requires a partnership between the insurance company and filmmaker. The insurance company expects the production company to operate as professionals and exercise *due diligence* in the filmmaking process.

KEY TERM:

DUE DILIGENCE Is the act of performing a reasonable investigation into the facts and circumstances and performing actions to avoid harm to other persons.

Claims Notification

Have you suffered any loss or has any claim, whether successful or not, ever been made against you that would be covered by this insurance? If yes, please attach details including the date of each claim or loss, the amount of the claim, and any remedial action taken.

KEY TERM:

CLAIM Is a formal request asking for a payment.

This is not normally a difficult question to answer as many times an independent film will not encounter litigious issues until the film is officially distributed or when the film is released. However, there are instances where lawsuits or disputes have occurred prior to securing Errors & Omissions. The insurance company wants full disclosure of any claims and the steps taken to remedy the issues.

For example, a public figure decides to file an injunction to prevent the producers from filming. However, upon further discussions with the production company's attorney, the public figure ends up providing his life rights and contributing to the film. The production company should resolve or settle all disputes by reaching a contractual agreement, pay an agreed amount, or simply revise the film. In these situations, it is best to consult an entertainment attorney to determine the best course of action.

In the end, after reviewing all pertinent information, the insurance company may decide to exclude any pre-existing lawsuits or threats. The insurance company may agree to offer a separate deductible (ranging from \$25,000—\$100,000) with respects to this specific legal action. Please note that the possibility of an exclusion or higher deductible can create a problem with your distributor. This is because the distributor does not want to be potentially dragged into a possible lawsuit. To resolve this issue, you may want to

consider editing your film and consult with your entertainment attorney and your insurance broker.

In addition, if a filmmaker purposely does not disclose or conceals litigious information from the insurance company and it is revealed that they had knowledge prior to the placement of coverage, the insurance company can void and cancel their policy.

Are you aware of any problem which is likely to lead to you suffering a loss or a claim being made against you that would be covered by this insurance? If yes, please attach details of each problem.

This question requires you list instances that could possibly result in a lawsuit or a claim. For example, a filmmaker secured a signed deal memo/release from a public figure that was to be featured in a segment of the film. However, weeks later the individual changed his mind and demanded that they remove his image from the film as he felt the film's storyline was not something he wanted to be affiliated with. Ultimately, to avoid a possible lawsuit the production company decided to remove his image. This was a tough decision but it was best for the film

Declaration

This section has a number of warranties that the insurance company wants you to be aware of before you sign the application. For the most part, the statements are primarily confirming that everything that appears on the application is true, accurate, and no statements are intentionally misleading. As stated before, the insurance company is entitled to rescind their policy if statements made on the application are found to be inaccurate.

Understanding E & O Insurance

Please note that once the application is completed the underwriting process can take up to 3–7 days. Your insurance broker will provide you with a quotation for your review. When you receive your quotation, please take note of the following: limits, deductible, policy term, endorsements, and any requests for additional information. Contact your insurance broker and have them review the quotation and endorsements so that you can understand what is covered.

Errors & Omissions can be the toughest line of insurance cover to secure. Please note that even if you complete an application the insurance company cannot always guarantee that they will offer coverage. There have been occasions when the insurance company has added increased deductibles or exclu-

sions. In addition, the insurance company can decline an application because clearance procedures were not followed, there are current or pending lawsuits, and the film's content may be too controversial or immoral. Why so difficult?

It is because the insurance company must provide defense coverage such as attorney fees, as well as settlement or judgment costs. The insurance company must contend with a multitude of lawsuits that involve copyright, music, or defamation issues. A claim can cost anywhere from \$100,000–\$500,000 in defense costs and can occasionally go into seven figures. In the end, E & O coverage is a very important ingredient for distribution so abide by clearance procedures and use an entertainment attorney.

Lawsuits

The film has been released and you are feeling good about your success. However, one day you get a knock at the door and an individual serves you with a letter. Of course, the letter turns out to be a lawsuit. You should seek the assistance of entertainment attorney. An attorney can assist in reviewing the lawsuit and determine when a response to the lawsuit is due.



FIGURE 12.7—Lawsuit

Meanwhile, you must report the lawsuit to your insurance broker and claims manager. They will request details of the allegations and request information regarding the *plaintiff*. Please note depending on the claim there can be instances where one or more of your insurance policies can respond to the lawsuits.

KEY TERM:

PLAINTIFF Is the party who initiates a lawsuit. They are also known as a claimant or complainant.

As previously state, if the insurance company deems the lawsuit is a result of the films content the Errors & Omissions policy can pay attorney fees and court costs as well as pay judgment or settlements. If this is the case, please be aware that because the insurance company is paying for your defense, they may require you hire one of their *panel attorneys*. This means the insurance company has confidence in their experience and establishes a set attorney fee.

In some situations, the filmmaker's attorney firm can be hired if it is determined that their involvement or expertise would aid in the swift resolution of the suit and they can agree to the insurance company's established attorney fees. Once this worked out, the entertainment attorney can write persuasive arguments and file a timely response to the court to contest the complaints or allegations, send a copy of the response to both the *plaintiff* and their attorney, conduct discussions with the plaintiffs, attend hearings on your behalf, negotiate out of court settlements, or defend you in court.

Not all lawsuits are the same. Some legal issues may be covered under the insurance policy and others may not be covered. This means you may have to pay defense costs and any resulting judgments. In the end, you should work closely with an entertainment attorney. The most common lawsuits when dealing with entertainment are:

- *Theft of idea*—The most common allegations is when a third party alleges that the film or section of film was based on something they had written, i.e., script, screenplay, or book.

Example: A filmmaker writes a script and submits it to a development executive at a studio. This executive declines the film, however, 4 to 6 months later a film is produced with a similar plot.

Hint: To safeguard yourself, it is very important not to solicit and/or accept scripts or story ideas from others. If a script is mailed to you, it should be returned in the original envelope unopened. With regards to your production company's Web site or social media Web sites, please post a statement that you do not "accept unsolicited submissions."

- *Name and likeness*—Unauthorized use of a name or resemblance of an individual.

Example: An individual feels a production company is depicting his life story and wants to protect his own likeness from defamation.

Hint: The best way to prevent this is to have a script clearance report conducted before you start to film and follow the advice provided. Next, obtain releases from all actors, employees, and extras. When filming a crowd scene, make sure you put up postings and make announcements alerting everyone in the area that you are filming.

- *Music rights*—Use of copyrighted music.

Example: A musician states that the production company used his music without his permission.

Hint: Obtain the musical rights from the composer and/or performers and the owners of preexisting music and/or recordings.

Let me assure you that not all films are subject to lawsuits. Most lawsuits predominantly occur when films are theatrically released. This is because the studios, distributors, and production companies are considered more financially solvent and would rather negotiate a settlement than go through a legal process. This is, unfortunately, the price of fame.

In conclusion, filmmaking does not just entail good directing and good acting but requires good clearance practices. This of course makes filmmaking a lot of hard and arduous work, but in the end it is worth it because your film has the potential to impact and influence an unlimited audience.

SUMMARY

The purpose of this chapter is to provide you with the understanding of the importance of using an entertainment attorney. An attorney can assist with clearance procedures, contact negotiations, completing Errors & Omissions applications, and dealing with lawsuits. They give you advice that enables you to navigate through the complex world of filmmaking. While using an attorney does not eliminate all legal issues, it does reduce the chances.

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Imagine you are a director and a producer has approached you to do a film about the romance of a royal couple. According to the producer the story would be based on events in history and the rest would be a fictionalized portrayal. What would you suggest the producer do to make sure he does not encounter copyright or legal issues?
2. After reading this chapter, what would prevent you from moving forward on a film project?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Do some research and find entertainment law cases that involved theft of idea, music, copyright, or trademark infringement issues. Write a synopsis of who filed the lawsuit, what the lawsuit was regarding, and whether a settlement was reached. Discuss these types of lawsuits in class.

CHAPTER 13

INSURANCE

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Why Do I Need Production Insurance?
 - Protecting your Assets
 - Insurance 101
 - Insurance Companies
- How Do You Obtain Production Insurance?
- Selecting an Entertainment Insurance Broker
- What Is Needed to Obtain a Quotation?
- Annual or Short Term Policies
- What Are the Types of Production Insurance Policies?
- Does It Really Pay to Have Insurance?

Production Insurance

Why Do I Need Production Insurance?

This question is often asked when a filmmaker is exasperated by the time and cost required to secure insurance for their production. Believe me, if we could peer into a crystal ball and see that your production would go off without any incidents—that would make my job as an insurance broker obsolete.

As my crystal ball *doesn't* have this power, I must recommend ways to protect *you*.



FIGURE 13.1—Magic Crystal Ball

As a filmmaker, you are contractually and legally responsible for an assortment of people, places, and things. In summation, you hire a large number of film crew, take temporary possession of other people's homes, offices, buildings, equipment, props, and vehicles. All of these elements combined with filming activities can result in the Murphy's Law adage, "Anything that can

go wrong, will go wrong." The following are just a few examples of losses that are a direct result of filming activities:

- A business man trips and falls on cabling and hurts his ankle.
- A member of your film crew drops and damages a camera.
- A rental van hits another car while parking.
- Lighting equipment causes a small electrical fire at your filming location.
- Key grip cuts hand while moving equipment.

In each of these claims examples, the following questions arise:

- Who is at fault?
- Who is going to pay for my injury and repair my property?

The ultimate answer is YOU, the production company, would be required to pay for the medical costs, damages, and replacements and deal with extra expenses that could result from these occurrences. In some instances, these claims can become difficult and require legal assistance. In the first example, the businessman will claim that you are responsible for a torn ligament because he tripped over cabling that your film crew laid while in the process of installing a generator. That individual will insist that you pay his medical bills and may even sue you for pain and suffering due to this injury.

So...let's say a couple of the above examples occurred during filming. Will you have enough money set aside under your "Contingencies" section of your budget to pay for injuries, damages, and legal fees? I assume the answer to this question is most definitely "No." That being said, the remedy filmmakers turn to is help complete a film is production insurance.

Production insurance was created to cover three major issues:

- *Fulfils contractual requirements*—Property owners, equipment, props, and vehicle vendors will require insurance before allowing you to use their property.
They all have contracts that require you indemnify them and will repair or replace damaged property.
- *Protects you from the unknown*—The insurance policies protect against bodily injury and property damage that is deemed to be the fault of the production company. As stated before, there are a lot of moving parts with filming and accidents can happen.
- *Prevents financial loss and ruin*—Insurance enables the production company to continue filming without interruption, allows the production company to concentrate on the creative process, and finish the film.



FIGURE 13.2—Insurance is Your Best Protector

Insurance 101

The production company will need to purchase *insurance*. Insurance is a contract that will protect a business or individual from a variety of exposures. Some specific instances that would protect the production company would be fire at a building, theft of equipment, or injury of employees. Before you rush out and purchase insurance, you must understand the underwriting process.

While it is the intent of the policy to cover all production activities, there are limitations to what an insurance policy can cover you for. Insurance companies are a business and cannot take on “all risks” or they would become insolvent. In order to stay in business they establish *underwriting* guidelines which establish rates based on the following exposures:

- *Size of the budget*—independent film budgets can range from as low as \$100,000 to as high as \$20,000,000. Insurance rates are usually higher for small budgeted films because the crew is usually less experienced, cut corners, and have a lot more claims.
- *Type of production*—action, suspense, horror, comedy, and romance. It is obvious that the insurance company has more issues with action films because there is a higher probability that a person could be injured and/or property can be damaged.
- *Film activities*—Films that involve stunts, pyrotechnics, aircraft, watercraft, and/or animals can result in injury or death to groups of people and/or cause major damage to property.
- *Number of filming days*—The more principal photography days results in higher risks because more people and stuff are exposed for a longer period of time.
- *Experience of the filmmakers*—The more experience the principals have the better. The insurance company feels there is less of a chance that they will make errors or bad decisions.

KEY TERM:

UNDERWRITING Process where an insurance underwriter evaluates the risk and exposures of potential clients. Underwriting involves measuring risks, deciding whether to accept the risk, and determining the *premium* that needs to be charged to insure that risk. The function of the underwriter is to “write” business that will make the insurance company money and protect the company’s book of business from risks that they feel will result in a *claim*. A claim is a formal request to an insurance company asking for a payment based on the terms outlined in an insurance policy. An insurance *adjuster* evaluates the claim and determines if the claim falls within the parameters of the policy.

Insuring a production company is far different than say insuring an accounting firm. This is because an accounting firm is a “four wall” type of business which means the company, employees, and the property operate in a building and that is all. A production company on the other hand has a “nomadic” operation which requires the movement of film crews, actors, equipment, props, and vehicles from place to place. As this is the case, there is high probability that people can be injured, property can be damaged, and equipment stolen or damaged. This means, the insurance rates for this type of risk are much higher than that of an accounting firm.

To minimize their risks, the insurance companies do the following:

- Establish *limits*—The insurance company sets a maximum amount they will pay for any accident, injury, or property damage. Usually limits are based on the budget costs, replacement costs, and estimated payroll.
- Establish *deductibles*—The production company pays a specific amount of money when a claim arises. In practical terms, insurance companies include a deductible in their policies to avoid paying out benefits on relatively small claims. Depending on the type of coverage and the size of the budget, a film deductible can range from \$1,500 to \$25,000 or higher.
- Establish a policy form that describes what will or will not be covered. In addition, within the policy form are standard *exclusions*. Exclusions are set occurrences that are not covered under the policy. For instance, an insurance company will not provide coverage for property deliberately damaged or for any criminal acts.

All of the above are ways where insurance companies minimize the smaller, more incidental claims and pay for the bigger more financially disastrous claims. In summary, the insurance company assists you with completing your film within established *underwriting* guidelines and policy forms. With that said, there may be times where a claim may not be insurable. In those situations, it will be up to the production company to pay the costs. That is why it is important for the production company to hire a professional film crew, create an effective production schedule, and put aside money in your contingencies for payment of deductibles or legal fees.

Insurance Companies

Film insurance is a specialty that is not written by many insurance companies because of the complicated insuring agreements and the possibility of numerous, high valued losses or *claims*. You definitely will not find your auto or home insurance company writing this line of business. The most notable insurance companies that write entertainment insurance are:

- Fireman's Fund Insurance Company
- Chubb Insurance Group
- Travelers Insurance
- New York Marine & General Insurance Company
- Hiscox Insurance Company Inc.

Much like the three letter acronym...AAA, the above insurance companies receive a rating of 'A' by the *A.M. Best Company*. This means these insurance carriers have the financial stability, experienced personnel—managers, underwriters, *loss control representatives and loss adjusters*—to meet the needs of the film industry.

SIDE NOTE

A. M. Best is a credit rating agency dedicated to serving the financial and health care service industries. They provide a rating for insurance companies (A++ through D). They base their rating on the insurer's financial strength, operating performance, and their ability to meet their contractual obligations.

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- **Single Company** - five years of financial data specifically on this company.
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Financial and Analytical Products

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FIGURE 13.3—A. M. Best Sample

KEY TERM:

LOSS CONTROL REPRESENTATIVE An individual who provides recommendations and actions that assist in preventing accidents.

LOSS ADJUSTERS An individual who decides whether a claim would be paid. If they approve the claim, they execute compensation to the Insured.

While there are a number of entertainment insurance companies, a filmmaker needs to make sure you have a strong, highly rated insurance carrier to protect you. Insurance companies with good financial strength provide broader policy forms, provide additional benefits, and may be willing to cover claims that would not normally be paid. Speaking from experience, I can tell you there have been numerous times that my client has benefited from the services of a good insurance company. The realization of this benefit is usually exemplified when a claim arises...this is when it matters the most and they get to work assigning knowledgeable adjusters who work proactively to resolve claim matters in a timely manner. Please refer to claim examples outlined in the section entitled *Does It Really Pay to Have Insurance?*

A filmmaker should check to see if the insurance company is *admitted* to do business in the state where you purchase the insurance. In short, an admitted insurance company is regulated by the state's laws and would pay claims if the insurance company should become bankrupt. A non-admitted insurance company may be less expensive however they are not regulated by the state. This means the policy forms may be more restrictive and payment of claims may be delayed.

How Do You Obtain Production Insurance?

As there are so many insurance issues to attend to in a film, the insurance companies rely on *insurance brokerages* who specialize in the entertainment industry. As stated in Chapter 7, an *insurance broker* represents a filmmaker and searches the insurance marketplace for a company that provides the best coverage for the most competitive prices. An insurance broker is a "middle man" which means he or she works with both the filmmaker and various insurance companies.

Their role is summarized as follows:

- Obtains the necessary information about the filmmaker's project.
- Submits applications/materials to designated insurance companies.
- Obtains insurance quotations from several insurance companies and presents the insurance proposals to the filmmaker for his or her review.
- Negotiates and makes revisions to quotations with the insurance underwriter.
- With the approval of the filmmaker, places the insurance coverage with the best insurance company
- Reports and assists in the resolution of insurance claims.

In addition, an entertainment insurance broker services the ongoing needs of the production company throughout filming. One of the services that an insurance broker can provide is property, location, and vendor agreements. It is best to have both an attorney and insurance broker review the contact before you sign it and it becomes binding. Many times you can fine tune and negotiate better terms *prior* to signing. In any event, there will be times where the contracts are non-negotiable and will stipulate that the filmmaker increase limits, include additional coverage, and include specific language. In these situations, the requirements should be reviewed and discussed with an insurance broker. Please know that many times additional *insurance policies or endorsements* may need to be issued and result in additional insurance costs.

KEY TERM:

INSURANCE POLICY Is a contract between an insurance company and the insured in exchange for payment, known as the *premium*. The insurance company pays for damages that are caused by covered *perils* (*causes of loss, i.e., theft and damage*) under the policy language. Insurance contracts are designed to meet specific needs and features not found in many other types of contracts.

ENDORSEMENT Is a written document attached to an insurance policy that modifies the policy by changing the coverage afforded under the policy. An endorsement can add coverage for acts or things that are not covered as a part of the original policy.

Another insurance broker activity is the issuance of *certificates of insurance*. In the world of film, you will need to placate location owners, city permit requirement and equipment, vehicle, and props vendors. As virtually everything is rented, each property owner or vendor wants to make sure their building, equipment, vehicle, and props are covered should something arise while it is in your *care, custody, and control*. *Care, custody, and control* means that as a filmmaker you temporarily not only take physical possession of various items but also assumes responsibility. As this is the case, a filmmaker provides proof of insurance via a *certificate of insurance* that includes the entity as an additional insured and/or loss payee (if autos, equipment, locations, and props are used).

KEY TERM:

CERTIFICATE OF INSURANCE Is a document that verifies the existence of the insurance policies that are in place. It provides the type of insurance coverage purchased, policy number, effective date, and limits. This document is presented in lieu of a copy of filmmakers insurance policies and can list entities as an *additional insured or loss payees*.

LANGUAGE REQUIRED:

ADDITIONAL INSURED Is a person or organization that enjoys the benefits of being included under an insurance policy. This means that the policy holder will *indemnify* which means protect against damage, loss, or injury.

LOSS PAYEE provides that in the event of a claim being made under the policy in relation to the insured risk, payment will be made to a third party, i.e., vendor and property owner.

As the number of certificate requests can be numerous, your insurance broker will give you the ability to issue your own. Depending on your broker, some brokers will give you an Adobe template to fill them out yourself and others may allow you to issue the certificates online. Please notify your insurance broker if upon presentation of the certificate you are required to provide different certificate language, special endorsement, or increased limits. In these situations, the insurance broker will issue these certificates on your behalf.

Insurance brokers assist a filmmaker when a loss or a claim rises. They are the first people you call when reporting a claim. A claims manager will be assigned to work with the insurance adjuster to assist in concluding the claim and being your advocate. Lastly, insurance brokers provide *risk management*

services. Risk management is the process of determining potential problems and developing a plan that would minimize or eliminate the risks. These services are usually called loss control or loss prevention.

As a filmmaker, you should consider this especially if your production involves stunts, chase scenes, fight scenes, jumps, animals, or pyrotechnics. In these situations, an insurance broker can assist by attending safety meetings, obtain a loss control consultant, and provide a safety checklist. More about the subject of safety can be found in Chapter 14—*Risk Management*.



FIGURE 13.4—Insurance Risk Management

Selecting an Entertainment Insurance Broker

Although there are limited insurance companies, there are however a voluminous number of entertainment insurance brokers. This type of insurance is popular because it is considered to be a prestigious and lucrative line of insurance business...until they have a monumental claim or lawsuit.

You will find the most knowledgeable insurance brokers are located in New York, Los Angeles, and London. When selecting an entertainment insurance broker, you should ask for personal referrals from other filmmakers, attorneys, or accountants. A filmmaker should call and interview several brokerages and have conversations with sales or insurance executives that carry the title of senior account manager, assistant vice president, or higher. These individuals are usually the most knowledgeable and will be able to answer your questions.

During your conversations, you should obtain the following information:

- Can they provide a listing of insurance companies and quotations they write business with?
Hint: The insurance broker should provide you with a listing of 5–6 insurance companies that they can obtain competitive quotations. This is a sign that the insurance brokerage has access to a variety of insurance companies, the right experience and a sizeable volume of business.
- Can they provide a listing of previous films they have insured?
Hint: The insurance broker should provide you with a listing of films to verify they have experience in the type of production you are filming.
- Can you find the specific broker on the Internet? Can you Google them and see what they do in the film community? Do they conduct seminars, participate on panels, write blogs, and act as a resource for filmmakers?
- Is your insurance broker accessible and have the technology to communicate with your production crew?
Hint: As a film works odd hours and weekends, an insurance broker and claims executive should be reachable via e-mail or cell phone.
- Can they provide safety check lists and risk management assistance?
Hint: These measures assist in eliminating or minimizing claims and costly delays.

When deciding on a broker, you may need to decide whether to use a large or small brokerage for your insurance needs. Please note that larger insurance brokerages may not have your best interest in mind as they have set premium thresholds which means they will only work on accounts at a certain premium level. In addition, you may get lost in the shuffle and end up working with less experienced account managers. The “client is king” at smaller brokerages because the brokers have to work harder to grow their book of business with all types of filmmakers.

While there are a number of brokers that have online systems on the Internet that enable you to obtain an insurance quotation...be cautious about this as entertainment is not the same as your personal auto policy. A film has a lot of moving parts and a variety of different risks that consulting with a “real live” insurance broker is advised as a good broker is instrumental in guiding a filmmaker throughout the process of production. Please note that only one insurance broker can represent you and secure the insurance coverage you need, so choose wisely. In the end, choose a broker that has extensive knowledge of entertainment insurance, is proactive in negotiating the best insurance policies, and is service oriented.

What Is Needed to Obtain a Quotation?

Once you have selected an insurance broker, the production company will need to answer various questions on an established *application*.

Production Insurance Application



General Information																									
1. Name of Applicant: 2. Mailing Address: Telephone / Fax No.: 3. Applicant is: <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other If "Other," please explain: 4. Executive officers: <input type="text"/> Federal Identification number: 5. Title of Production: 6. Please provide the names of the individuals in the following film positions: Director(s): Producer(s): Production Manager(s): Stunt Coordinator(s): Special Effects Coordinator(s): Pyrotechnician(s): Animal Wrangler(s): 7. Synopsis of film : 																									
8. Filming Locations and time spent at each location: 																									
9. Please advise if your film will involve Stunts, Hazards and Special Effects. Please mark any of the below (<input checked="" type="checkbox"/>) <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"><input type="checkbox"/> Use of Watercraft</td> <td style="width: 33%;"><input type="checkbox"/> Use of Jewelry</td> <td style="width: 33%;"><input type="checkbox"/> Expensive Antiques/Autos</td> </tr> <tr> <td><input type="checkbox"/> Use of Aircraft</td> <td><input type="checkbox"/> Use of Fine Arts</td> <td><input type="checkbox"/> Dangerous Auto Scenes</td> </tr> <tr> <td><input type="checkbox"/> Use of Helicopters</td> <td><input type="checkbox"/> Use of Water Filming</td> <td><input type="checkbox"/> Other Stunts/Hazards</td> </tr> <tr> <td><input type="checkbox"/> Use of Balloons</td> <td><input type="checkbox"/> Use of Pyrotechnics</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Use of Animals</td> <td><input type="checkbox"/> Auto Crash Scenes</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Auto Chase Scenes</td> <td><input type="checkbox"/> Underground Filming</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Filming 50ft.</td> <td><input type="checkbox"/> Filming Near Water</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Use of Antiques</td> <td><input type="checkbox"/> Use of Trains/Railroads</td> <td></td> </tr> </table>		<input type="checkbox"/> Use of Watercraft	<input type="checkbox"/> Use of Jewelry	<input type="checkbox"/> Expensive Antiques/Autos	<input type="checkbox"/> Use of Aircraft	<input type="checkbox"/> Use of Fine Arts	<input type="checkbox"/> Dangerous Auto Scenes	<input type="checkbox"/> Use of Helicopters	<input type="checkbox"/> Use of Water Filming	<input type="checkbox"/> Other Stunts/Hazards	<input type="checkbox"/> Use of Balloons	<input type="checkbox"/> Use of Pyrotechnics		<input type="checkbox"/> Use of Animals	<input type="checkbox"/> Auto Crash Scenes		<input type="checkbox"/> Auto Chase Scenes	<input type="checkbox"/> Underground Filming		<input type="checkbox"/> Filming 50ft.	<input type="checkbox"/> Filming Near Water		<input type="checkbox"/> Use of Antiques	<input type="checkbox"/> Use of Trains/Railroads	
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<input type="checkbox"/> Use of Antiques	<input type="checkbox"/> Use of Trains/Railroads																								
10. Production Schedule																									
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;"></th> <th style="width: 25%; text-align: center;">Start</th> <th style="width: 25%; text-align: center;">End</th> </tr> </thead> <tbody> <tr> <td>Start of Pre-Production:</td> <td></td> <td></td> </tr> <tr> <td>Start of Principal Photography:</td> <td></td> <td></td> </tr> <tr> <td>Completion of Protection Print:</td> <td></td> <td></td> </tr> </tbody> </table>			Start	End	Start of Pre-Production:			Start of Principal Photography:			Completion of Protection Print:														
	Start	End																							
Start of Pre-Production:																									
Start of Principal Photography:																									
Completion of Protection Print:																									
<i>(Please notify us in the event any of the above dates are changed)</i>																									

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Production Insurance Application

11. Estimated Cost (Please attach a complete copy of your budget)

Total Budget:	\$
Story/Scenario/Music/Sound Rights/Royalties:	\$
Post Production Costs:	\$
Net Insurable Production Costs:	\$
Estimated Daily Cost:	\$
Below the Line Production Cost:	\$

List any expenses or producer fees you wish to exclude:

The following costs are excluded from Coverage, please mark those you would like to include:

- | | |
|---------------------------------------|---|
| <input type="checkbox"/> Story Rights | <input type="checkbox"/> Premiums paid for this insurance |
| <input type="checkbox"/> Continuity | <input type="checkbox"/> Scenario |
| <input type="checkbox"/> Residuals | <input type="checkbox"/> Interest |
| <input type="checkbox"/> Sound Rights | <input type="checkbox"/> Royalties |
| <input type="checkbox"/> Music Rights | <input type="checkbox"/> Property Taxes |

Percentage of overhead not directly related to the production to be included:

12. Cast Coverage

Name of Artists	Role	Artists Start Date	Artists End Date

Are any persons to be covered involved in any hazardous activity? Yes No

If "Yes," please explain:

Are any of the covered persons functioning in a dual capacity i.e. director and lead artist?

Are there any special conditions, contract requirements such as essential element on the persons to be covered?

- Yes No

If "Yes," Please attach a copy of the contract.

13. Negative/Faulty Coverage

What type of Film/Video are you using? Digital Film

Please advise if you will be using any special film or cameras.

Name and address of the processing/post laboratory:

How frequently will film be developed/viewed and how will it be transported?

Are special computer-generated graphics, animation or other process involved? Yes No

If "Yes," please explain:

Name and address of the lab/studio performing the effects:

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Production Insurance Application



14. Limits of Liability and Deductibles		
Coverage	Limit of Liability	Deductible
Cast Coverage:	\$	\$
Negative/Video/Sound/Disc:	\$	\$
Props, Sets and Wardrobe:	\$	\$
Faulty Processing:	\$	\$
Fine arts, Jewelry, etc.:	\$	\$
Extra Expense:	\$	\$
Third Party Property Damage:	\$	\$
Miscellaneous Equipment:	\$	\$
Owned Equipment :	\$	\$
Hired Auto Physical Damage	\$	\$
Office Contents:	\$	\$
Computer Hardware:	\$	\$
Money and Currency:	\$	\$

15. General Liability, Umbrella, Non Owned and Hired Auto & Workers Compensation	
What general liability limits is required?	<input type="checkbox"/> \$1,000,000 per claim/\$1,000,000 aggregate <input type="checkbox"/> \$1,000,000 per claim/\$2,000,000 aggregate

Is there a request for increased limits or additional requirements? If so, please provide copy of location agreement.
Provide the name of the Payroll Service being used:
If payroll services is not used, please break down the payroll in the following categories: Production: _____ Office: _____ Editing _____
What is the cost of hire autos? Please break down the costs in the following categories: Picture Cars: _____ Production autos: _____
16. Has any form of insurance ever been canceled or declined? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," please explain: 17. Previous insurer and policy number:

Signing this application does not bind the application to purchase the insurance, but the information contained herein shall be the basis of the contract should a policy be issued. If any of the above questions have been answered fraudulently or in a way as to conceal or misrepresent any material fact or circumstance concerning this insurance or the subject thereof, the entire policy shall be void.

Signature: _____

Title: _____

Date: _____

Please provide a copy of the script and budget.

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FIGURE 13.5—Production Insurance Application

The following questions will assist the insurance underwriter in determining what insurance rate to apply to the film:

- *Name of the production company and the title of the film.*
- *Names of producer/direct and their experience.* The number of years of filmmaking experience does impact the underwriting of the film. The insurance company prefers the filmmaker and his or her film crew have significant experience—3 to 5 years. They feel the more experience a filmmaker has the fewer losses due to carelessness or negligence happen.
- *The principal photography term.* The length of filming enables the insurance company to determine how long they will need to insure the film. The longer the filming period the higher the probability that something could go wrong.
- *Location(s) of the filming.* Due to tax incentives, filmmakers may want to film at a location or a specific period where weather issues may arise. For example, filming in Florida during the hurricane season or will filming abroad in areas of extreme heat or cold.
- *Type of production—comedy, drama, horror, action.* Insurance underwriters will apply a higher rate to films with action. An example would be a car chase scene in which injuries to third parties and damages to property and equipment have a higher probability than say a drama set on a sound stage.
- *Does the production involve stunts (fights, chase scenes), pyrotechnics (explosions/fire), animals, aircraft, watercraft, or railroads?* These activities will need to be underwritten separately and can result in additional insurance premiums. This is because with these types of activities accidents can result in injury or death of the stunt persons or actors, damage to third parties property, and injuries to bystanders. Please note that the insurance underwriter will require information regarding the stunt coordinators, pyrotechnic coordinators, and safety plan.
- *Names of cast members (if known).* Insurance companies do pay attention to the actors being cast for the film. They are concerned that some of the actors may have an addiction or preexisting condition that could result in potential loss of an actor and result in extra expense claims due to recasting or halting production.

- *Will the production be filmed digitally or on negative?* As there are a multitude of different cameras, there are different ways to process film. From the insurance company's perspective, there are fewer risks when using digital processing than with negative processing. With negative processing, there are more claims reported due to poor quality materials and cameras. The types of claims that are reported come in the form of spots, scratches, flicking, and grainy film footage which means a reshoot is necessary.
- *How often will the production be downloaded or processed?* The insurance company prefers that a filmmaker review their film daily. They feel that with this practice any problems may be caught in the early stages rather than discovering a problem much later which will result in doing an extensive reshoot.
- *What limits are required for equipment, location, prop, vehicle vendors?* Each vendor may require different replacement costs for their property. It is recommended that the production company identify items of high value such as antiques, fine arts, jewelry, and luxury cars to make sure the limits are adequate.

In addition to this information, the production company will need to provide the following elements in order to obtain an insurance quotation:

- Officer(s) of the production company and company Federal ID number (FEIN)
- Complete budget with top sheet
- Script
- Does the film have any stunts, special effects aerial work, and filming in or around water?
- What payroll service will be used? What is the estimated production payroll?

Annual or Short Term Policies

Production insurance can be quoted two ways:

- *Annual* means the policy term is good for a full 12 months. An annual policy is recommended for films that:

- Film more than 4–6 weeks.
 - Requires additional filming days or pick up shots. Now, more than ever, independent filmmakers are doing pick up shots to make their film more marketable. A client of mine did 2 to 3 pick up shots months later and enabled them to secure a distributor.
 - Requires long editing and post-production period. A film may require more processing time for issues such as visual effects—CGI, music, and sound.
- *Short term* means the policy term can be as short as a day to 30 days. As this is short term, the insurance broker will require that you pay the premium upfront. A short term policy is recommended for films that:
- Will not take longer than 30 days to film.
 - Does not require additional pick up shots. Filming is only a definitive number of days and nothing more.
 - Does not require a long post-production period. Post-production will be done digitally and does not require lengthy processing.

Annual policies cost more money because they provide a longer coverage term and provide a *broader* production package policy. A broader policy form means the insurance companies can offer higher limits and additional coverage enhancements under the production package. An annual policy will allow you to extend the package policy to cover additional pick up shoots.

On the other hand, a short term policy has a definitive time period. However, if an additional couple of days of filming are required, the production company will need to purchase another short term insurance policy. The premiums for the filming 2–3 weeks can add up. In the end, the production company may find that they spent virtually the same premium as an annual policy.

Another notable advantage of an annual policy is you can extend the coverage to protect the processing of the film. This means that the annual negative/faulty stock coverage can be extended to continue to provide additional relief if something happens during post-production. A client of mine, actually extended this coverage for 6 months while posting their film. This enables the production company to recoup some of their production costs should faulty developing, editing, or processing occur. Whatever you choose, give yourself plenty of time to purchase your insurance in advance. A short-term quotation can be provided within a day. An annual quotation can take up to 3–5 days.

What Are the Types of Production Insurance Policies?

General liability protects the production company from bodily injury and property damage claims brought forth by an individual outside of the production company otherwise known as a “third party.” As stated before, this policy provides for injury to an individual and damage to filming locations. In addition, the policy provides supplemental payments for attorney fees, court costs, and other expenses associated with a claim or the defense of a liability suit.

City/state permitting offices, sound stages, and building owners will require an insurance certificate including them as additional insured as they do not want to be held liable for damages or injuries that a film crew may cause due to filming. The types of claims that arise are usually as a result of negligence or carelessness of the crew members. Example: A businessman walking to his office building trips over a cable that was not secured properly by the film crew. The standard *policy limit* is \$1,000,000 subject to an *aggregate limit* of \$2,000,000. There are no deductibles applicable to this coverage.

KEY TERM:

POLICY LIMIT Is the monetary dollar amount that an insurance company will pay out in conjunction with a specific insurance claim.

AGGREGATE LIMIT Is the maximum dollar amount an insurance company will pay during a policy periods. This provision is used by the insurance company to limit the amount that can be paid in the policy period.

Umbrella coverage provides additional limits over liability policies such as the general, auto, and employers liability so if a claim exceeds the primary policy limit of say \$1,000,000 under the general liability policy, the umbrella would take over when the limits have been exhausted.

As discussed in Chapter 7—*Locations*, there may be occasions where city, facilities, venues, and buildings require increased limits. Increased limits are usually applicable when you are filming at airports, famous buildings, libraries, and colleges. This is because the property owners and risk managers

want the production company to have adequate limits while on their property to cover any claims that your production crew may cause. *Hint:* Whenever possible, the location manager should try to negotiate a lower limit requirement *before* signing the agreement.

Please note, large budgeted films purchase this coverage because their project has more visibility due to high caliber stars or director, expensive locations, complicated stunts, or pyrotechnic activities and a voluminous film crew. All these elements combined can result in an increased number of personal injury or property damage claims.

Auto coverage Protects the production company from claims arising from the use of non-owned, leased, hired, and rented vehicles that are used in connection with the film. This coverage comes in two sections because there is always someone who is at fault and there is always a vehicle that needs to be repaired as a result of an accident. This policy breaks down into the following two categories:

Auto Liability—protects the production company from claims alleging bodily injury or property damage as respect to the production company's use of a non-owned, rented, or hired vehicle. The normal limit of liability is \$1,000,000. There is no deductible applicable with this coverage.

Auto Physical Damage—covers the repair or replacement of the rented or hired vehicle. The normal limit is \$125,000 because vehicles are not usually valued any higher than this amount. If you are using a luxury vehicle, it may be necessary for you to increase the physical damage limit. For example, a production company may want to increase the physical damage limit to cover an Italian race car that is valued at \$200,000. To cover this, the underwriter will require a description of the scene, the length of time the cars will be used, outline of the safety procedures, and charge an additional premium. Just as with your auto policy, there is a deductible that you will need to pay as well. The coverage deductible ranges from \$2,500 to \$7,500. In addition, this coverage can be found in the production package under the title Non-Owned and Hired Auto physical damage.

The rental companies will request that you provide a certificate of insurance that includes them as an additional insured and loss payee. This means the rental company is not held liable for any accidents a film crew member may cause behind the wheel as well as repairing or replacing their vehicle. In addition, they may require you provide a credit card or check in the amount of the policy deductible.

If the production company decides to hire a film crew's vehicle, their deal memo must outline that you require the use of their cars and outline the duties they will be performing. The production company should include a statement in the deal memo that states that they are not responsible for any accidents that occur after work. In addition, you should request the crew member provide proof that they are licensed drivers and they have their own auto insurance in place.

As always keep this all documentation in your data base as the adjuster will need this document if a claim is filed to show proof that the auto was hired by the production company.

Please note that auto liability coverage does not extend to employees' or independent contractors' cars while driving to or from set or location. The employee would use his or her automobile policy to protect themselves if an accident occurs. This is because all drivers are responsible and are strictly liable for accidents they cause while behind the wheel. Simply said, the production company should not be liable if a crew member decides to run a red light while driving to work.

Production Package This policy form was created to cover a variety of issues that relate only to the film industry and is composed of the following policy sections:

- Cast
- Negative and faulty stock
- Miscellaneous equipment
- Third party property damage
- Props sets/wardrobe
- Extra expense
- Office contents

In addition, this policy is a worldwide policy so it can be used when filming aboard.

Cast Coverage

This coverage reimburses the production company for any extra expenses incurred due to the death, injury, or illness of a group of actors or director.

A death of an actor can result in the inability to complete a film because not only is the film's vision halted but the production company has ongoing production expenses like locations, payroll, and vendors to pay. In the end, cast coverage enables a production company to make decisions as to whether to recast, rewrite the film, and/or employ CGI (computerized imaging). If the loss falls within the parameters of the policy and is approved by the insurance adjusters, the additional expenses would be covered by the insurance company. This would enable the production company to do a reshoot or find alternatives to complete their film.

For an example, a number of my clients have reported claims in where an actor is unable to perform due to the flu, allergic reactions from food, or injury to their foot while skateboarding. In these situations, my clients first amend their schedules by "shooting around" the performances of the inflicted actor. Of course, if there is no way to shoot around the activities, the extra expenses for accommodating the illness of the actor would be paid by the insurance company. The usual limit for this coverage is based on 100% of the budget and is subject to a deductible ranging from \$25,000 to \$75,000.

SIDE NOTE

CAST CLAIM EXAMPLES:

1981: Lloyd's of London paid \$2.75 million to MGM/United Artists to finish "Brainstorm" after the drowning death of actress Natalie Wood.

1993: \$5.7 million was paid to the producers of two films that were to star River Phoenix after he died of a drug overdose outside a Los Angeles nightclub.

1994: When Brandon Lee died while filming "The Crow," CNA Insurance paid for script revisions, extra shooting, and special effects to complete the film.

1994: \$14.5 million went to the producers of "Wagons East" when actor John Candy died of heart failure with 20 percent of production remaining.

2000: When Nicole Kidman injured her right knee during the filming of "Moulin Rouge" resulting in two claims for delays and a \$3 million insurance loss.

In addition, the insurance company can endorse family bereavement coverage. This coverage reimburses the production company for any extra expenses that is incurred when an actor or director attends to an emergency, illness, or death of an *immediate family member*. The insurance company defines an immediate family member as a spouse, child, mother, father, brother, and sister.

Cast Coverage—Do I Need It?

In the preliminary stages of a film, the production company will need to determine if cast insurance is necessary. Banks, investors, finance companies, and bond companies will require cast coverage for your lead actors. This will require a cast physical conducted by a third party physician prior to the start date of your production. In addition, some financiers may require *essential elements* coverage. Essential elements coverage allows the production company to abandon a film should the “key” actor, actress, or director be unable to perform due to death, injury, or illness. *Hint:* This coverage is usually necessary for an A-list actor or an actor who is performing two roles, i.e., director and lead actor.

This coverage allows the production company to abandon the production and recoup production costs. In order to obtain this coverage, the “essential individual” will be subject to not only a cast medical exam but additional medical tests such as:

- Complete blood count and blood chemistry panel
- Urinalysis
- Urine drug screen
- EKG
- Chest X-ray
- Treadmill stress test, if the actor/director is over 45 years old

Depending on the cast medical and test results, the insurance company will charge an additional premium to include the “essential individual” to the policy. Even if cast coverage is not required, the production executives should have a discussion about any potential risks. The following is a couple of points to discuss:

- How long is principal photography? Are you filming more than 3–5 weeks?
- Is the casting agent aware of any preexisting medical conditions?
- Are you hiring any actors that are middle aged or older? *Hint:* It’s a known fact that medical conditions usually appear when we get older. There are possibilities that the actor may be dealing with high blood pressure, weight issues, or chronic problems such as migraines and diabetes. These types of ailments could hamper their participation.

- Will the roles for the actors be physically challenging? Will they be running or performing choreographed fight scenes? *Hint:* Any physically challenging activities should be performed by stunt professionals.

Who Should I Cover?

You need to cover the actors that you consider being the MVPs (Most Valuable Players) of your film. The producer and director should ask this question when deciding “Can we complete the film without this individual?” Depending on the size of the film’s budget, insurance companies can provide cast coverage for up 10 to 12 actors.

Cast Coverage—The Process

To start the process, you will need to provide your insurance broker with a listing of the director and main actors so that accident only coverage can be placed. This coverage does not require a cast medical exam and will only cover the production company if an artist’s injury results from an accident.

In order to secure full cast coverage, a cast medical examination needs to be completed. Certain insurance company state examinations can be done by a physician who is a general practitioner and some require the examination be completed by a physician that they recommend. Please note that all insurance companies *will not* approve a medical examination that is performed by the actor’s personal physician. This is because insurers feel that a personal physician may complete the form inaccurately because they may be wrongly motivated to help their client secure an acting job.

The examination is not invasive. All the artist needs to do is complete a medical questionnaire that asks a variety of questions that require a “yes” or “no” answer. If the artist answers “yes” to any of the questions, the insurance company will require a complete explanation as to whether the condition has been resolved, name and phone number of the treating physician, or provide the medication they are taking.

The medical questions that are asked relate to allergies, cold sores, blood pressure, and drug or alcohol use. In addition, the physician is required to do a general appearance review which encompasses checking the following:

- Height, weight, temperature
- Blood pressure/pulse

- Eye, ear, nose, and throat
- Use a stethoscope to check the heart and lungs

[Print Form](#)



ProSight
Specialty Insurance
101 North Brand Blvd., Suite 1200
Glendale, CA 91203

Toll Free: 1-800-774-2755
Glendale Office: 1-818-230-8200
Fax: 1-800-594-5092
glendaleoffice@prosightspecialty.com

MEDICAL CERTIFICATE
AFFADAVIT OF EXAMINED PERSON

NAME OF EXAMINEE:	DATE OF EXAM:
PRODUCTION TITLE:	LOCATION OF EXAM:
PRODUCTION COMPANY:	EXAMINEE'S ROLE:
NUMBER OF WEEKS OF FILMING:	FIRST DAY OF FILMING:

It is mandatory that the examinee answer the following:

1. Date of Birth: [REDACTED] Age: [REDACTED] Sex: [REDACTED]
2. If you have ever had, been advised you had, been treated for or consulted a doctor regarding any of the following medical conditions, please select accordingly:

<input type="checkbox"/> Convulsions, paralysis or stroke, severe headaches or diseases of the brain or nervous system.	<input type="checkbox"/> High blood pressure, heart attack, angina pectoris or any other disorders of the heart or blood vessels.
<input type="checkbox"/> Tuberculosis, asthma, emphysema, persistent cough or any other disease or abnormality of the lungs or respiratory system.	<input type="checkbox"/> Duodenal or gastric ulcer, colitis or any other disease or abnormality of the stomach, intestines, rectum, liver, pancreas or gallbladder.
<input type="checkbox"/> Sugar, albumin, blood or pus in urine, kidney stones, or any other disorder of the bladder, kidney or genitourinary system.	<input type="checkbox"/> Diabetes, gout or any other disease or abnormality of the thyroid or other glands.
<input type="checkbox"/> Any disease, disorder or injury of the bones, joints, muscles, back or spine.	<input type="checkbox"/> Cold sores on lips or face in the past five years.
<input type="checkbox"/> Any significant change of weight, (20 lbs. or more) in the past year.	<input type="checkbox"/> Treatment for or any indication of excessive use of alcohol or drugs.
<input type="checkbox"/> Any infection or disease of the eyes, ears, nose or throat.	<input type="checkbox"/> Any eating disorder.
<input type="checkbox"/> Disorder of skin, lymph glands, cyst, tumor or cancer.	

3. To be completed if artist is female:

Have you had any disorder of menstruation, pregnancy or of the female organs or breasts?	[REDACTED]
To the best of your knowledge, are you now pregnant?	[REDACTED]
If yes, how many months?	[REDACTED]
4. In the past five years have you been under a doctor's care and/or been admitted to a hospital for any physical or mental condition?

If yes, please state:	[REDACTED]
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PE #

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Page 1 of 7

Medical Certificate Application (cont'd)

5. Are there any other conditions, medical or otherwise, that might affect your ability to perform your duties on this production?

If yes, please state:

6. When did you last receive a complete physical examination?

What were the results?

7. Name and address of personal physician:

Name:

Address:

City:

State:

Zip Code:

8. Do you have any beliefs that preclude you from taking prescribed medication or treatment?

9. Have you, within the past five years, been disabled as a result of any illness or injury while working in any film or stage production?

If yes, state full particulars, name of the production and dates:

10. Are you now, or will you at any time during the period of this production, be taking part in any other film or stage production or other professional engagement?

If yes, state full particulars and dates:

11. Are you currently using or in the last twelve months have you used:

a. Prescription or non-prescription drugs?

b. Narcotics, depressants, anti-depressants, stimulants or psychedelic drugs (such as LSD), heroin or cocaine, whether prescribed by a physician or not?

Please explain any "Yes" answer under A or B above:

c. Tobacco? Amount/Frequency:

d. Alcohol? Amount/Frequency:

12. Will you be participating in any potentially hazardous activities or sports in your personal time during preproduction or principal photography of this film, including, but not limited to, auto/motorcycle racing, equestrian, gliding/ flying/ skydiving, mountain climbing, scuba diving, snow or water skiing, or other?

If yes, specify:

If so, please state frequency (daily, weekly, etc.)

Medical Certificate Application (cont'd)

13. Has any Insurance Company declined to insure you or imposed any special terms in regard to your acceptance for any Cast Insurance, Non Appearance Insurance, or Accident, Health or Life Insurance?

If yes, please explain:

14. Do you have any family history of heart or kidney disease or diabetes?

15. Will you be performing any special physical activities in this production (e.g. running, climbing, weapon work, fight sequences, aerial, etc.)?

If yes, please explain:

16. In what location will you be filming? Please indicate vaccinations taken for filming in any foreign locations:

I declare and affirm that I am the person first named above; that the statements made hereon by me are true, correct and complete; that I have withheld no information known to me which might alter or otherwise conflict with the statements made by me. I understand that an insurance policy may be issued based on the statement made hereon by me. If a policy is issued and a claim is paid thereunder, I understand that the insurer will hold me personally liable and seek recoupment from me if it is thereafter determined that the statements I made hereon are not true, correct and otherwise complete, or that I have withheld information known to me which might alter or otherwise conflict with the statements I have made. I also agree to be reexamined by the insurer's doctors, in the event a claim is made. Further, I authorize any physician, licensed practitioner, hospital, clinic or other medical or medically related facility, insurance or reinsurance company, or production company having information available as to diagnosis, treatment and prognosis with respect to any physical or mental condition and/or treatment of me to give to ProSight Specialty Insurance and the Insurance Company(ies), and their affiliates, agents or brokers for underwriting and claim settlement purposes. I know that I may request a copy of this authorization. I agree that this authorization shall be valid for a period of two years from the date on which it was signed. I also consent to the release of any information gathered by ProSight Specialty Insurance or the Insurance Company(ies) to any production company, which may be considering me for a role.

SIGNATURE OF EXAMINEE OR LEGAL GUARDIAN

DATE

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glendaleoffice@prosightspecialty.com

Medical Certificate Application (cont'd)

MEDICAL CERTIFICATE
PHYSICIAN'S EXAMINATION

Name of Examining Physician: [REDACTED]

Physician's Telephone Number: [REDACTED]

Physician's Fax Number: [REDACTED]

Artist Name: [REDACTED]

Production Co./Title: [REDACTED]

ARTIST'S GENERAL APPEARANCE

HEIGHT: [REDACTED]

WEIGHT: [REDACTED]

TEMP.: [REDACTED]

BLOOD PRESSURE: [REDACTED]

PULSE: [REDACTED]

EENT: [REDACTED]

HEART: [REDACTED]

LUNGS: [REDACTED]

If examinee is under the age of nine,
please advise what childhood disease(s)
he/she has had and provide
immunization records:

Please provide details regarding any
selected item(s) per question 2 or any
"Yes" answers for questions 3 through
15 on the examinee's Medical
Certificate:

Were there any abnormal findings?

FOR INSURANCE USE ONLY	
Accepted for Full Coverage:	[REDACTED]
Accepted for Accident Only:	[REDACTED]
Rejected:	[REDACTED]
Accepted subject to the following restrictions:	[REDACTED]

Signature of Physician

[REDACTED]
DATE SIGNED

[REDACTED]
Additional Examination Forms

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Medical Certificate Application (cont'd)

MEDICAL CERTIFICATE
PHYSICIAN'S EXAMINATION

Name of Examining Physician: [REDACTED]

Physician's Telephone Number: [REDACTED]

Physician's Fax Number: [REDACTED]

Artist Name: [REDACTED]

Production Co./Title: [REDACTED]

ARTIST'S GENERAL APPEARANCE

HEIGHT: [REDACTED]

WEIGHT: [REDACTED]

TEMP.: [REDACTED]

BLOOD PRESSURE: [REDACTED]

PULSE: [REDACTED]

EENT: [REDACTED]

HEART: [REDACTED]

LUNGS: [REDACTED]

If examinee is under the age of nine,
please advise what childhood disease(s)
he/she has had and provide
immunization records:

Please provide details regarding any
selected item(s) per question 2 or any
"Yes" answers for questions 3 through
15 on the examinee's Medical
Certificate:

Were there any abnormal findings?

FOR INSURANCE USE ONLY

Accepted for Full Coverage: [REDACTED]

Accepted for Accident Only: [REDACTED]

Rejected: [REDACTED]

Accepted
subject to the
following
restrictions:

Signature of Physician

[REDACTED]
DATE SIGNED

[REDACTED]
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Medical Certificate Application (cont'd)

MEDICAL CERTIFICATE
PHYSICIAN'S EXAMINATION

Name of Examining Physician: [REDACTED]

Physician's Telephone Number: [REDACTED]

Physician's Fax Number: [REDACTED]

Artist Name: [REDACTED]

Production Co./Title: [REDACTED]

ARTIST'S GENERAL APPEARANCE

HEIGHT: [REDACTED]

WEIGHT: [REDACTED]

TEMP.: [REDACTED]

BLOOD PRESSURE: [REDACTED]

PULSE: [REDACTED]

EENT: [REDACTED]

HEART: [REDACTED]

LUNGS: [REDACTED]

If examinee is under the age of nine,
please advise what childhood disease(s)
he/she has had and provide
immunization records:

Please provide details regarding any
selected item(s) per question 2 or any
"Yes" answers for questions 3 through
15 on the examinee's Medical
Certificate:

Were there any abnormal findings?

FOR INSURANCE USE ONLY	
Accepted for Full Coverage:	[REDACTED]
Accepted for Accident Only:	[REDACTED]
Rejected:	[REDACTED]
Accepted subject to the following restrictions:	[REDACTED]

Signature of Physician

[REDACTED]
DATE SIGNED

[REDACTED]
Additional Examination Forms

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Physician's additional comments:

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FIGURE 13.6—Cast Examination Form

The resulting medical form is then reviewed by the insurance underwriter. Please note that there may be times a preexisting or developing condition is discovered and can result in the insurance company excluding the condition.

Depending on the condition, an exclusion may be removed by warranty letters in which the artists state they will take their medication throughout production or the insurance underwriter contacts the artist's treating physician to secure more information about their current condition. As a result of these additional steps, the insurance company may remove the exclusion by increasing the cast deductible or charging an additional premium.

In addition, there are life style habits that the insurance company may be concerned about. The primary issues are habitual drinking of alcohol, use of LSD, heroin, cocaine, narcotics, depressants, stimulants, or hallucinogens. The reasons for this concern are there is in all likelihood that the production company will not get the best performance from the director or actor or actress and can suffer down time from indulgence and delay filming.

Please note that if you decide to move forward with obtaining cast coverage the underwriting process will require more in depth conversations between the actor's treating physicians, counselors, and psychologists. In these cases, the insurance company may not insure the actor or director, exclude coverage for an applicable issue, charge an additional premium charge, or offer an increase deductible option. Depending on the issue, insurance companies are known to subject an actor or director to daily drug testing, have an assigned counselor monitor an actor or director throughout principal photography, or have the actor set up some type of escrow account or bond where he or she will reimburse the insurance company if there are any delays of filming.

In addition, there may be concerns with the age of the actors. Children who are under the age of 7–8 will be required to provide role information, their days out of days, a copy of their immunization records, and may be subject to an underage surcharge. That being said, underwriters have concerns with actors who are over 65–70 years of age. They will be required to provide role information, their days out of days, and maybe subject to overage surcharges. These surcharges or additional premiums can range from \$1,000–\$5,000.

Please note that all medical information is held in the *strictest of confidence* by both the insurance broker and insurance company. Maintain confidentiality within your production offices and restrict any medical information of

your actors to the producer, director, and production manager. Many years ago, I received a cast medical that revealed the actor had Acquired Immune Deficiency Syndrome (AIDS). The actor and his agent were so worried that this information would be leaked to the tabloids that the production executives, insurance underwriters, and I were required to sign a confidentiality agreement. All agreements were executed, the actor completed his production, and no one ever knew.

In the end, production companies obtain cast coverage for their actors and director to avoid a loss that could result in halting the production and causing financial hardship.

Negative Film and Video Tape

This section will reimburse the production company for any extra expenses resulting from the physical loss, damage, or destruction of raw film or tape stock, exposed film (developed or underdeveloped), recorded videotape, sound tracks, computer generated images, and hard drives. Depending on the loss, the insurance company will pay for the resulting extra expenses such as reshooting or re-recording the lost or damaged material. The limit of coverage is equal to 100% of the budget and is not subject to a deductible.

Shipping the Negative

Please note that the insurance company will provide for the negative, videotapes, and digital elements while in transit. When transporting the negative, it is important to separate the negative into different shipments. This is the best way to minimize a loss so you do not end up having to reshoot the entire film. It is important to be selective as to how you transport your negative. Several clients have reported a claim because their negative was lost or stolen by various overnight carriers.

The production company should consider using experience courier services. These services assign an individual to escort the negative to the post production facility. Alternatively, the best option would be to have a trusted member of your film crew transport the negative on a direct flight to where the post production facility is located. Please make sure the Transportation Security Administration (TSA) conduct a hand and visual inspection of your negative instead of through baggage screening.

Faulty Stock, Camera, and Processing

This reimburses the production company for loss, damage, or destruction of raw film or videotape stock, exposed film (developed or underdeveloped), recorded video tape, sound tracks, and digital elements caused by or resulting from the use of faulty equipment (cameras and sound equipment), faulty developing, editing or processing, and accidental erasure of video tape recordings. Please note, that some of my digital clients have actually used this coverage when the server they were downloading the filmed footage malfunctioned. The production company was able to reshoot the footage they lost. The limit of coverage is equal to 100% of the budget and is subject to a \$10,000 or \$25,000 deductible.

Props, Sets, and Wardrobe/Miscellaneous Equipment/Office Contents

As discussed in Chapter 8, the insurance company will pay for damage or destruction of property purchased or owned by others while in the temporary *care, custody, or control* of the production company for use in a film. The property is defined as:

- Props, sets, scenery, costumes, and wardrobe. Depending on type of props needed, the limit of coverage can range from \$100,000–\$1,000,000 and is subject to a deductible ranging from \$1,500–\$2,500.
 - As stated in Chapter 8, any items that are high valued antiques, you will need to contact your insurance broker and obtain separate coverage for fine arts. If this is the case, you will need to provide a schedule and value for each item, the security measures you will have in place, and the length of time you will have it in your custody. Please note that the fine arts coverage will be subject to a separate limit and deductible and will result in an additional premium.
- Camera, camera equipment, sound, lighting, grip, and post production equipment. The limit can range from \$100,000 to \$1,000,000 and is subject to a deductible ranging from \$2,500 to \$5,000.
- Office furniture, fixtures and equipment, including computers (hardware and software). The limit can range from \$5,000 to \$10,000 is subject to a deductible ranging from \$1,500 to \$2,000.

The rental companies will request that you provide a certificate of insurance that includes them as an additional insured and loss payee. This means they are not held liable for any accidents a film crew member may cause while using the equipment as well as repairing or replacing their property. When purchasing or renting the property, each department should maintain an itemized checklist of all items and the name and phone numbers of the vendors and owners. Before renting the equipment, all items should be checked to see if it is in proper working condition. Every department should monitor the equipment on a daily basis. Any missing items should be reported to the production manager immediately. As soon as the property is deemed missing, the production company should file a police report to substantiate the theft or break in. Please note there is no coverage for prop and/or equipment losses that are a result of “mysterious disappearance.” An insurance company will not honor a claim if you report the item simply “sprouted legs and walked away” without a trace. A loss of equipment must be a result of some type of occurrence such as a break in, robbery, or theft. In addition, this coverage does not provide for personal property owned by the film crew (i.e., wallets, purses, clothing, equipment, laptops) unless the item(s) are scheduled in their deal memo as items to be used by the production company.

Third Party Property Damage

This section will pay for damage or destruction of property owned by others while in the care, custody, or control of the production company and is being used in a film. The property can consist of sound stages, office buildings, stores, libraries, colleges, hotels, mansions, apartments, and homes. The limit can range from \$100,000 to \$1,000,000 and is subject to a deductible ranging from \$2,500 to \$5,000.

Extra Expense

The production company reimburses for any extra expenses that may arise due to damage or loss of prop, sets, wardrobe, equipment, or facilities that can delay a film and incur additional costs that are unforeseen. This coverage enables the production company to finish their film. The usual limit for this coverage is based on 100% of the budget and is subject to a deductible ranging from \$3,500 to \$5,000.

For example: A client who was filming in India had a number of their camera equipment and lens stolen from the hotel where they were staying. It took two days for replacement cameras to reach the film crew. A claim was settled

for the cost to replace the cameras as well as the extra expenses that resulted from the two additional days.

Workers Compensation/Employers Liability

Workers Compensation—Part A Covers your employees medical expenses, disability, lost income wages, rehabilitation costs, or death benefits to any cast or crew member who becomes injured or ill in the course of employment. The benefits limits are established by the each state's Workers' Compensation Board and are not subject to deductibles. Workers' compensation is a “no fault coverage” which means no one party is determined to be at fault. The amount that a claimant receives is not decreased by his or her carelessness, nor increased by an employer's fault. Please note that even though this is a no fault coverage the states can subject the employer to an Occupational Safety & Health Administration (OSHA) inspection which can result in citations or fines. You can find more information about OSHA in Chapter 14—*Risk Management*.

The following are the elements covered under workers' compensation:

- (1) *Medical Expense*—the cost for hospitals, doctors, and medical treatments. Some states allow the injured individual to select a medical provider of his or her own choice and others have medical provider chosen by the employer or the employer's insurance company.
- (2) *Disability Pay*—provides temporary disability payments while you are on the mend, or permanent if the employee does not recover. The amount of these payments varies by state. It can be as high as one-half to two-thirds of your normal salary.
- (3) *Rehabilitation*—the costs for counseling, medical and psychological services and job training. This would include physical therapy to regain strength or re-training so that you can perform the duties of your job.
- (4) *Death Benefits*—provides a cash benefit to surviving spouse and children. Parents may be eligible when there are no other surviving family members. The amount varies by state but can be as high as two-thirds of the deceased worker's average weekly wage.

Employers Liability—Part B This section protects the employers from liabilities arising from disease, fatality, or injury to employees resulting from workplace conditions or practices. There are instances when employees can file a lawsuit against their employers for their negligence. The limit of liability is \$1,000,000 and is not subject to a deductible.

In this situation the employee can elect not to accept the coverage benefits offered under Part A of the policy and exercise their right to sue the production company instead. An example of an employer's liability lawsuit is *unsafe workplace*.

KEY TERM:

UNSAFE WORKPLACE Means the conditions of the workplace impacts the safety, health, and well-being of employees. This can include environmental hazards, poor working conditions or defective tools, equipment, and supplies.

Why Do I Need to Obtain Workers Compensation? I Am Hiring Independent Contractors.

As the entertainment industry is largely comprised of self-employed workers, people often ask "Why do I need to obtain this coverage?" My answer is followed by another question "Who's the boss?" Sure you may process their payroll (Form 1099) and assume they are *independent contractors*. However, as long as you direct and control that individual, the production company is considered the employer of record.

KEY TERM:

INDEPENDENT CONTRACTORS Are people who perform services for another person or entity under a contract in which the terms such as duties, pay, the amount and type of work and other matters are outlined.

If an injury occurs and you do not have workers compensation coverage in place, you will have to pay for the medical expenses and any benefits required under the law out of your own pocket. Please remember that even if you have a written independent contract agreement the law will still prevail. Anyone that you hire to work on a film should be entitled to Workers' Compensation benefits.

IRS CONSIDERATIONS AND THE 20 FACTORS

An **employer** must generally withhold income taxes; withhold and pay social security and Medicare taxes; and pay unemployment taxes on wages paid to an employee. An employer does not generally have to withhold or pay any taxes on payments to **independent contractors**.

To help determine whether an individual is an employee under the common-law rules, the IRS has identified 20 factors that are used as guidelines to determine whether sufficient control is present to establish an employer-employee relationship.

These factors should be considered guidelines. Not every factor is applicable in every situation, and the degree of importance of each factor varies depending on the type of work and individual circumstances. However, all relevant factors are considered in making a determination, and no one factor is decisive. It does not matter that a written agreement may take a position with regard to any factors or state that certain factors do not apply if the facts indicate otherwise.

The 20 factors indicating whether an individual is an employee or an independent contractor are:

1. **Instructions.** An employee must comply with instructions about when, where, and how to work. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved.
2. **Training.** An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services.
3. **Integration.** An employee's services are usually integrated into the business operations because the services are important to the success or continuation of the business. This shows that the employee is subject to direction and control.
4. **Services rendered personally.** An employee renders services personally. This shows that the employer is interested in the methods as well as the results.
5. **Hiring assistants.** An employee works for an employer who hires, supervises, and pays workers. An independent contractor can hire, supervise, and pay assistants under a contract that requires him or her to provide materials and labor and to be responsible only for the result.
6. **Continuing relationship.** An employee generally has a continuing relationship with an employer. A continuing relationship may exist even if work is performed at recurring although irregular intervals.
7. **Set hours of work.** An employee usually has set hours of work established by an employer. An independent contractor generally can set his or her own work hours.

SIDE NOTE

8. **Full-time required.** An employee may be required to work or be available full-time. This indicates control by the employer. An independent contractor can work when and for whom he or she chooses.
9. **Work done on premises.** An employee usually works on the premises of an employer, or works on a route or at a location designated by an employer.
10. **Order or sequence set.** An employee may be required to perform services in the order or sequence set by an employer. This shows that the employee is subject to direction and control.
11. **Reports.** An employee may be required to submit reports to an employer. This shows that the employer maintains a degree of control.
12. **Payments.** An employee is generally paid by the hour, week, or month. An independent contractor is usually paid by the job or on straight commission.
13. **Expenses.** An employee's business and travel expenses are generally paid by an employer. This shows that the employee is subject to regulation and control.
14. **Tools and materials.** An employee is normally furnished significant tools, materials, and other equipment by an employer.
15. **Investment.** An independent contractor has a significant investment in the facilities he or she uses in performing services for someone else.
16. **Profit or loss.** An independent contractor can make a profit or suffer a loss.
17. **Works for more than one person or firm.** An independent contractor is generally free to provide his or her services to two or more unrelated persons or firms at the same time.
18. **Offers services to general public.** An independent contractor makes his or her services available to the general public.
19. **Right to fire.** An employee can be fired by an employer. An independent contractor cannot be fired so long as he or she produces a result that meets the specifications of the contract.
20. **Right to quit.** An employee can quit his or her job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion, or is legally obligated to make good for failure to complete it.

www.irs.gov

In summary, the following are the three categories that determine if they are employees or independent contractors:

1. *Behavioral*: Does the company control or have the right to control the individual and tell the individual how to do their job?
2. *Financial*: Are the business aspects of the individual's job controlled by the production company? Are expenses reimbursed and are tools or supplies provided?
3. *Type of Relationship*: Are there written contracts or employee type benefits? Will the relationship continue and is the work performed a key aspect of the business?

How Is the Workers Compensation Premium Determined?

Workers compensation is based on the payroll of your film crew and their job function. When obtaining a quotation, you will need to break down the payroll into the following classification:

- Production—9610 Individuals who work within motion picture production industry.
- Post-Production—4360 Individuals who development negatives and computer images.
- Clerical—8810 Individuals who are engaged exclusively in clerical activities within an office.

Each of these classifications have different rates based on the activities the individual performs. The production classification 9610 is rated higher because there is a greater probability that filming activities could lead to injury than the more sedate clerical and editing activities.

Workers Compensation—Options

Payroll Service

In the film world, it is a preferred practice to use a payroll service. As discussed in previous chapters, payroll service companies such as Entertainment Partners, Media Services, and Cast and Crew provide a number of ser-

vices such as dispensing union/non-union payroll, paying taxes and fringes, tracking residuals, and providing workers compensation coverage. Some of the payroll services may not be able to accommodate smaller budgeted productions but can provide alternative services through affiliated companies or they can recommend another payroll service. Please refer to Chapter 11—*Accounting* for listing of payroll services.

As they pay your employees and independent contractors, they are technically considered the employer of record and will provide coverage should any job related injury arise. In addition to this, a production company may hire non-salaried employees such as interns and volunteers. As they cannot be paid through a payroll service, a separate workers compensation policy is put in place by your insurance broker to cover these individuals as volunteers (non-paid interns) if they are injured or ill in the course of employment. For example, one of my clients had a situation in which he wanted to repaint an old boat he owned for a scene in his film. The producer asked a bunch of his filmmaking friends to come over and paint the boat with him. As a favor to the producer, his friends agreed to volunteer their services for free. As luck would have it, one of his friends jumped from the deck of the ship to the dock and broke her ankle. Because workers compensation was in place the production company filed a claim and her injury was taken care of by the insurance company.

SIDE NOTE

Example: Workers' Compensation Claim—A feature film had a workplace injury where an independent contractor bumped his head against a wood beam. At the time of the injury, the producers offered to have the individual rushed to a hospital for medical attention. They had workers' compensation coverage in place through a payroll service; however, the independent contractor waived any medical attention. He then proceeded to finish his production work.

Approximately a month after the production wrapped, we received a claim from this individual stating he had reoccurring headaches from this injury. A claim was filed with the payroll service. After seeing a doctor, pain medication was prescribed and dispensed to the individual. A number of months went by, and we started to receive prescription invoices in the name of a "Jill Smith" not "Jack Smith" (fictional names). This lead to an investigation by the insurance company's claims adjuster and we learned that Jack was actually going through a sex change operation and needed the medicine to remedy his pain. As this was not a result of a workplace injury, the claim was denied.

Short-Term Workers Compensation Insurance

Many small production companies use this option when filming is limited up to 60 days. This coverage must be placed in conjunction with the other insurance coverages (i.e., general liability, auto, and production package) and cannot be obtained monoline. To obtain coverage, your insurance broker will need the following:

- Payroll for the film
- Number of full- and part-time filmmakers

Please be aware that if there are any planned stunts activities, the short-term program may not provide workers' compensation. To remedy this, use a payroll service, add *cutaway shots*, and/or add computer-generated images (CGI).

KEY TERM:

CUTAWAY SHOTS Interrupts the film by inserting another scene. Cutaways are used in place of a stunt.

An example: a production company wants to depict a scene where the main lead and his girlfriend get into a car accident and film the resulting drama of the accident. The production company can film separate scenes where the accident is about to happen and then skip the actual impact and jump to the aftermath of the accident...leaving the missing scene up to the imagination of the audience.

Guild Travel Accident

The intent of this policy is to provide blanket *accidental death and dismemberment* coverage for 24 hour business travel while working on a film. This coverage is required for filmmakers who are signatories of a guild association such as: Directors Guild Association (DGA), Writers Guild Association (WGA), Screen Actors Guild (SAG), and American Federation of Television and Radio Artists (AFTRA). Please note that the beneficiary of the death benefit is not paid to the company but spouse, children, parents, siblings, and estate.

KEY TERM:

ACCIDENTAL DEATH AND DISMEMBERMENT Covers death by accidental means as well as dismemberment and loss of use of body parts including eyesight and hearing.

This coverage is broken down into the following classes:

Class One: employed through a guild, trade association, or labor union which have established collective bargaining agreements.

Maximum Limit: \$1,000,000.

Class Two: All individuals who are not affiliated with any guild, trade association, or labor union.

Standard Limit: \$50,000 (This limit can be increased if required.)

Aggregate Limit of Insurance: \$10,000,000

The maximum limit if more than one insured individuals suffer a loss at the same accident.

To obtain coverage all that is required is the following:

- The Guilds association and the number of members per each Guild.
- Maximum flight concentration any aircraft (# Persons).
- Location(s) of filming.
- Describe any special stunts, hazardous activities, helicopter, and/or underwater filming.

This is an important line of coverage because unfortunately accidents can happen while travelling. Four crew members perished in a helicopter crash as they were being transported to a production site. Thankfully, the insurance company paid the claim. This provided some consolation and relief to the family members who lost their loved ones in the helicopter crash.

Purchasing Coverage

All these types of production policies are complicated and can be difficult to understand. Before purchasing production insurance, you should review the insurance proposal to understand the limits, deductibles, and how the premium was calculated. Next, review the proposal with your insurance broker to better understand it and ask *questions*. Request that your insurance broker secures quotations from all the available entertainment insurance companies.

In addition, be an educated consumer and read the insurance policy form so you can understand what you are covered for and what is excluded under the policy. Again, if any questions should arise, it is best to consult with an insurance broker for answers and clarification. Remember, when deciding on an insurance policy, you should not focus on just the premiums. You must do some research and consider the insurance company's longevity, financial strength, policy form, and claims processing.

Specialty Insurance Coverage

In addition to the production policies there are specialty policies that may need to be obtained depending upon the film. Stunts and pyrotechnic scenes are not automatically covered because these activities can result in property damage of locations or injury to participants.

Stunt scenes that involve falls, car crashes, fight scenes, martial arts, sword fighting and acrobatic work will require the services of a stunt coordinator. The insurance broker will request that you complete a stunt questionnaire and request the following:

- Description of the scene.
- Location.
- Safety measures used to protect participants, the public, and equipment.
- Bio and resume of the stunt coordinator.

Additional information regarding stunts can be found in Chapter 14—*Risk Management*.



[Print Form](#)

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STUNT SUPPLEMENTAL QUESTIONNAIRE

1. Name of Applicant:
2. Policy Number (If applicable):
3. Declared Production/Event:
(Full description of each Pyrotechnic being performed (a separate questionnaire for each pyrotechnic should be used if necessary.)
4. Type of scene being shot.
5. Scene number, description of pyrotechnic, Location (exact street address), date, time and time estimated to complete:

Scene number: Description of pyrotechnic:

Location:

Name Date:

Address Time:

City State Zip Code
6. Who is in charge?
7. Protective measures to be used to protect participants, public and property:
8. Name of employer or record of person(s) performing Stunt?
9. How many people involved in Stunt scenes?
10. Have the required permits been obtained?

Page 1 of 2

Stunt Supplemental Questionnaire, cont.

Completed by:

Title:

Date:

Broker Name:

Address:

City: State: Zip Code:

Phone Number:

Fax Number:

Note: This Supplemental Questionnaire should be complete and submitted along with completed Acord forms and/or Production applications.

Page 2 of 2

FIGURE 13.7—Stunt —Application

Pyrotechnics involves squibs, smoke, fire bars, explosions, and any scene that requires the services of a pyrotechnician. The insurance broker will request that you complete a pyrotechnics questionnaire and request the following:

- Description of the scene.
- Location.
- Detonation materials.
- Distance from general public and other structures.
- Bio and resume of the pyrotechnician or special effects coordinator.



ProSight Specialty Insurance
101 North Brand Blvd, Suite 1200
Glendale, CA 91203

Toll Free: 1-800-774-2755
Glendale Office: 1-818-230-8200
Fax: 1-800-594-5092
glendaleoffice@prosightspecialty.com

[Print Form](#)

PYROTECHNIC SUPPLEMENTAL QUESTIONNAIRE

1. Name of Applicant:

2. Policy Number (If applicable):

3. Declared Production/Event:
(Full description of each
Pyrotechnic being performed
(a separate questionnaire for
each pyrotechnic should be
used if necessary.)

4. Type of scene being shot, or
description of pyrotechnic
planned:

5. Scene number, description of pyrotechnic, Location (exact street address), date, time and time estimated to complete:

Scene number: Description of pyrotechnic:

Location:

Name

Date:

Address

Time:

City State Zip Code

Time to complete:

6. Describe surrounding location
and precautions taken for
public, participants and
property:

7. Who is in charge (include resume):

8. What security (Fire and Police) will be at the location?

Page 1 of 2

Pyrotechnic Supplemental Questionnaire

9. How many people are on the set when Pyro is set off?

10. How many Pyrotechnicians are needed?

11. Are they licensed Pyrotechnicians?

State/Federal? What classification?

12. Are Pyrotechnicians your employees?

Independent contractors must provide a Certificate of Insurance naming our policy as an additional insured for the project. Please forward certificate.

Note: If the Pyrotechnicians are independent contractors who can provide a certificate of insurance naming the applicant as an Additional Insured, the surcharge may be reduced or eliminated.

13. Have the required permits been obtained

14. Are any Railroad, Trains, Aircraft or Watercraft involved?

If yes, please provide details. (attach separate sheet if needed)

Broker:

Completed by:

Name:

Title:

Address:

Date:

City: State: Zip Code:

Telephone Number: Fax Number:

Note: This supplemental questionnaire should be completed and submitted along with completed ACORD forms, and/or Production applications.

Page 2 of 2

FIGURE 13.9—Pyrotechnics Application

In both situations, the insurance company may subject the production to *loss control*. This means the insurance company sends a risk consultant to visit the set and provide loss prevention suggestions to protect the performers, the location, and the property. This visit provides the necessary information for the insurance underwriter to understand the activities better and determine the hazards. Please note that the underwriter may charge an additional premium as there is a greater probability for something to happen.

Aircraft involves the chartering of a plane or helicopter that is not owned by you. The aircraft can be used to film “Air to Air,” “Air to Ground,” or “Ground to Air.” It is important that you find a reputable aircraft chartering service that has production experience. An expert company will be able to help you file your flight plan, accommodate your crew, and attach the right camera equipment for filming. In your discussions, request the aircraft owner/operator provide a certificate of insurance naming the production company as additional insured and request they provide a waiver of subrogation as respects the damage to the hull (body) of the aircraft. Have your insurance broker review the certificate to make sure the additional insured language and limits are adequate. A certificate should be obtained before filming begins so that in the event an accident occurs, the production company will have the necessary proof and be protected under aircraft owner’s insurance.

In the end, most accidents are usually the result of pilot error or mechanical malfunction. If this is the case, the aircraft owner’s policy should be responsible for all liability and property damage. For example, let’s say a producer is traveling in a taxi cab to get to a production meeting and an accident occurs, would it be their fault? No, the taxi owner/driver’s policy would be responsible for this loss as the producer was not driving the vehicle. In this scenario, the taxi cab driver and his company are liable for the accident, not the producer as he or she was merely a passenger.

That being said, when it comes to an aircraft crash, catastrophic incidences can occur and the aircraft owner’s insurance may not have adequate limits or may have exclusions under their policy that will not protect your company. To protect the production company, it is suggested that they obtain contingent aircraft coverage to provide aircraft liability coverage. To obtain this coverage, the insurance broker will request you complete an aircraft questionnaire and provide the following:

- Description of the scene.
- Location of filming.

- Aircraft information—make, model, aircraft number.
- Provide a certificate of insurance including your production company as an additional insured from the aircraft owner.
- The company who is attaching a camera to a mount on the aircraft.

The usual limit obtained is \$1,000,000 but can go up to \$10,000,000. In addition, please make sure your crew is covered for workers' compensation and have in guild travel coverage in place. These policies may be needed if the crew should become injured or (God forbid) perish.

Hint: There are other ways to film aerials now...there are electric powered unmanned helicopters that are available and can save you time and money.

Watercraft involves the chartering of a boat that is not owned by you. Filming usually takes place out on open water. As stated in the aircraft section, you should work with a reputable watercraft chartering service that has production experience. A chartering service should assist you in determining the right areas to film and accommodate your vision. In your discussions, you should request that the watercraft owner/captain provide a certificate of insurance, naming the production company as additional insured and request they provide a waiver of subrogation with respects to damage to the hull (body) of the watercraft. This is requested so that in the event something occurs, the production company will be protected under the boat owner's insurance policy. In the end, most occurrences are usually the result of the boat captain's error or mechanical malfunction and not the fault of the production company however the watercraft owner's insurance may not have adequate limits or may have exclusions under their policy that will not protect your company. To protect the production company, it is suggested that you obtain Protection and Indemnity (liability coverage) policy through a watercraft insurance company.

To obtain this coverage, your insurance broker will request you complete a watercraft application and provide the following:

- Description of the scene.
- Location or port you will be filming.
- Watercraft information—make, model, name of the watercraft.
- Number of vessel and film crew.
- A certificate of insurance including your production company as an additional insured from the watercraft owner.

The usual limit obtained for this coverage is \$1,000,000 but can go up to \$10,000,000. In addition, you should ask your insurance broker to make sure the film crew is covered for injuries resulting from working on a boat. This is required under the *Jones Act*. Usually, Protection and Indemnity coverage will include this benefit.

KEY TERM:

JONES ACT Is officially titled the Merchant Marine Act of 1920. It established a system of benefits for sailors injured on board a ship.

Hint: There are other ways to get around watercraft activities.... film dock-side or find a dock that is set out in the water. One client was able to film on a dock that was set out in the water. The production company was able to make the boat appear to be out on water without having to leave the dock.

Foreign Liability/Auto/Workers Compensation

Filming outside of the United States is still quite prevalent especially because the costs for filming abroad are inexpensive. This policy will cover all territories except for countries that are subject to trade and economic sanctions imposed by the United States of America. Before the production company selects a country to film, they should check the State Department's Web site (www.travel.state.gov/) which provides the following valuable information such as:

- Travel warnings
- Tips for travelling abroad
- Information for emergency/crises: loss and stolen passports, arrest of U. S. citizen, sending money, and how to handle the death of a U.S. citizen

To protect your production company, a foreign package policy is available and will provide the following:

- *Foreign liability coverage* protects the production company from bodily injury and property damage claims brought forth by "third parties" in foreign countries. Local coverage should be in place so that local laws and filming requirements are obeyed. This policy would be *contingent* and is excess of local liability coverage.

- *Foreign non-owned and hired auto coverage* provides liability and physical damage coverage for hired and rented vehicles as they are used by the production company. Driving on unfamiliar foreign roads and trying to follow the traffic laws can contribute to auto accidents. Again, local coverage should be in place so that the local laws are obeyed. This policy would be *contingent* and is excess of local auto liability coverage.
- *Foreign workers' compensation/employers liability insurance* covers U.S. Hires (state of hire benefits) and Third Country National (country of origin benefits). Local hires are not insured under this policy as the insurance company cannot administer workers' compensation benefits. The production company must have coverage placed by a local agent who can work in accordance with the local countries workers' compensation system. Please note that when coverage is in place you will have access to worldwide medical network 24 hours a day/7 days a week so you can arrange medical care or evacuation.

Please note that each country you plan on filming will have different laws and insurance requirements in place. To understand the laws and requirements, you should partner with a reputable local production company or production service company that actively produces in the area you wish to film. They are a good source of information and they can assist with:

- Scouting locations
- Dealing with governmental officials
- Hiring crew
- Locating camera gear
- Provide post-production services
- Obtaining local insurance coverage and permits

One of my clients has been successful in working with a production service company in China. The production service company schedules the filming dates, obtains approval from governmental officials, secures the filming locations, hires the talent and crew... all my client has to do is show up with his cameras, a couple of U.S. actors, and direct the film.

To obtain a quote, the insurance company will need the following information:

- Foreign liability/auto/workers' compensation application.

- Where are you filming and where are your accommodations?
- How many production personnel will be working abroad?
- How many U.S. citizens and third country nationals?
- How long will the production personnel be on location?

Speaking of cameras, as stated before, the production package is a worldwide policy. Although this is true, the underwriter will need to know where you are filming so they can determine whether proper filming facilities exist and if equipment vendors are available to avoid production delays.

Kidnap and Ransom

Depending on the country where you plan on filming, this coverage can be provided to protect against potential kidnappings, extortion, hijacking, and wrongful detention. There are poor countries that want to take advantage of production companies and may target the producer, director, and lead actors as they assume they are in a word ...wealthy. With kidnap and ransom in place, the policy can cover ransom payment, loss of income, and interest on bank loans.

In addition, the insurance companies provide a crisis management team to assist in any hostage situation to minimize the loss. Discuss the risks with the production team, check the state department travel warnings, and consult with your insurance broker.

Understanding Specialty Coverage

Please note that the policies that have been presented were created to assist in protecting the production company from liability resulting from injury, property damage to film crew as well as third parties. All aspects of your filming should be communicated to your insurance broker. The insurance broker needs to understand what you are planning so they can then assist in securing the appropriate coverage. Many times, clients feel this insurance is unnecessary. They say their film crew is experienced and there are no stunts involved so nothing will go wrong...unfortunately there are no guarantees. I've insured films with budgets from \$500,000 to \$53,000,000 and I must say film has too many moving parts and things do go wrong. In my many years of insuring films, the worst claims are the ones that resulted from stunts, pyrotechnics, and aircraft.

Here are a few examples of what went wrong:

- *Stunt*
A production company had an action film that required a choreographed fight scene. All the rehearsals with the stunt men went well...without a hitch. However, when it came time to performing the fight scene in front of the camera, one of the stunt men lost his timing and ended up getting kicked in the eye. The resulting injury caused major damage to his eye. In this case, the stunt person was insured through the payroll service workers compensation coverage.
- *Pyrotechnics*
A production company wanted to blow up a boat miles off the coast from a beach town. They bought a used boat; the pyrotechnician filled it with explosives and blew the boat up. Unfortunately, the resulting force of the explosion caused the pier to shift and a number of store front windows were broken in the process. Luckily, before filming this scene, the pyrotechnics exposure was approved by the insurance company. In this case, damage to the pier and the individual property owners were paid through the third party property section of the production package.
- *Aircraft*
A production company hired an owner of a small plane to secure footage of a mountain for the opening of their film. While up in the air, the pilot decided to fly the crew closer to the mountain. Unfortunately, the pilot made an error and ended up crashing into the mountain. Thankfully, everyone on board the aircraft survived the crash. The film crew ended up with broken arms or legs and frostbite while waiting to be rescued. The production company had workers' compensation through their payroll service so their injuries and resulting physical therapy were covered. In addition, as the accident was due to "pilot error" the owner's insurance policy took care of the personal injury claims that were filed by the film crew. The film crew was able to collect payments for medical costs, lost wages, pain, and suffering.

Claims Process

Now that you have production insurance policies in place and all of a sudden the production company has an accident or property is damaged. What do you do next?

- Contact emergency medical assistance by calling **911** for the paramedics, fire department, and police:

This is especially required for emergency situations such as fire, criminal activities (theft or vandalism), and injuries to individuals.

In the initial stages of an accident to individuals, property, and auto accidents, the production company should take the following course of action:

- *Individuals:* Get medical attention and arrange treatment for the injured party and prevent others from being injured the same way. Contact your insurance broker or payroll service to report the injury. To process a workers' compensation claim, you will be required to complete an Employers First Report claim form. In addition, you will need to complete OSHA Form 300 where all work related injuries or illnesses are logged in. (For more information, refer to Chapter 14—*Risk Management*.)

Please note that in situations where injuries involves death, loss of consciousness, more than 24-hour hospitalization, medical treatment beyond first aid, and loss days away from work, you will need to contact an OSHA Regional Office or a State Plan Office nearest your location. This office will send a representative to conduct an inspection of the accident site. In addition, this representative will request an OSHA Form 301—Injury and Illness Incident report or Employers First Report form. (For more information refer to Chapter 14—*Risk Management*.)

- *Property:* Protect the damaged property or equipment from further damage. If the damaged property is rented, such as a location, a venue, or equipment, contact the owner immediately and do not make repairs without the approval of the property owner.
- *Auto:* At the time of the accident, protect the individuals and vehicles from further damage. In addition, obtain the following information:
 - Name, address, and license of each driver.
 - Name and address of passengers in all vehicles.
 - Name and addresses of any witnesses.
 - Obtain the driver's insurance information card. Make sure that you get the name of the insurance company, policy number, and policy term for each vehicle involved.
 - Description and diagram of the accident.

In addition, the production company should do the following:

- *Preserve the accident scene and any evidence for investigation.* Put up a barrier or caution tape around the accident scene.
- *Take photos and video of the damage.* Document damage to property with a digital or video camera. A picture speaks a thousand words... it is the best way to provide a more detailed accounting of what occurred.
- *Request eyewitnesses or third parties to provide an accounting of what occurred at the scene.* They need to provide the time, location, and describe what happened. Have them complete an OSHA 300 log—Chapter 14—*Risk Management*.
- *Contact the following individuals and offices:*
 - *UPM, director, and production executives:* Use your emergency contact listing.
 - *OSHA state district office:* If the accident results in a major injury or death.
 - *Insurance broker:* Any injury or property damage should be reported. The broker acts as a liaison between you, the insurance company, and adjuster. In most cases, your insurance broker will put you in touch with their claims manager to assist you. The claims manager will either provide you claims forms or provide the following information:
 - Date of loss
 - Description of loss
 - Location and time of loss
 - Approximate amount of loss
 - Names and phone numbers of persons to be contacted
 - Obtain copies of any rental agreements, witness statements, and police reports. Provide documentation to substantiate your claim.



Property Loss Notice

Once completed, please fax or email this form to:

Claims Dept.
Main #: 818-933-2700
Fax#: 818-933-2701
Email: claims@mmibi.com

Insured _____

Contact Name & Number _____

Date Of Loss _____

Location Of Loss _____

Police Notified? No Yes Police Report # _____

Type Of Property _____

Owner's Name _____ Phone _____

Owner's Address _____

Description Of Loss _____

Amount Of Loss _____

Additional Information _____

Signed _____ Date _____

FIGURE 13.9—Claim Form

After the information is put in the hands of the insurance broker's claims manager, the loss is reported to the insurance company. An *insurance adjuster* will be assigned to settle the claim. An insurance adjuster will evaluate the loss and will contact you if they have any additional questions. You may contact the claims manager if you have or need updates or have additional information to present.



FIGURE 13.10—Insurance Adjuster Evaluating a Damaged Car

Does It Really Pay to Have Insurance?

SIDE NOTE

SAMPLE INSURANCE CLAIMS

- An actor tripped and fell as he was walking down the stairs of his star trailer. He ended up fracturing his big toe. Thanks to the workers' compensation coverage provided by the payroll service, the insurance company paid his doctor visit.
- While shooting a film in India, several production actors became ill from dehydration and could not work. This occurrence prevented the production company from filming for a day. Thanks to cast insurance they were able to reshoot the lost day.
- A production manager tried to park a van in the underground parking lot. Unfortunately, the van hit the ceiling of the parking lot and caused damage to a light fixture and the van. Thanks to the auto policy both the liability and physical damage was paid by the insurance company.
- A production company was filming on location in Thailand. While filming at the beach, two cameras were knocked to the ground by high winds. As the location was very remote, it took two days for a replacement camera to reach them. The claim was settled for the cost of repair to the hired camera, as well as for extra expense as a result of the additional two days needed to complete the shoot.

SUMMARY

The purpose of this chapter is to provide you with the understanding and the importance of production insurance. This chapter provides a lesson in insurance, information required to obtain a quotation, types of production insurance, specialty exposures, and claims processing.

All production companies should make sure they exercise some due diligence and risk management. In the end, production insurance is there to protect you, your personal assets, and your financial partners so you can concentrate on the creative process and achieve your dreams. Hmm...my crystal ball is clearing...Congratulations! I see an Academy Award in your future!

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Imagine you are a producer of a film featuring a talented swords man. A freak wind blows part of a set on top of your lead cast member breaking his left hand (he is right handed). According to the doctor, it will take at least 6 weeks for his broken arm to heal. The actor has already completed 3 weeks but still has 3 more weeks to go. In addition, the schedule required the actor to film an intense sword fighting scene. What insurance policies would respond to this loss? What would you do to complete this film? Good luck, this was an actual claim!

2. Overnight a fire takes place in the office building you are planning to film in. The next day the fire department determines that the fire had started in an office next door to your production set. The fire damaged all the lighting equipment and props. What insurance policies would answer this type of claim? What would you do to keep your production on track? Please explain.

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

Exercise: Contact an entertainment insurance broker and obtain a short-term insurance quotation for your short film. Short-term application attached. In this exercise, request the following:

- General liability quotation of \$1M per occurrence and \$1M aggregate
- Production package quotation:
 - Equipment—\$100,000 limit/\$2,500 deductible
 - Third party property damage—\$1,000,000 limit/\$2,000 deductible

Review the quotation and request a sample copy of the general liability policy. Using the policy form, locate the following:

- Insuring agreement—outline what is covered.
- Exclusions—outline what is not covered.

CHAPTER 14

RISK MANAGEMENT

OVERVIEW AND LEARNING OBJECTIVES

In this chapter, you will learn about:

- Risk Management
 - Risk Transfer
 - Risk Retention
 - Risk Avoidance
 - Risk Reduction
 - Safety on the Set
- OSHA—Occupational Safety and Health Act
 - Injury and Illness Prevention Program
- Who Administrates the IIPP Program?
- Safety Program Director Responsibilities
 - Preproduction Responsibilities
 - Production Responsibilities
- Documentation/Videotape

- Safety is Everyone's Job
 - Production Executives Responsibilities
 - Department Heads and Supervisors Responsibilities
 - Safety Coordinators Responsibilities—Construction, Transportation, Stunts, and Special Effects
- Safety Communications
- Accidents Do Happen
- Minor Accidents
 - Major Accidents

Safety on the Set

In the world of film, there are so many moving parts that it is evitable that accidents such as an injury or property damage can occur which can delay filming and bring lawsuits from third parties and employees. The best way to minimize the potential of possible lawsuits is to emphasize “Safety on the Set.”



Risk Management

Risk management is identifying an exposure or hazard and finding ways to reduce or eliminate the exposure by using the best risk control method. Risk management is anticipating what might happen and taking measures to prevent it...making the predictable controllable.

For instance, you might be familiar with a commercial which depicts an accident in reverse. It involved a runaway station wagon careening down a steep hill and smashing into the window of a store. To prevent this accident, all that the owner should have done is park his car, curb his tires, and set the parking brake...Simple huh?

FIGURE 14.1—Risk Management Path

When it comes to a film, a production company should pinpoint ways to:

- Prevent the injury of actors, crew, and third parties.
- Protect the property of others such as autos, equipment, and locations from being stolen or damaged.
- Perform stunts and pyrotechnic safely.

Now that the hazards are identified, *risk control* methods need to be implemented they are outlined as follows:

- *Risk Transfer*—Allow other parties to be responsible for a portion of a risk. Examples:
 - Purchasing production insurance is a way in which you are relying on an insurance company to take on the risks after paying a deductible.
 - Hire a messenger service to do pick ups and deliveries.
- *Risk Acceptance*—A company allocates money for potential losses and absorbs all legal costs.
 - Studios or large production companies have the money and legal resources to weather any legal issues.
- *Risk Avoidance*—Decide if a planned activity is really worth the risk. If the activity is too risky, the company does not perform the activity. Example:
 - A production company may not perform the stunt or pyrotechnic scene if it is too risky and can cause injury and damages to third parties.
- *Risk Reduction*—Use loss prevention methods to minimize potential hazards. This entails establishing safety rules, training, and safety equipment. Example:
 - Good hygiene such as cleaning up spills prevents slipping and falling injuries.
 - Wear goggles and gloves when building sets.



FIGURE 14.2—Risk Management Flow Chart

Major studios have a department completely devoted to risk management. This department has a staff devoted to:

- Reviewing contracts.
- Obtaining the appropriate insurance coverage, allocating cost of insurance policies, and filing claims with insurance companies.
- Conducting safety meetings.
- Identifying hazards with production management, department heads, and stunt coordinators.
- Developing and implementing safety programs to minimize accidents.
- Assigning loss control/safety engineers to serve as an advisor to the production team.

The risk management department monitors the activities at the studio's sound stages and post-production facilities to minimize injuries and property

damage. An example to minimize their exposure, they provide safety hotlines should an emergency arise. In addition, the risk management department will monitor repair or replacement of rental equipment, sets, props, costumes, and vehicles.

Unfortunately for independent filmmakers, they do not have the money or the resources to assist them when in production. As this is the case, many filmmakers forgo any risk controls and rely on “pure luck” to see them through production. This is, of course, unwise as the production company will end up paying the costs of the losses “out of pocket” and absorbing all legal costs. *Risk retention* is the last risk control method any independent production company should use unless you have money to “burn.” A production company should implement at least a couple of risk control measures such as:

- Rewrite the script to modify or remove use of aircraft, watercraft, stunt, or pyrotechnic scenes.
- Safety meetings or training.
- Hire experienced stuntmen or pyrotechnicians.

These risk control procedures will help minimize the expenses resulting from:

- Injuries to the actors, production crew, and third parties.
- Repairs and replacement of damaged location, vehicles, equipment, props, and sets.
- Legal fees resulting from lawsuits.

OSHA—Occupational Safety and Health Act

Besides minimizing injury, property damage claims, and any resulting lawsuits, a production company must be aware that safety is required by *law*. The *Occupational Safety and Health Act of 1970* is a federal law that requires all employers to provide their employees with working conditions that are “free of known dangers.” The Act created the *Occupational Safety and Health Administration (OSHA)* “which sets and enforces protective workplace safety and health standards.” In addition, an employee has the right to:

- Receive training on hazards associated with the job.

- Know how to control the hazards of their job.
- Report workplace hazards without fear of reprisal.

In addition to OSHA, there is the National Institute for Occupational Safety and Health (NIOSH). NIOSH provides ways to “prevent work-related illness, injury, disability, and death by gathering information, conducting scientific research, and translating the knowledge gained into products and services, including scientific information products, training videos, and recommendations for improving safety and health in the workplace.” For additional information about workplace safety, health topics, and emergency response resources, go to www.cdc.gov/niosh/about.html

OSHA has regulations established for both private and public sector workplaces. However, each state is encouraged to establish their job safety and health programs. There are presently 22 states that have their own plans for the state’s regional offices. Go to www.osha.gov/dcsp/osp/faq.html#oshaprogram. Other states operate public employee only plans. In these states, private sector employment remains under Federal OSHA regulations.

In California, the Department of Industrial Relations administers the California Occupational Safety and Health Program (Cal/OSHA) and the Division of Occupational Safety and Health (DOSH) oversee enforcement and consultation. Their Web site is www.dir.ca.gov/dosh/dosh1.html. This Web site provides information such as regional offices, publications, forms, file health and safety complaints, and information about safety.

As a part of enforcing regulations, OSHA routinely conducts inspections of business establishments due to:

- Written or verbal *complaints from employees* regarding hazards and the threat of physical harm. Please note employees have been known to file complaints directly to OSHA and request that an inspection take place because they believe there are serious hazards that have not been dealt with properly.
- *Third party reports* of immediate danger from hazards that could cause death or serious harm. Owners of buildings, vendors, extras, and bystanders are known to film complaints with OSHA.
- *Inspections of high hazard companies* such as construction and manufacturing.

- *Follow up inspections for businesses that have been cited* for repeat or serious violations.

The intent of the inspections is to identify hazards, pinpoint violations, and execute citations. If warranted OSHA is permitted to issue citations for violations...they do not issue warnings. A citation will be prepared and mailed to the employer and will outline a description of the violation, date in which the violation needs to be corrected, or some type of penalty/fine.

With regards to a violation, an employer has two choices; either correct the hazard or contest the citation. To contest the citation, the employer must file an intention to contest in fifteen (15) working days and present their case to the Occupational Safety and Health Review Commission.

It is hard to believe that the entertainment industry is not considered to be the most hazardous line of business...surprise. That being said, Cal/OSHA has formed a special Film and TV investigation team who conduct inspections of production companies. This can be random or, most commonly, as a result of employee complaints or reports of violations from third parties. A production company must establish a policy where they put the safety of the production crew and third parties first. You must be vigilant and prepared as an inspection can happen at any time.

Injury and Illness Prevention Program

In order to maintain a safe working environment, production management should establish and implement an effective *Injury and Illness Prevention Program (IIPP)*. This program is a written plan that outlines policies and procedures to reduce the risk of injury, illness, and costs. Controlling hazards is the heart of an effective Injury and Illness Prevention Program.

This written plan is required by *Occupational Safety and Health Administration* (OSHA). In California, “every employer is required by law (Labor Code Section) to provide a safe and healthful workplace for his/her employees. Title 8 (T8), of the California Code of Regulations (CCR), requires every California employer to have an effective Injury and Illness Prevention Program in writing that must be in accord with T8 CCR Section 3203 of the General Industry Safety Orders.”

The programs elements should contain:

- Assigning responsibilities for safety and health to production executives, department heads/supervisors, actors, and film crew.
- Establishing safety procedures for each production department.
- Establishing training and document procedures.
- Establishing a communication system not only to provide information but to enable the film crew to identify hazardous issues.
- Implementing safety inspections and accident investigation.

The above elements must be put in writing by each department to create the IIPP manual. Once created a copy of the manual should be at all filming locations and one master copy kept in the production office. For information as to how to create your written Injury and Illness Prevention program, go to the following Web site: www.dir.ca.gov/DOSH/etools/09-031/sample.pdf.

Who Administrates the IIPP Program?

The Line Producer for non-union films or Unit Production Manager (UPM) for union films usually takes on the role of Safety Director. This means these individuals implement and administer the safety program. The position is the most suited because this individual is an intermediary between the management/crew and oversees the activities of the entire crew. In addition, the Production Coordinator maintains all safety documentation. They keep the IIPP manual updated, maintain copies of the emergency action plan, and distribute safety bulletins and safety meeting notes to the actors and crew members. Production management should provide this individual with their full support and be included in production meetings and notified of changes to the film.

As this position can be overwhelming, the Safety Director requires the assistance of the following safety coordinators whose role is as follows:

- The 1st Assistant Director takes the role of Safety Coordinator—re-lays the safety requirements to all production participants. This individual is responsible for assisting with assembling the IIPP manual, conducting safety meetings, and keeping track of all documentation.

- Construction Coordinator—responsible for building sets and props.
- Key Grip—responsible for rigging cameras and lighting.
- Transportation Coordinator—responsible for transporting crew, equipment, insert car, trailers, and rental vehicles.
- Special Effects Coordinator—responsible for the use of all pyrotechnics, mechanical, and optical effects.
- Stunt Coordinator—responsible for the safe performance of stunts.

These individuals are crucial for the success of a safety program because they are involved with the departments that have a high probability of safety hazards and accidents. All department heads must communicate and work in conjunction with the safety program director throughout pre-production and production.

Safety Program Director Responsibilities

Pre-Production Responsibilities

- *Conduct a meeting with all department heads* and request they do the following:
 - Discuss the **General Safety Guidelines** that all department heads should abide by.

SAFETY FIRST

**GENERAL SAFETY GUIDELINES
FOR
CAN'T GO WRONG PRODUCTIONS**

In order to protect employees and visitors from accidents, all persons must adhere to the following safety rules, safety bulletins and OSHA regulations. Please review the safety guidelines and sign an acknowledgement form. Failure to comply with the safety rules will be grounds of disciplinary action or termination.

- **Attend all safety meetings, individual department meetings and training classes.**
Refer to safety bulletins for more detailed information regarding the work you are performing.
- Everyone must work as professionals while on the job. No horseplay or pranks are acceptable and can result in disciplinary action.
- **No one shall be permitted to work while under the influence of liquor or drugs.**
This is unacceptable behavior and will mean immediate dismissal upon verification.
- Notify your supervisor if you feel ill as this may affect your job performance and expose others to injury or illness. Notify your supervisor if you are taking any medication prescribed by a doctor that might interfere with your ability to perform your job.
- Observe and abide by "No Smoking" signs and smoking designated area. All cigarettes must be extinguished properly.
- Practice good housekeeping – keep work areas neat, clean up any spills, dispose of trash properly.
- Any cables that are in walkways should be neatly taped down and covered by mats to avoid slip and falls.
- All exits must be well lit, unblocked and unlocked during working hours.

SAFETY FIRST

- Stairways must be well lit, clear of items and repaired if damaged.
- Inspect all tools and equipment while in preproduction. If any item is not in good working order, have it repaired or replaced.
- Use all electrical tools and equipment properly. Everyone should store the property or have safety locks on their tools when not in use.
- All generators and air conditioning electrical equipment must be grounded. All plugs, electrical connectors and outlets should not be altered or overloaded.
- **Wear protective equipment such as hard hats, gloves, back brace, safety glasses, ear plugs and appropriate footwear when installing or operating equipment.**
- When lifting heavy objects, always bend at your knees, squat down and use your leg muscles to raise your body. Lift slowly, do not jerk or twist your body. If objects are too heavy to lift ask for assistance.
- Do not stack materials haphazardly on shelves, cabinets or difficult to reach places.
- Do not attempt to use any tools, equipment or substances that you are not trained or authorized to use. Only trained personnel can operate machinery.
- All flammable liquids should be handled, stored and disposed of as outlined by the manufacturer. Combustible or flammable materials should be stored properly and away from heat sources.
- Be aware of personnel working above or below you. Do not install lighting, sound equipment or props directly above production personnel. Clear the area so the objects can be properly secured. Wear hard-hats if you feel you are exposed to potential falling objects.
- **When working overhead or elevated platforms make sure fall restraints are in place such as guardrails, handrails, basket, harness and safety belts.**

SAFETY FIRST

- Any damage to scaffolds, ladders or supporting structures must be reported immediately. The damaged items should be repaired or replaced.
- Check the steering, brakes, back up warning signal, and hand or hydraulic tail gates. If the vehicle is not in working order, have it repaired or replaced. The engine should be turned off, and brakes set prior to loading or unloading a vehicle.
- Everyone should wear seat belts when in a vehicle and let your supervisory know if you are too tired to drive.
- Keep streets clear for traffic, fire trucks and emergency vehicles.
- Do not play with firearms while on the set as they may be loaded or set to discharge. Follow the directions of the property master regarding all firearms and weapons.
- Attend additional safety meetings and participate in rehearsals if involved with stunts, special effects, firearm use, and pyrotechnics. Discuss how to best protect property, crew, and general public. This can include the use of security guards, the installation of barriers, add more padding and hire a water truck.
- Attend additional safety meetings when working with aircraft, boats, motorcycles and trains. Review safety bulletins and guidelines that are established for your department.
- Do not feed, pet or play with animals when they are on the set. Allow the animal trainers and wranglers to work with their animals.
- All visitors must be checked in with the production office and kept a safe distance from potentially hazardous construction and filming.
- Report any unsafe conditions and work related injuries, illness or safety issues to your supervisor, safety coordinators, and safety director.
- **Report all accidents and or resulting injury to supervisor or safety coordinator immediately.**
- Review emergency procedures and evacuation plans. Be able to locate first aid kits, fire an alarm, extinguishers and building exists at every filming location. In addition, make sure you can have the phone no. and address of the nearest medical facility.
- **Be aware of your surroundings such as crimes near your filming locations, weather conditions, traffic, noise and wildlife.**

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FIGURE 14.3—GENERAL SAFETY GUIDELINES

Establish an ***Emergency Contact List***. This list should provide key department heads names and cell phone numbers as well as a listing of the nearest hospital.

<u>EMERGENCY NUMBERS</u>	
Fill in the information below and post on all stages and locations.	
Location information to give to Emergency Personnel:	
Location Address:	_____
Location Phone:	_____
Ambulance: _____	
Fire/Rescue: _____	
Nearest Hospital: _____	
Name:	_____
Address:	_____
Doctor: _____	
Name:	_____
Doctor (Alternate): _____	
Name:	_____
Police: _____	
Other: _____	
Emergency Numbers	

FIGURE 14.4—Emergency Contact List

- Write a list of each *department's Safety Responsibilities*. This list would outline the duties of department heads and crew.
- Write an **Emergency Action Plan** specifically for their department. This is a plan that would identify phone numbers and the location of emergency equipment such as fire extinguisher, hydrant, and exits. In addition, the plan should include an evacuation plan should a fire, weather, or injury occur. Once accomplished, create safety and evacuation check lists for the crew.

Emergency Exit Routes

EXIT

OSHA FACT Sheet

How would you escape from your workplace in an emergency? Do you know where all the exits are in case your first choice is too crowded? Are you sure the doors will be unlocked and that the exit access, such as a hallway, will not be blocked during a fire, explosion, or other crisis? Knowing the answers to these questions could keep you safe during an emergency.

What is an *exit route*?

An *exit route* is a continuous and unobstructed path of exit travel from any point within a workplace to a place of safety. An *exit route* consists of three parts:

- *Exit access* – portion of an *exit route* that leads to an exit.
- *Exit* – portion of an exit route that is generally separated from other areas to provide a protected way of travel to the *exit discharge*.
- *Exit discharge* – part of the *exit route* that leads directly outside or to a street, walkway, refuge area, public way, or open space with access to the outside.

How many *exit routes* must a workplace have?

Normally, a workplace must have at least two *exit routes* to permit prompt evacuation of employees and other building occupants during an emergency. More than two exits are required, however, if the number of employees, size of the building, or arrangement of the workplace will not allow employees to evacuate safely. *Exit routes* must be located as far away as practical from each other in case one is blocked by fire or smoke.

Exception: If the number of employees, the size of the building, its occupancy, or the arrangement of the workplace allows all employees to evacuate safely during an emergency, one *exit route* is permitted.

What are some other design and construction requirements for *exit routes*?

- *Exit routes* must be permanent parts of the workplace.

- *Exit discharges* must lead directly outside or to a street, walkway, refuge area, public way, or open space with access to the outside. These *exit discharge* areas must be large enough to accommodate the building occupants likely to use the *exit route*.

- *Exit stairs* that continue beyond the level on which the *exit discharge* is located must be interrupted at that level by doors, partitions, or other effective means that clearly indicate the direction of travel leading to the *exit discharge*.

- *Exit route doors* must be unlocked from the inside. They must be free of devices or alarms that could restrict use of the *exit route* if the device or alarm fails.

- Side-hinged exit doors must be used to connect rooms to *exit routes*. These doors must swing out in the direction of exit travel if the room is to be occupied by more than 50 people or if the room is a high-hazard area.

- *Exit routes* must support the maximum permitted occupant load for each floor served, and the capacity of an *exit route* may not decrease in the direction of *exit route* travel to the *exit discharge*.

- Ceilings of *exit routes* must be at least 7 feet, 6 inches high.

- An *exit access* must be at least 28 inches wide at all points. Where there is only one *exit access* leading to an *exit* or *exit discharge*, the width of the *exit* and *exit discharge* must be at least equal to the width of the *exit access*. Objects that project into the *exit* must not reduce its width.

- Outdoor *exit routes* are permitted but must meet the minimum height and width requirement for indoor *exit routes* and must
 - have guardrails to protect unenclosed sides if a fall hazard exists;
 - be covered if snow or ice is likely to accumulate, unless the employer can demonstrate accumulations will be removed before a slipping hazard exists;
 - be reasonably straight and have smooth, solid, substantially level walkways; and
 - not have a dead-end longer than 20 feet.

Emergency Exit Routes

What are the requirements for exits?

- *Exits* must be separated by fire resistant materials—that is, one-hour fire-resistance rating if the exit connects three or fewer stories and two-hour fire-resistance rating if the exit connects more than three floors.
- *Exits* are permitted to have only those openings necessary to allow access to the *exit* from occupied areas of the workplace or to the *exit discharge*. Openings must be protected by a self-closing, approved *fire door* that remains closed or automatically closes in an emergency.

What are the maintenance, safeguarding, and operational features for *exit routes*?

OSHA standards require employers to do the following:

- Keep *exit routes* free of explosive or highly flammable furnishings and other decorations.
- Arrange *exit routes* so employees will not have to travel toward a high-hazard area unless the path of travel is effectively shielded from the high-hazard area.
- Ensure that *exit routes* are unobstructed such as by materials, equipment, locked doors, or dead-end corridors.
- Ensure that safeguards designed to protect employees during an emergency remain in good working order.
- Provide lighting for *exit routes* adequate for employees with normal vision.
- Keep *exit route* doors free of decorations or signs that obscure the visibility of *exit route doors*.
- Post signs along the *exit access* indicating the direction of travel to the nearest *exit* and *exit discharge* if that direction is not immediately apparent. Also, the line-of-sight to an *exit sign* must be clearly visible at all times.
- Mark doors or passages along an *exit access* that could be mistaken for an *exit* “Not an *Exit*” or with a sign identifying its use (such as “Closet”).
- Install “*EXIT*” signs in plainly legible letters.
- Renew fire-retardant paints or solutions often enough to maintain their fire-retardant properties.
- Maintain *exit routes* during construction, repairs, or alterations.
- Provide an emergency alarm system to alert employees, unless employees can promptly see or smell a fire or other hazard in time to provide adequate warning to them.

Are employers required to have emergency action plans?

If you have *10 or fewer employees*, you may communicate your plan orally. If you have *more than 10 employees*, however, your plan must be written, kept in the workplace, and available for employee review. Although employers are required to have an emergency action plan (EAP) only when the applicable OSHA standard requires it, OSHA strongly recommends that all employers have an EAP. Here are the OSHA standards that require EAP's:

- Process Safety Management of Highly Hazardous Chemicals - 1910.119
- Fixed Extinguishing Systems, General - 1910.160
- Fire Detection Systems, 1910.164
- Grain Handling - 1910.272
- Ethylene Oxide - 1910.1047
- Methyleneedianiline - 1910.1050
- 1,3-Butadiene - 1910.1051

What are the minimum elements of an emergency action plan?

- Procedures for reporting fires and other emergencies.
- Procedures for emergency evacuation, including the type of evacuation and *exit route assignments*.
- Procedures for employees who stay behind to continue critical plant operations.
- Procedures to account for all employees after evacuation.
- Procedures for employees performing rescue or medical duties.
- Name or job title of employees to contact for detailed plan information.
- Alarm system to alert workers.

In addition, you must designate and train employees to assist in a safe and orderly evacuation of other employees. You must also review the emergency action plan with each employee covered when the following occur:

- Plan is developed or an employee is assigned initially to a job.
- Employee's responsibilities under the plan changes.
- Plan is changed.

Emergency Exit Routes

Must all employers have fire prevention plans?

If you have *10 or fewer employees*, you may communicate your plan orally. If you have *more than 10 employees*, however, your plan must be written, kept in the workplace, and available for employee review. Although employers are only required to have a fire prevention plan (FPP) when the applicable OSHA standard requires it, OSHA strongly recommends that all employers have a fire prevention plan (FPP). The following OSHA standards require FPPs:

- Ethylene Oxide, 1910.1047
- Methylenedianiline - 1910.1050
- 1,3-Butadiene - 1910.1051

Here are the minimum provisions of a fire prevention plan:

- List of all major fire hazards, proper handling and storage procedures for hazardous materials, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard.
- Procedures to control accumulations of flammable and combustible waste materials.
- Procedures for regular maintenance of safeguards installed on heat-producing equipment to prevent the accidental ignition of combustible materials.
- Name or job title of employees responsible for maintaining equipment to prevent or control sources of ignition or fires.
- Name or job title of employees responsible for the control of fuel source hazards.

In addition, when you assign employees to a job, you must inform them of any fire hazards they may be exposed to. You must also review with each employee those parts of the fire prevention plan necessary for self-protection.

How can I get more information on safety and health?

For more detail on exit routes and related standards see *Exit Routes, Emergency Action Plans, and Fire Prevention Plans* in Title 29 of the *Code of Federal Regulations (CFR)* 1910.33-39; and OSHA Directive CPL 2-1.037, *Compliance Policy for Emergency Action Plans and Fire Prevention Plans*. In addition, employers who comply with the exit route provisions of the National Fire Protection Association's 101-2000, *Life Safety Code*, will be considered in compliance with the OSHA requirements for exit routes.

OSHA has various publications, standards, technical assistance, and compliance tools to help you, and offers extensive assistance through workplace consultation, voluntary protection programs, strategic partnerships, alliances, state plans, grants, training, and education. OSHA's *Safety and Health Program Management Guidelines* (54 *Federal Register* 3904-3916, 1/26/89) detail elements critical to the development of a successful safety and health management system. This and other information are available on OSHA's website.

- For one free copy of OSHA publications, send a self-addressed mailing label to OSHA Publications Office, 200 Constitution Avenue N.W., N-3101, Washington, DC 20210; or send a request to our fax at (202) 693-2498, or call us toll-free at (800) 321-OSHA.
- To order OSHA publications online at www.osha.gov, go to Publications and follow the instructions for ordering.
- To file a complaint by phone, report an emergency, or get OSHA advice, assistance, or products, contact your nearest OSHA office under the U.S. Department of Labor listing in your phone book, or call toll-free at (800) 321-OSHA (6742). The teletypewriter (TTY) number is (877) 889-5627.
- To file a complaint online or obtain more information on OSHA federal and state programs, visit OSHA's website.

This is one in a series of informational fact sheets highlighting OSHA programs, policies, or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to *Title 29 of the Code of Federal Regulations*. This information will be made available to sensory-impaired individuals upon request. The voice phone is (202) 693-1999. See also OSHA's website at www.osha.gov.



FIGURE 14.5—OSHA Fact Sheet—Emergency Exit Route

- Set a deadline for the collection of all safety responsibilities and department's emergency action plans.
- Conduct a meeting with safety coordinators (1st AD, construction, transportation, special effects, and stunt coordinator) and finalize your IIPP.
- Provide each department with a copy of the IIPP and have one available in the production office at all times. The office copy should be maintained by the 1st Assistant Director.

Production Responsibilities

- Request the 1st AD coordinate a *mandatory production safety meeting* on the first day of filming.
- *Conduct a safety meeting* on the first day of filming for the actors and crew in attendance.

KEY TERM:

SAFETY MEETING This is a meeting where safety is openly discussed by all who attend. These meetings should be scheduled regularly and announced to all production management, department heads, actors, and crew members.

- Emphasize the importance of safety on the set. Encourage the cast and crew to voice any concerns they have with regards to health and safety issues. Request everyone put their concerns in writing.
- Discuss the safety issues and identify filming activities that could result in potential hazards. Identify possible location issues, stunts, pyrotechnics, filming in the evening hours, weather conditions, etc.
- Discuss the emergency action plan. Identify the emergency contacts and provide evacuation procedures.
- Request all attendees review their copy of the General Safety Guidelines and have them sign an Employee Acknowledgement form. All documentation should be given to the 1st Assistant Director and kept on file.
- Discuss precautions when working with cranes, insert cars, trailers, and stunts, pyrotechnics, and helicopters.

- *Communicate with safety coordinators and department heads* to see if they are conducting training, assist with trouble shooting safety problems, or inquire if training is necessary for their crew.
- *Attend weekly safety meetings* with various departments to discuss the week's upcoming filming activities.
- *Assist with arranging for safety training for actors and film crew.*

■ Documentation/Videotape

It is important that each and every department document their safety meetings, rehearsals, and inspections. All documentation should be given to the safety coordinator. The safety coordinator and production manager are responsible for maintaining documentation in the production office. In addition, each department head and supervisor is responsible for keeping a written safety file and tracking the training status of each member of his or her crew. They will also maintain records of disciplinary action taken when safety guidelines are violated. As documents are generated, this information should be given to the safety coordinator or production manager and kept in the production office.

Hint: The safety director and all department heads should record all safety meeting and save on a CD. This CD should be given to the production manager and stored in the production office. A CD can come in handy when there is a possible lawsuit or OSHA investigation. A client had an accident on the set and there were allegations that they did not conduct a safety meeting. Luckily, the safety meeting was recorded and was used to defend the production company and they were able to avoid a nasty lawsuit.

■ Safety is Everyone's Job

Safety is everyone's job. This means the production executives, department heads/supervisors, and the film crew needs to be *safety conscious*. Being safety conscious means that everyone is more vigilant and proactive in avoiding work related injuries or illness before it happens. This is not just for good business practices. It is a great way in preventing injuries and lawsuits from occurring.

Production Executives Responsibilities

Production Executives must be committed to the following in order to ensure a safe and healthy workplace:

- Attend first safety meetings, communicate the IIPP requirements and emergency procedures to department heads.
- Encourage actors and crew members to report unsafe conditions so that appropriate actions can be taken.
- Communicate with safety program director, safety coordinators, and department heads and assist with trouble shooting safety problems.
- Allocate monies to provide job and training courses or have a safety consultant conduct a safety seminar.
- Allocate monies to the purchase protective equipment for each department. Request all department heads to have all tools and equipment checked to make sure they are in good working order. In addition, each department should be furnished with a first aid kit. The first aid kit will be useful to remedy minor cuts and bruises.
- Hire an *emergency medical technician (EMT)* when planning any scenes that involve scenes with stunts, pyrotechnics, and large crowds. This individual can provide immediate medical assistance should an accident occur.

KEY TERM:

EMERGENCY MEDICAL TECHNICIANS Perform certain medical procedures in accordance with guidelines established by physician medical directors. EMTs are trained to assess a patient's condition, perform emergency medical procedures to maintain a patient so that he or she can be transferred to an appropriate hospital for advanced medical care.

The emergency medical procedures include cardiopulmonary resuscitation, defibrillation, controlling external bleeding, preventing shock, body immobilization to prevent spinal damage, and splinting of bone fractures.

- Respond and remedy unsafe conditions as a result of inspections or recommendation made by crew members.
- Respond to accidents and assist with OSHA investigations.

Department Heads and Supervisors Responsibilities

The Department Heads/Supervisors are responsible for supervising, training, performing periodic inspections, and ensuring their crews compliance with all applicable safety rules and regulations.

- Hire crew members with experience or have taken and completed *Safety Pass Training*. If a crew member has completed a safety pass training, request a copy of the certification. All documents need to be given to the Safety Director or 1st Assistant Director and filed in the production office.

SIDE NOTE

The *Safety Pass Program* was developed by the Motion Picture and Television Industry-Wide Labor-Management Safety Committee to address the Occupational Safety and Health Administration's (OSHA) requirements that "employees be trained in the safe use of equipment and work practices on their job." An organization known as "Contract Services Administration Trust Fund (CSATF) administers a variety of programs for The International Alliance of Theatrical Stage Employees (I.A.T.S.E.), the Moving Picture Technicians Artists and Allied Crafts of the United States, its Territories, and Canada (M.P.T.A.A.C.); as well as the collective bargaining agreements by and between the Producers and the Basic Crafts Locals (Article 18)."

Source: www.csatf.org

Contract Services Administration Trust Fund (CSATF) provides a General Safety Pass Course which covers topics such as injury and illness prevention, equipment protection, lifting safety, and communication for those production companies that are a part of guild that are governed by the collective bargaining agreement (DGA/SAG/IATSE). Upon completion of the course, the individual is issued a safety passport. This safety passport can then be presented to future employers. In addition, once the basic general safety course is completed, other courses regarding a technique or specialized training can be taken.

The courses are applicable to positions involving construction, transportation, electrical, camera operators, grip, location managers, editors, makeup, hair, and costume designer. Information regarding the safety pass courses can be found by going to the CSATF Web site (www.csatf.org/safety.shtml).

In addition, this Web site provides the most up to date safety bulletins that should be provided to cast and crew.

- Conduct a safety meeting with all crew members on the first day of principal photography. Provide them with a customized safety and evacuation check list.
 - Address all the activities that are planned for this film.
 - Discuss safety issues and point out hazards such as:
 - Locations: Dealing with location hazards such as excess traffic, noise related to airports, marinas, difficult neighborhood, and parking issues.
 - Equipment: Working with specialized equipment such as cranes, booms, rigs, and aerial lifts.
 - Provide crew members with a copy of your emergency procedures and evacuation plans.
 - Stress Good Housekeeping at all production locations.
- Document and video tape all your safety meetings. All documents must be given to the Safety Director or 1st Assistant Director and filed in the production office.
- Communicate with the Safety Director and Coordinators to keep them up to date with production, discuss safety concerns, or request training.
- Arrange for safety training classes for actors or film crew.
 - Invite a production safety consultant to speak on various topics such as such as fire prevention, fire effects, special effects, and stunt activities. You may contact *Safety Advisory for Fire & FX in Entertainment* (SAFFE) as they are a nonprofit organization that partners with the entertainment industry and the fire service. They provide information that protects life, the environment, and the property the industry works in. In addition, they provide training and demonstrations that includes the following: “pyrotechnics and explosions, open flame devices, fire-resistive paint, fire performers, lighting equipment, generators, non-guns, electronic and manual detonators, helicopters, stunts, as well as other special FX devices.” Their Web site is www.safefirefx.org.



FIGURE 14.6—Stunt Coordinator Nick Plantico Fire Demonstration Courtesy of Paul Holehouse.

- The insurance company supplies a risk services consultant or loss control person to visit the set and conduct safety training.

Example: *Fireman's Fund Insurance Company* has an Entertainment Risk Services consultant named: Paul Holehouse. Paul's role is to "work with the production companies to analyze scenes that include stunt work, explosions, chase scenes, weapons, and more to ensure the safety of the cast and crew."

- Conduct weekly safety meetings with crew members to discuss the week's upcoming filming activities.

Hint: Remember to always start every meeting by inviting your crew members to voice any concerns or input... request everyone voice any concerns or questions.

- Discuss safety precautions that the crew must follow.
 - Identify unsafe areas and isolate the area with a barricade, yellow warning tape, or security guard.
 - Establish where extinguishers and fire safety equipment are stored and have them easily accessible.
- Include any newly hired independent contractors, actors, and extras. Provide all attendees with a copy of your General Safety guidelines and request that they sign the Employee Acknowledgment form. All documents must be given to the Safety Director or 1st Assistant Director and filed in the production office.
- Request your team wear protective equipment to avoid injury. Depending on the position, you should remind your crew to use hard hats, safety goggles, ear plugs, gloves, steel-toed boots, back brace, and dust mask as needed.



FIGURE 14.7—Safety Equipment—A Good Precaution

- Perform periodic inspections throughout principal photography to catch any safety lapses.
- Review inspection results with the safety program director, safety coordinators, and production executives. Outline in writing what was observed and describe any conditions that could result in an injury, illness, or property damage. A copy of your notes should be maintained in the production office. Suggestions should be made to production management to remedy unsafe conditions.
- Distribute safety literature or bulletins that relate to a specific filming activity.

Safety Coordinators Responsibilities—Construction, Transportation, Stunts, and Special Effects

The safety coordinators have the same responsibilities as all department heads. However for a successful safety program, they should follow the following additional measures.

Construction Coordinators

- Verify that all crew members are experienced or certified to handle a specific type of equipment. If a crew member has completed training, make a copy of their certification, give it to the Safety Director or 1st Assistant Director so that it can then be filed in the production office.
- Request crew members inspect all tools and equipment in preproduction. Remind everyone to use a safety lock on all equipment and store everything properly. If any property is not in good working condition, have the equipment replaced.
- Conduct a safety meeting with all crew members regarding the following topics:
 - Precautions when constructing sets.
 - Post caution signs in areas where construction or metal work is taking place.
 - Safety switches should be in place for all electrical tools.
 - Require appropriate scaffolds, and rigging to prevent falls for elevated work.
 - Precautions when using paint, chemicals, and hazardous materials.

- Make sure proper ventilation is in place.
 - Store chemicals in a secure, cool, and dry location.
- Consult with the Safety Coordinator to determine if there is specific training that your crew needs.
- Remind your crew to use safety equipment such as hard hats, safety goggles, ear plugs, gloves, back brace harness, safety belt, and dust masks.

Grip

- Verify that all crew members are trained to handle equipment such as cranes, forklifts, or aerial platforms. If a crew member has completed training, make a copy of their certification, give it to the Safety Director or 1st Assistant Director so that it can then be filed in the production office.
- Conduct safety meetings with all crew members to discuss safety precautions when working with cranes, booms, and rigging.
- Discuss fall protections for crew members exposed to heights or elevated platforms. Require appropriate scaffolds, and rigging to prevent falls from ladders. Remind the crew when working on elevated platforms to make sure there is a basket, safety belts, or body belts. Do not work outside on elevated platforms during extreme weather conditions such as high winds, thunderstorms, or heavy rains. *Hint:* Many production companies use forklifts with wooden crates that are poorly constructed platforms. This is not advised as many times the platforms are not securely fastened and can tip. In addition, cameramen do not have guardrails or harness to anchor themselves and this can result in falls, injury, and death.
- Consult with the Safety Coordinator to determine if specific training needs are required for your crew.
- Remind your crew to use safety equipment such as goggles, gloves, ear plugs, back brace, safety belt, and harness.

Transportation Coordinators

- Verify that all crew members are licensed drivers for the type of vehicle(s) they will be driving. Ask drivers for a copy of their licenses and give it to the Safety Director or 1st Assistant Director so that it

can be filed in the production office. *Hint:* To check the driver's history, request your insurance broker provide a Motor Vehicle Report for all designated drivers. If the report identifies speeding or driving under the influence charges, they should not be allowed to drive.

- Conduct safety meetings with all crew members when using camera cars—front and rear platforms and picture cars. In addition, the meeting should include discussions regarding weather or driving hazards. Be prepared for bad weather conditions, a client of mine had issues with a winter storm that delayed the return of their trucks and trailers.
- Request crew members conduct inspections on all vehicles in pre-production to determine if they are in working order. I suggest you check the steering, brakes, back up warning signal, and hand or hydraulic tail gates. If the vehicle is not in working order, have it repaired or replaced. *Hint:* Please remind all crew members to keep their hands and feet clear from the truck lifts as serious accidents have resulted in lost fingers and toes.
- Provide instructions for maneuvering large vehicles such as cube trucks, industrial trucks, and RVs. *Hint:* Remind drivers of large vehicles to be aware of the height of the truck and to check the height clearance on gas station canopies and parking structures before parking.
- All drivers should carry their license, any designations, production insurance certificate, and emergency equipment such as fire extinguisher, flares, and first aid kit.
- In addition, hold a meeting with the drivers and remind them of the following:
 - No alcohol before and while driving.
 - Notify a supervisor if they are too tired to drive. To avoid accidents designate a backup driver.
 - Lock all trucks and trailers when not in use. Depending on the location, hire a guard when vehicles are left unattended.
- Consult with the Safety Coordinator to determine if specific training needs are required for your crew.
- Remind your crew to use safety equipment such as gloves and a back brace for lifting objects.

Stunt and Special Effects Coordinators

- Verify that all crew members are experienced and certified to handle the stunts or effects. If a crew member has completed training, make a copy of their certification, give it to the Safety Director or 1st Assistant Director so that it can then be filed in the production office.
- Conduct safety meetings with all crew members when a stunt or mechanical effect is scheduled to be performed. Some of the activities can include a car stunt, high fall, use of firearms, smoke, pyrotechnics, use of animals, helicopter, and watercraft.



FIGURE 14.8—Filming Building Fire Scene—Courtesy of Paul Holehouse

Provide a breakdown of the stunts to the crew.

- Discuss the particular hazards and how to best protect property, crew, and general public. This can include use of pads, install barriers, hire a water truck, and security guards

- Notify the city and neighborhood of your activities and have the fire marshal present. Post announcements in the neighborhoods.
- Establish a rehearsal schedule and provide a copy to all crew members and participants.
- Request that crew members inspect all their equipment and special effects gear to determine if they are in working order.
- Remind your crew to use safety equipment such as goggles, gloves, ear plugs, back brace, safety belt, and harness.
- Isolate the area that the stunt or pyrotechnics with a concrete barricade, yellow warning tape, or security guard. Security guards or police officers should be posted before the performance of a stunt. The officers should keep the general public out of the area.



FIGURE 14.9—Stunt Car Jumping from One Truck to Another

Film Crew Responsibilities

All film crew must assist in maintaining a safe and healthful work environment. The safety responsibilities of the film crew are as follows:

- Review the safety and emergency procedures and sign an acknowledgement form.
- Understand the duties of the job.
- Abide by and follow safety rules.
- Inspect all tools and equipment in pre-production. If anything is not in good working order, have the equipment repaired or replaced.
- Wear safety equipment such as hard hats, safety goggles, ear plugs, gloves, back brace, and dust mask.
- Attend job and safety meetings and training classes.
- Report any unsafe conditions and work related injuries or illness to the supervisor, safety coordinators, and safety director.
- Read safety literature or bulletins.
- Follow the department's emergency action plan when an accident occurs.



FIGURE 14.10—Film Crew Preparing to Film at Waterfall—Courtesy of Paul Holehouse

Actors Responsibilities

The safety of the actors is paramount as they are essential to any film. They must abide by the following safety responsibilities:

- Review the safety and emergency procedures and sign an acknowledgement form.
- Understand the role and its duties.
- Abide by and follow safety rules.
- Attend job and safety meetings.
- Report any unsafe conditions and work related injuries or illness to the supervisor, safety coordinators, and safety director.
- Read safety literature or bulletins.
- Follow the production company's emergency action plan when an accident occurs.

General Safety for Actors

When working with actors, the director and safety coordinators need to prevent work related injuries:

- Examine all filming areas and minimize any hazards such as: faulty walkways, slippery floors, falling objects, or electrical wires. The production company should secure any loose objects, tape down cables properly, and make sure the generators are properly grounded.
- Set up star dressing trailers, makeup, and wardrobe trailers close together. *Hint:* The stairs for the dressing trailers should have handrails, the surface of the steps should not be slippery, and the steps should fit the width of an average person's shoe. Many clients have reported a number of trip and fall accidents simply from actors stepping out of their trailers.
- Be cognizant of the weather conditions. Set up accommodations for extreme heat or cold exposures.
 - *For heat exposures:* Establish an air conditioned trailer or tent with fans available near the set. In the trailer or tent, the production company should provide misting fans, supply bottled water to keep the crew hydrated, and provide sunscreen to protect crew members from sunburn. This was necessary for a client who was filming in

India. Approximately 4–5 members of the crew developed heat stroke and delayed filming.

- *For cold/windy exposures:* Establish a heated trailer and supply juice, coffee, or hot chocolate to the crew. This was necessary for a client who had a number of cast members come down with the flu.
- Conduct safety meetings on a weekly basis to discuss the day's activities and particular hazards.
- If not required, keep actors out of danger while filming stunts or pyrotechnics scenes.



FIGURE 14.11—Misting Fans on a HOT Day—Courtesy of Paul Holehouse

Actors Performing Stunts

There are a number of actors who enjoy the physical demands and excitement of stunt work. Before allowing any actor to perform stunts, you must assess the following issues:

- Have discussions with the director, stunt coordinator, safety director, actor, and casting agent. Discuss the scope of the stunt activity and what it will involve, i.e., fight scenes, high falls, car stunts, use of animals, pyrotechnics, helicopter, and/or watercraft stunts.
- Request the stunt coordinator provide a step by step description of the stunt. The stunt coordinator should design the action to something that the actor can perform safely.
- Request a written agreement be put in place that states that the production company is not held liable for injuries that arise out of the participation in stunts or hazardous activities in the film.
- Determine if the actor has the right experience, conditioning, skills, and training to execute these stunts safely. It is necessary to determine if the actor is physically fit and able to perform the stunt(s). If they are, the producer and director should provide the actor with experienced trainers. The production company should provide adequate practice and rehearsal time during pre-production.
 - If there is a choreographed fight scene, the stunt coordinator must teach the actor every movement until memorized. *Hint:* The more rehearsal time the better because this will result in a seamless performance with little or no injury.
- When using guns, I recommend that you rent or purchase props. Using prop guns lessens the risk of accidental hazards and any legal issues. If real guns are to be used, you will need to hire a professional fire arm expert, who will ensure that the weapons are safely stored and monitored at all times. In addition, the guns need to be inspected by a second or even a third person before being used. Checks and balances need to be in place to avoid a serious injury or death. If squibs are used, a pyrotechnics expert should be hired.
- Discuss the safety precautions that need to be followed and protective gear that needs to be used. Provide protective equipment to protect the head, eyes, ears, and body. This equipment would be a helmet, goggles, ear plugs, body padding, or harness.

As you know an actor is important to the continuity of a film...what would you do if an injury or fatality occurs? I am sure you're aware that there have been injuries and death of actors while working on a film. (See Accidents and Death on Movie Sets.) These situations have led to the inability to complete filming, major expenses, delays in filming, OSHA inspections, dealing with insurance adjusters, and attorneys. Discuss the possibility of using an actor for stunts with your insurance broker. Provide your broker with a detailed description of the type of stunts planned. The insurance broker can then discuss this with the insurance underwriters and their loss control personnel.

The insurance underwriter may have their loss control person to discuss the stunt set up with the stunt coordinator, and provide safety measures to reduce the odds of an accident. Ultimately, the stunts may be too risky for the insurance underwriters and they may request that the producers change their plans.

Actors have the right to request a stunt double if the actor believes they are unqualified to perform the stunt requested by the production company. The actor should not be pushed into performing a stunt that they feel they are not qualified to do as it will only increase the risk of getting injured.

A production company should proceed with caution when it comes to an actor performing their own stunts. Even if an actor feels they have to live up to their "action hero reputation," they may not be physically fit or experienced and should be told not to perform the stunt. For safety's sake, use a stuntman and stuntwoman after all... they are the professionals.

Safety Communications

Communication is crucial for the success of a safety program. Your safety communication must be understandable and designed to encourage employees to inform the department heads of hazards at the workplace without fear of reprisal. "It must be a two-way system of communication." The following are some of the best ways to communicate:

- **Safety Meetings:** This is the best communication tool to use because this allows the department heads to brief their crew on the special hazards they may encounter and allows the film crew the opportunity to discuss their concerns. The safety director and department heads should create a safety meeting agenda. Please refer to the provided sample.

SIDE NOTE**SAFETY MEETING AGENDA****DEPARTMENT/JOB SITE:** _____ **MEETING DATE:** _____

1. Open Meeting & Present safety topic:

2. Individuals in attendance:

3. Individuals not in attendance:

4. Old Business – Status of previous recommendations.
5. Accidents – Discuss accidents and near misses that have occurred since the last meeting. Have a summary of accidents to date and what is the cause. Discuss corrective action taken, or needed.
6. New Business – Announce new procedures or changes to company safety policy. Provide safety guidelines for upcoming filming. Provide fliers or have a demonstration.
7. Inspection Reports – Report on findings and recommendations of any inspection reports made since last meeting.
8. Solicit employee suggestions. Request everyone concentrate on accident causes to make everyone more aware.

TIME MEETING STARTED: _____ TIME FINISHED: _____

MEETING CHAIRED BY: _____

When selecting the topics for discussion, please take the following into consideration:

- Choose a topic that pertains to an upcoming production activity or a list of basic safety guidelines. The topics should include the identification of hazards and safety guidelines or suggestions from the crew.

- Discuss a topic that pertains to a recent accident or near accidents, safety issues, and challenges facing your department. Determine what caused the incident and install the necessary corrective measures. Perhaps the incident occurred because some of the employees are not wearing required protective equipment or perhaps employees are taking shortcuts or engaging in horseplay.
- Recent changes in OSHA regulations and safety guidelines are good topics.

When conducting the safety meetings, you should keep the following in mind:

- Keep the length of the meetings to no longer than 30–45 minutes. The meeting should be focused to-the-point meetings. It is much easier for the film crew to remember the information.
- Be organized have charts, pictures, diagrams, or a safety check list available.
- When possible, do a demonstration. This is the most effective way to make sure the film crew is getting hands on practice and comprehending the topic.
- During the meetings always stop and ask if the crew has any questions or concerns. The more you involve the film crew the better as this increases partnership and communication.
- Make attendance to all safety meetings mandatory. If they are unable to attend, provide a video recording of the discussion for them to watch.

Safety meetings help remind everyone not to get sloppy and take risks which results in accidents. Many times these meetings result in the realization that extra training is required, updated safety gear should be purchased or revisions should be made to the department's operations. At every meeting, stress the importance of safety, ask for feedback from all participants, and provide safety bulletins and training.

Safety Checklists: The purpose of a checklist is that it is considered a “job aid” in which all production personnel are cognizant of safety functions. Using a checklist ensures consistency and job completion for departments that have a higher probability of property damage and injury - locations, constructions, stunts, and special effects. These checklists can be customized and revised with the input of production personnel and can be e-mailed or presented to the crew at the first safety meeting.

SAFETY CHECKLIST

Production Company: _____ Production Title: _____

Location Address: _____ Date/Time: _____

LOCATION

- Exterior fire lanes kept clear for fire department access? (20 feet wide)
- Fire hydrants, extinguishers, and sprinklers are identified and in working order.
- All exits are well marked, visible and clear of hazards.
- Extinguishers well marked and in working order.
- Walkways clear (4-foot lane) and floor free from unnecessary debris.
- Standard handrails on all stairways having four or more steps.
- Electrical panels clear. (3 foot clearance)
- Location of nearest emergency medical facility must be posted.
- No smoking signs prominently visible for interior location.
- Designated outside smoking areas clearly marked, with butt cans.

GENERAL WORK ENVIRONMENT

- Work sites clean and clear of debris.
- All spilled liquids must be cleaned up immediately.
- Work areas should be adequately illuminated.
- Safety meetings held for cast and crew in all departments.
- First Aid boxes identified and maintained.
- Bathrooms in working order, clean and sanitary.

SETS/CONSTRUCTION

- Ladders and scaffolds, working platforms and walkways must be clear of materials and debris.
- Flammable liquids properly labeled, stored, kept away from heat sources.
- When building sets, goggles, gloves and work shoes must be worn.
- All tools and equipment must be in good working condition.
- All tools should be turned OFF before connecting them to a power supply.
- All shop equipment must have safety guards on or unplugged when not in use.
- Any broken equipment should be removed and replaced.
- All elevated equipment i.e. fork lifts, scissor lifts are only operated by trained certified staff.
- Safety belts should be worn if scissor lift, or forklifts are being used.
- Work site must be clear of building materials, metal and debris.
- All debris should be stored and properly disposed.

HAZARDOUS MATERIALS/PAINT DEPARTMENT

- Approved safety glasses and protective gloves and worn when working with chemicals.
- Approved respirators provided and worn when necessary.
- Spray painting and lacquer application done in area with proper ventilation.
- Covered metal waste cans used for oily and paint-soaked waste.
- All hazardous waste should be stored and properly disposed.

ELECTRICAL & LIGHTING

- All cables laid out neatly, properly covered and kept from exits.
- Distribution boxes or spiders kept clear of 4 foot perimeter.
- Air Conditioning equipment and generators properly grounded or insulated.
- Ground-fault circuit interrupters must be used when working in or near water.
- All ladders must be sturdy and in good condition.
- All Employees must face the ladder when ascending or descending.
- Lighting must be separated from combustible materials/surfaces.

VEHICLES

- Check all vehicles for faulty steering, faulty brakes, damaged mirrors or flat tires.
- Check all headlights, turn signals, taillights, and brake lights.
- Check oil, brake, steering and coolant levels.
- Check to see if all lift gates are in working order.
- Review with truck drivers the following: safe backing up practices and height restrictions.
- Picture vehicles must be locked, battery disconnected with a security guard in place when not in use.
- All production vehicles must be locked with a security guard in place when not in use.
- Reminded all employees to wear seat belts and to notify supervisor if they are too tired to drive.

SPECIAL EFFECTS/STUNTS:

- All stunts, effects or special activities are discussed in advance with a stunt coordinator or pyrotechnician.
- Stunt coordinator and pyrotechnician must provide a plan as to how to keep crew and general public protected.
- A rehearsal schedule must be established and a copy provided to all participants and crew members.
- City and neighborhood must be notified of your activities.
- Police, Fire Department, and Emergency Medical Technician (EMT) must be briefed on proposed activity.
- Fire Department permit obtained and their guidelines must be followed.
- Safety meeting held with cast and crew prior to shooting. Provide all with a breakdown of activities.
- Crew reminded to use safety equipment: goggles, gloves, earplugs, safety belt or harness.
- Barriers established around the area where pyrotechnics and stunts will occur.
- Set EMT or ambulance must be available at the filming site.

QUESTIONS about safety should be directed to your supervisor or: _____ phone: _____

CORRECTIVE ACTION NECESSARY:

SAFETY CHECKLIST COMPLETED BY:

NAME: _____ DATE: _____

FIGURE 14.12—Safety Checklist

Safety Bulletins: Bulletins are written guidelines that are provided by experienced safety experts and advisors of various industries. You can find OSHA publications and fact sheets by going to the OSHA Web site.

OSHA FactSheet

Working Safely with Electricity

Working with electricity can be dangerous. Engineers, linemen, electricians, and others work with electricity directly, including overhead lines, cable harnesses, and circuit assemblies. Office workers and salespeople work with electricity indirectly and may also be exposed to electrical hazards.

Generators

One of the common tools utilized following the loss of power are portable generators. Most generators are gasoline powered and use internal combustion engines to produce electricity. Carbon monoxide is a colorless and odorless gas produced during the operation of gasoline powered generators. When inhaled, the gas reduces your ability to utilize oxygen. Symptoms of carbon monoxide poisoning include headache, nausea and tiredness that can lead to unconsciousness and ultimately prove fatal.

- DO NOT bring a generator indoors. Be sure it is located outdoors in a location where the exhaust gases cannot enter a home or building. Good ventilation is the key.
- Be sure that the main circuit breaker is OFF and locked out prior to starting any generator. This will prevent inadvertent energization of power lines from back feed electrical energy from generators and help protect utility line workers from possible electrocution.
- Turn off generators and let them cool prior to refueling.

Power Lines

Overhead and buried power lines are especially hazardous because they carry extremely high voltage. Fatal electrocution is the main risk, but burns and falls are also hazards.

- Look for overhead power lines and buried power line indicators.
- Stay at least 10 feet away from overhead power lines and assume they are energized.
- De-energize and ground lines when working near them.
- Use non-conductive wood or fiberglass ladders when working near power lines.

Extension Cords

Normal wear on cords can loosen or expose wires. Cords that are not 3-wire type, not designed for hard-usage, or that have been modified, increase your risk of contacting electrical current.

- Use only equipment that is approved to meet OSHA standards.
- Do not modify cords or use them incorrectly.
- Use factory-assembled cord sets and only extension cords that are 3-wire type.
- Use only cords, connection devices, and fittings that are equipped with strain relief.
- Remove cords from receptacles by pulling on the plugs, not the cords.

Equipment

Due to the dynamic, rugged nature of construction work, normal use of electrical equipment causes wear and tear that results in insulation breaks, short-circuits, and exposed wires. If there is no ground-fault protection, it can cause a ground-fault that sends current through the worker's body.

- Use ground-fault circuit interrupters (GFCIs) on all 120-volt, single-phase, 15- and 20-ampere receptacles, or have an assured equipment grounding conductor program (AEGCP).
- Use double-insulated tools and equipment, distinctively marked.
- Visually inspect all electrical equipment before use. Remove from service any equipment with frayed cords, missing ground prongs, cracked tool casings, etc.

Electrical Incidents

If the power supply to the electrical equipment is not grounded or the path has been broken, fault

current may travel through a worker's body, causing electrical burns or death. Even when the power system is properly grounded, electrical equipment can instantly change from safe to hazardous because of extreme conditions and rough treatment.

- Visually inspect electrical equipment before use. Take any defective equipment out of service.
- Ground all power supply systems, electrical circuits, and electrical equipment.

- Frequently inspect electrical systems to insure that the path to ground is continuous.
- Do not remove ground prongs from cord- and plug-connected equipment or extension cords.
- Use double-insulated tools and ground all exposed metal parts of equipment.
- Avoid standing in wet areas when using portable electrical power tools.

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.



FIGURE 14.13—OSHA Electrical Safety Bulletin

OSHA FactSheet

Using Aerial Lifts

The major causes of injuries and fatalities involving aerial lifts are falls, electrocutions, and collapses or tip-overs. Aerial devices include boom-supported aerial platforms, such as cherry pickers or bucket trucks, aerial ladders and vertical towers (OSHA regulates scissor lifts as mobile scaffolds, not as aerial devices). Safe work practices for aerial lifts include:

- Ensure that workers who operate aerial lifts are properly trained in the safe use of the equipment. Test the controls and inspect the aerial lift before use each day. Make sure that all controls are clearly marked as to their function.
- Never override hydraulic, mechanical or electrical safety devices. Maintain and operate aerial lifts according to the manufacturer's instructions. Always stand firmly on the basket floor. Do not sit or climb on the edge or rails of the basket. Never use planks, boxes or other items inside the basket to extend your reach.
- Ensure that all wheels of an elevated lift are on a solid base. Use outriggers, if provided. Set the brakes and use wheel chocks when on an incline. Do not exceed the load limits of the equipment. Allow for the combined weight of the worker(s), tools and materials.
- De-energize and lockout/tagout aerial lifts before performing any maintenance or repairs.

Working near Power Lines

Maintain a minimum clearance of at least 10 feet away from the nearest overhead line. In addition, any conductive object that can be contacted must be maintained at least 10 feet from overhead

lines. Conductive objects could be wires, transformers, ducts, pipes or other equipment. Always treat overhead lines as energized, even if they are down or appear to be insulated. (Qualified power line and communications workers and qualified line-clearance tree trimmers are trained to work closer than 10 feet to a power line. See OSHA's Tree Trimming Fact Sheet and Quick Card.) Never lose awareness of the overhead hazard.

Struck-by, Crushed-by, or Caught-in Hazards

Establish and clearly mark a danger zone around the aerial lift support vehicle. Never move the equipment with workers in the elevated platform unless the equipment has been specifically designed for this type of operation. Do not allow workers to position themselves between overhead hazards, such as joists and beams, and the rails of the basket. If the basket moves, the worker(s) could become trapped and crushed between the rails and the overhead object.

Fall Protection

Do not allow workers to belt off to an adjacent pole, structure or equipment while working from an aerial lift. Use a body harness or positioning device with a lanyard attached to the boom or basket to prevent the worker from being ejected or pulled from the basket.

This is one in a series of informational fact sheets highlighting OSHA programs, policies or standards. It does not impose any new compliance requirements. For a comprehensive list of compliance requirements of OSHA standards or regulations, refer to Title 29 of the Code of Federal Regulations. This information will be made available to sensory impaired individuals upon request. The voice phone is (202) 693-1999; teletypewriter (TTY) number: (877) 889-5627.



FIGURE 14.14 – OSHA Aerial Lift Bulletin

In the motion picture and television industry, you can find a variety of safety bulletins by going to the Contract Services Administration Trust Fund Web site. The bulletins are updated periodically and provide truly helpful guidelines for the following:

- Electric safety
- Camera cars
- Elevated work platforms
- Stunts
- Air bags
- Pyrotechnics
- Fire arms
- Helicopter
- Severe weather

Please note, that the safety bulletins are not binding laws or regulations. Modifications can be tailored to meet the specific safety needs of the cast and crew. These bulletins can be provided at a safety meeting in preparation of an upcoming hazard, emailed to department members, or communicated by posting them on a centrally located bulletin board.

Safety Signs

These signs can be strategically placed as a subtle reminder to all production personnel. You can purchase a number of signs at office supply stores. *Hint:* Many clients print their own on bright paper, laminate them, and post them at their various locations.

Post the following signs:

- Danger Flammable Materials
- Slippery When Wet
- Warning High Voltage
- Danger Explosives
- Caution Authorized Personnel Only



FIGURE 14.15 Caution Authorized Personnel Sign

- Caution Eye/Ear Protection Required
- Fire Extinguisher
- Fire Exit
- First Aid
- Lift Safely—Back Straight/Load Close to Body, Legs Bent, and Grip opposite corners.

Postings

It is mandated by OSHA, governmental agencies, and state entities that certain postings of documents are visible to all production personnel. These are usually posted on a bulletin board in a centralized location where employees meet such as production and location office. Please find the below listing and website to obtain a copy. In addition, you can purchase the various posters by going to www.osha-safety.org.

SIDE NOTE

Safety and Health Protection on the Job

This outlines the responsibilities of employer and employee. Explains OSHA visits, violations, and fees. The poster varies from state to state. Contact the applicable state Department of Industrial Relations for a poster. California: www.dir.ca.gov/dosh/dosh_publications/shpstrength012000.pdf

Industrial Welfare Commission's (IWC) Orders Regulating Wages, Hours and Working Conditions

Establishes minimum wages and standards for hours and working conditions. There are 15 IWC orders, separately numbered according to industry occupation group. Contact your local Division of Labor Standards Enforcement district office for a copy of the industry wage orders. California: <http://www.dir.ca.gov/IWC/IWCArticle11.pdf> (Broadcasting industry)

Pay Day Notice

This notice provides the day, time, and place of regular payday. Contact the applicable state Department Industrial Relations for a poster. California: www.dir.ca.gov/dlse/PaydayNotice.pdf

Notice to Employees: Time Off to Vote

This is a notice from the Secretary of State's Office, Election Division. This notice reminds employers that all employees must be allowed time off to vote. This notice must be posted 10 days preceding a statewide election. California: www.sos.ca.gov/elections/Outreach/posters/toveng.pdf

Discrimination and Harassment in Employment is Prohibited by Law

This notice describes the California Fair Employment Practice Act and the Americans with Disabilities Act. From the Department of Fair Employment and Housing. www.dfeh.ca.gov/DFEH/Publications/PublicationDocs/Discrimination%20and%20Harassment%20in%20Employment%20.pdf

Equal Employment Opportunity is the Law

This notice is required by the Equal Opportunity Commission. All organizations are protected under Federal law from discrimination. www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf

SIDE NOTE

Notice to employees: Unemployment Insurance and Disability Insurance	Notice is required by the Employment Development Department. California: www.edd.ca.gov/pdf_pub_ctr/de1857a.pdf
Notice: Employee Polygraph Protection Act	Notice protects employees from having to take a lie detector test. Required by the U.S. Department of Labor. www.dol.gov/ofccp/regs/compliance/posters/pdf/eppac.pdf
Notice of Workers Compensation Insurance	Notifies employees of compensation benefits, first-aid procedures, and emergency telephone numbers. The poster must state the name of the employer's current compensation carrier OR it must state that the employer is certified to be "self-insured." This notice is supplied by your insurance broker or payroll service.
Notice Emergency Information and Telephone Numbers	This is developed by the UPM or his/her designee when listing location-specific emergency telephone numbers and procedures. Required by the Department of Industrial Relations.
Production Safety Guidelines	Your general code of safe practices to be followed by cast and crew members. Sample provided
OSHA Safety Poster	OSHA Job Safety and Health—It's The Law Poster and OSHA Process-Safety-poster www.osha.gov/pls/publications/publication.athruz?pType=Types&pID=5

Safety Inspections

Safety inspections are purely a risk control function in where the safety director and safety coordinators should conduct periodic inspections of various production operations. These individuals should be able to pinpoint hazards that can potentially result in accidents or injuries. Once the hazards

are identified, they need to be documented and brought to the production executives and department heads attention. Immediate discussion should take place and new resolutions such as the below should be implemented.

- Improve housekeeping and exercise good hygiene at a locations.
- Replace film personnel, equipment, or materials.
- Modify construction activities.
- Increase training or provide safety protection.

Implementing these steps can prevent and control any further potential accidents or injury. Once hazards are identified, you must continue to monitor and conduct further inspect to make sure the hazard has been resolved.

Accidents Do Happen

As you know in the film world, there are so many people doing a variety of activities that something can go wrong and result in accidents. Yes, accidents do happen and people can and do get hurt. These accidents can range from minor injuries, burns, broken bones, and even fatalities.

SIDE NOTE

FILM ACCIDENTS AND DEATHS

Casino Royale:

In a scene where Daniel Craig was running through the streets, he swerved directly towards a rickshaw that was holding a cameraman. The rickshaw swerved to avoid hitting the actor which resulted in the cameraman being thrown out and breaking his arm and collarbone.

Charlie Wilson's War:

A special effects assistant was critically injured during the preparation of a scene that involved a fake stinger missile that exploded.

Die Another Day:

While playing James Bond for this film actor Pierce Brosnan sustained a knee injury that halted filming. In addition, actress Halle Berry had burning debris from a grenade go into her eye.

SIDE NOTE

Gothika:

Halle Berry was hurt in a scene when Robert Downey Jr. grabbed her arm twist it and broke Berry's arm.

Jumper:

A wall made of a mixture of frozen sand and earth broke free during dismantling and fell and instantly killed a set dresser.

Lord of the Rings; Fellowship of the Ring:

Orlando Bloom broke a rib after falling off a horse. Viggo Mortensen broke a tooth and a toe and Brett Beattie injured his knee. John Rhys-Davies had an allergic reaction to his prosthetic makeup and many of the crew and extras suffered from heat exhaustion.

Moulin Rouge:

Actress Nicole Kidman was rehearsing a dance routine when she slipped, fell, and hurt her knee as well as fractured two ribs. Later her scenes were filmed from the chest up while sitting in a wheelchair.

The Crow:

Brandon Lee was shot and killed when a gun containing blank cartridges was mishandled. A carpenter suffered severe burns after his crane hit live power lines. A disgruntled sculptor crashed his car through the studio's plaster shop, and a crew member accidentally drove a screwdriver through his hand.

The Final Season:

A camera man was killed while filming a parade when the helicopter he was riding hit power lines.

The Twilight Zone (The Movie):

A fatal accident occurred when a helicopter was damaged by pyrotechnics and crashed down onto Vic Morrow and two children resulting in their deaths.

Valkyrie:

Eleven extras riding in the back of a truck fell out when a bolt failed.

As discussed in Chapter 13 *Production Insurance*, the following is a short outline of what to do when an accident occurs.

What to Do In Case of an Accident

At the work site emergencies, please take the following actions:

1. Remove all film crew and third parties from the area to prevent any further injury or property damage.
2. Contact emergency medical assistance by calling 911 for the paramedics, fire department, and police.
3. Preserve the accident scene and any evidence for *accident investigation*. In addition, you should take pictures of the scene.
4. Request injured party, eyewitness, or third party to provide an accounting of what occurred at the scene. They need to provide the time, location, and describe what happened. Have them complete an OSHA 300 log.
5. Contact the following:
 - UPM, director and production executives—use your emergency contact list.
 - OSHA state district office—if the accident resulted in a major injury or death.
 - Insurance broker—any injury or property damage should be reported.

Accident Investigation

When dealing with an injury, accident investigation should be conducted by the safety director and safety coordinators. Investigation of all accidents helps you determine why they occurred, how it happened, and enable you to take steps to prevent a reoccurrence and to control future accidents. The following questions need to be answered and all findings should be identified on an *Accident/Incident Investigation Report*.

- *What happened?* Obtain all the facts surrounding the accident and interview all witnesses.
- *Why or how did the incident happen?* Determine what caused the accident to occur. Identify who was involved, check the qualifications of the employee(s), and if operating procedures were followed.
- *What should be done?* Determine which production operation or processes needs assistance and implement constructive and definitive action.

- *What corrective actions have been taken to avoid repeat accident?*
Itemize the corrective actions and implement them into the production company's operations.

This information is critical to preventing and controlling potential accidents.

Minor Accidents

If the accident results in minor injuries such as cuts, sprains, or scrapes or injuries that can be treated with a first aid kit, you should process a workers' compensation claim and make sure the individual sees a doctor.

Complete Employers First Report form and submit it to your insurance broker. In addition, you will need to complete OSHA Form 300 where all work related injuries or illnesses are logged. Please note the illness or injury, provide details, and note the outcome of each entry. Provide details of the accident and note the outcome of each entry. Please refer to the attached form:


**OSHA
Forms for Recording
Work-Related Injuries and Illnesses**

Dear Employer:

This booklet includes the forms needed for maintaining occupational injury and illness records for 2004. These new forms have changed in several important ways from the 2003 recordkeeping forms. In the December 17, 2002 Federal Register (67 FR 77165-77170), OSHA announced its decision to add an occupational hearing loss column to OSHA's Form 300, Log of Work-Related Injuries and Illnesses. This forms package contains modified Forms 300 and 300A where the new column M(5) Hearing Loss. Employers required to complete the injury and illness forms must begin to use these forms on January 1, 2004.

In response to public suggestions, OSHA has also made several changes to the forms package to make the recordkeeping materials clearer and easier to use:

- On Form 300, we've switched the positions of the day count columns. The days "away from work" column now comes before the days "on job transfer or restriction."
- We've clarified the formulas for calculating incidence rates.
- We've added new recording criteria for occupational hearing loss to the "Overexposure" section.
- On Form 300, we've made the column heading "Classify the Case" more prominent to make it clear that employers should mark only one selection among the four columns offered.

The Occupational Safety and Health Administration shares with you the goal of preventing injuries and illnesses in our nation's workplaces. Accurate injury and illness records will help us achieve that goal.

Occupational Safety and Health Administration
U.S. Department of Labor

What's Inside...

In this package, you'll find everything you need to complete OSHA's Log and the Summary of Work-Related Injuries and Illnesses for the next several years. On the following pages, you'll find:

- ▼ **An Overview: Recording Work-Related Injuries and Illnesses** — General instructions for filling out the forms in this package and definitions of terms you should use when you classify your cases as injuries or illnesses.
- ▼ **How to Fill Out the Log** — An example to guide you in filling out the Log properly.
- ▼ **Log of Work-Related Injuries and Illnesses** — Several pages of the Log (but you may make as many copies of the Log as you need.) Notice that the Log is separate from the Summary.
- ▼ **Summary of Work-Related Injuries and Illnesses** — Removable Summary pages for easy posting at the end of the year. Note that you post the Summary only, not the Log.
- ▼ **Worksheet to Help You Fill Out the Summary** — A worksheet for figuring the average number of employees who worked for your establishment and the total number of hours worked.
- ▼ **OSHA's 301: Injury and Illness Incident Report** — A copy of the OSHA 301 to provide details about the incident. You may make as many copies as you need or use an equivalent form.

Take a few minutes to review this package. If you have any questions, visit us online at www.osha.gov OR call your local OSHA office. We'll be happy to help you.

FIGURE 14.16—OSHA Forms Work Related Injuries and Illnesses

Major Accidents

The activities that cause the most concern are stunt or pyrotechnic work. These activities can result in catastrophic injury, serious injury, or death. When a situation involves injuries, death, loss of consciousness, more than 24 hour hospitalization, medical treatment beyond first aid you will need contact OSHA regional office or nearest state district office. “In California any employee who is hospitalized for more than 24 hours for reasons other than medical observation or reasons other than medical observation or who suffers the loss of any member of the body or any serious degree of permanent disfigurement” must be reported within eight (8) hours to Cal-OSHA.

The OSHA regional office or nearest state office will send a representative to conduct an inspection of the accident site. In addition, this representative will request an OSHA Form 300 which provides more details regarding the injury and illness and/or Employers first report form.

SIDE NOTE

WHAT TO DO WHEN OSHA ARRIVES:

When dealing with OSHA, please take the following actions:

1. Immediately notify the UPM and line producer of the arrival of the OSHA representative.
2. Request the OSHA representative provide his/her credentials and determine their validity.
3. Accompany the representative directly to the site in question.
4. Answer questions when asked however do not volunteer information.
5. Provide written documentation such as the OSHA 300 Log and copy of your Injury and illness prevention program.
6. If the representative wants to take pictures, they may. You should however take your own pictures of any area that they do.
7. Take detailed notes after the representative has departed. A copy of the notes should be sent to the producers for their review.

“OSHA Inspection Guidelines”

www.osha.gov/OshDoc/data_General_Facts/factsheet-inspections.pdf

SUMMARY

In summary, it is extremely important that a production company emphasize and require all departments oversee operations, remain vigilant to the safety of the crew, conduct safety meetings, communicate if any safety issues arise and resolve unsafe work practices or safety issues with each other. Basically, to maximize the most of filming activities, you need to control potential workplace hazards and correct hazardous exposures as they occur or are recognized.

When it comes to safety, do the following:

- Establish an Injury Illness Prevention Program.
- Establish a Safety Guideline.
- Establish an Emergency Contact List and Evaluation plan.
- Establish Safety Check lists and provide Safety Bulletins.
- Conduct safety meetings and training classes.
- Hire an on the set Emergency Medical Technician (EMT).

Let's face it...accidents can be messy. Injured parties and property damage can result in increased expenses, delayed filming, and possible lawsuits. While I cannot guarantee that implementing safety program would eliminate accidents, I can predict you will have fewer incidents and sleep better at night knowing that you have *a plan*. Think Safety.

You won't go Wrong!!!

DISCUSSION / ESSAY QUESTIONS

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

1. Imagine that you are a Safety Director and you are two (2) weeks into production. You have just been informed that a fire is headed to your production headquarters and you have been instructed to evacuate. Please outline what you would do to prepare for the evacuation of the filming locations.
2. Image you are the Safety Director and have received a call regarding an injury of a crew member who has been transported to a hospital. What would you instruct the Line Producer do?

RESEARCH/LAB FIELDWORK PROJECTS

The following exercise is designed to make you more comfortable with the information you are learning about.

1. Using your short film, write an outline of what you would discuss at your first safety meeting.

APPENDIX

SOLUTIONS TO EVEN-NUMBERED EXERCISES

CHAPTER 1

Discussion/Essay Questions

2. Which genre of film do you think is the most successful and why?

Films that have action, adventure, suspense, crime, and horror are the most successful. These films fully engage moviegoers with their fast paced stories and non-stop action.

4. Why do you think finding distribution for an independent film is so difficult?

The main problem for filmmakers is to get in front of and gain the interest of potential distributors.

The conventional way most independent filmmakers achieve distribution is to hire a sales agent or enter their movie into a film festival. That said, there are no guarantees and many filmmakers are disappointed.

A filmmaker should establish a marketing plan which should outline how he or she will promote, advertise, and screen their film.

CHAPTER 2

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Name three (3) production positions outlined in this chapter and outline why they are so important.

Director—This individual brings a script to life. The individual works to perfect an actor's performance and works with the film crew on staging, blocking, and positioning the cameras

Lead Actor/Actress—The individual's performance and notoriety can impact the ability to sell the film to distributors.

Line Producer and/or Unit Production Manager—This individual hires key members of the crew, negotiates deals with *vendors*, and is considered the head of production on the set. Their job is all about logistics, getting people, services, and equipment to the right place and time.

CHAPTER 3

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. You are in the midst of interviewing an individual for a production position and think they are perfect for the position. However the interviewee indicates that they were terminated because of conflicts with their supervisor. What additional questions or actions will you take in this situation?

In this situation, the main thing to ask “Were the conflicts due to creative or personal differences?” One would hope the answer is creative differences because this means this individual is striving to provide advice and opinions that can potentially be beneficial to the film. If this is the case, ask the interviewee to elaborate and get more details.

If the answer is personal differences this could potentially mean the experience was negative and destructive. While it may not be the interviewees fault, it could be a sign that they had unrealistic work expectations or have skill deficits.

When in doubt ask another production executive to interview the individual and request their opinion. If the impression is still favorable, contact all the provided references and ask questions. Once all the information is obtained, you can then make the appropriate decision.

CHAPTER 4

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. In light of the writers’ strike (2007–2008) that lasted 100 days and caused a tremendous economic impact on not only writers but everyone affiliated in the entertainment industry, what changes would you implement to avoid this in the future?

My advice would be set hard deadlines with financial consequences imposed on the negotiators Alliance of Motion Picture and Television Producers (AMPTP) and Guild/Union executives if an agreement can not be reached.

In addition, if an impasse occurs, the guild associations should negotiate interim deals with individual networks, studios, and production companies who were willing to agree to their proposal. This would lessen the financial hardships on some of their members while on going negotiations with the AMPTP continue.

CHAPTER 5

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Put yourself in the role of the director, you have two actors that would be perfect for the main lead of your film. How will you decide which actor to choose?

Choosing the right actor can be a very difficult thing to do. The director should have both actors return for one more audition. Ask the actor to perform a cold read and read with other actors and tape the sessions. Once completed have their performances reviewed by your production team and ask the following questions:

- Do they meet the vision I am looking for?
- Did they take direction well during the audition?
- How did the actor perform when he or she read with other actors?
- How did the “cold read” go?
- Was the actor’s performance authentic?
- Would this actor be marketable?
- Does the camera like them?
- Does the actor light up the room?

CHAPTER 6

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Become a film tax incentive advocate; locate your state legislative representative by going to your state’s government website. Once you’ve located your legislator write a letter regarding either of the following:
 - a) Additional funding should be provided for tax incentives programs in your state.

or

- b) A film tax incentive program should be established in your state.

Dear Senator or Assembly member,

I and my fellow Californian filmmakers would like you to consider increasing our state tax incentive program for film.

As California is noted to be the *Movie Capital of the World*, I find it hard to believe that more tax incentive money is not being budgeted. I believe providing more tax incentive money here in California would enable filmmakers, who predominately reside in Los Angeles, to film in their backyard. The production companies would then spend their budgets that range from thousands to millions of dollars on locations, equipment, crew, and other related film industries. This would enable these entities and their family to spend money on goods and services in our state. This is far better than letting production companies spend their budget in another state.

I believe with all my heart that if we increased tax incentives that the economical hardships for our state would be resolved.

Please contact me at the above address if you should have any questions.

Regards, Winnie Wong

CHAPTER 7

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Imagine you are a location manager of a production that will be filming a night scene in a residential neighborhood, what would do and how would you instruct your crew members.

I would have notices and postings up in the neighborhood advising everyone of the night filming will take place. Any outdoor filming should be done as early in the evening as possible to minimize disturbing the neighborhood. The crew film should be instructed to minimize light and noise.

CHAPTER 8

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Imagine you are a line producer that is going to film in an area that is noted for theft and robbery. What safety measures would you put in place to protect your property and safeguard your actors/film crew?

As with any film, parameters should be in place to keep third parties from having access to your property. I would have discussions with the director to determine how long filming would be required at the location. Once determined, I would set up temporary fencing around the production trailers, hire a security team to escort actors, and administer check points around the production site. In addition, at the conclusion of filming every day, all property should be locked in trailers or buildings and security patrols should be in place to guard the production site.

CHAPTER 9

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. You are a production coordinator that is told there is a rain storm that is going to jeopardize an outdoor wedding scene in a couple of days. What would you do to your shooting schedule? Please explain.

A production meeting should be held with the production executives and director in which discussions should be made regarding “shoot around” possibilities. Perhaps you can shoot the wedding scene in a church or simple select another scene to film. Consideration must be made to the availability of the actors, crew, equipment, sets, and location. Many times the production company should be prepping for the next scene at least 2–3 days in advance. Once a plan is made, contact all personnel so they know what time to report and where.

CHAPTER 10

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Imagine you are the director of a film. Provide reasons why you want the producer to include the costs of a car chase scene into the budget.

I believe adding a car chase scene would be a good addition to the film because it will add suspense and action to the film. Once this scene is added it you will stand a better chance of selling the film to a distributor and increasing your revenues.

CHAPTER 11

Discussion/Essay Questions

Your instructor may assign you the following question for discussion in class or as the subject of a paper:

2. Imagine that you are a newly hired production accountant on a film that is about a hijacking that takes place on a plane. The production executives are trying to decide whether they should construct a set that resembles the inside of a plane or rent a plane. In your department meeting, which option would you suggest and why?

My recommendation would be build the set. I would prepare two budgets that would outline what it would cost to construct the set and based on renting a plane and airport. I believe that the cost of building a set would be cheaper than the cost and expense of renting a real plane and filming at an airport. The location fees or rental fees can be very expensive. LAX requires limits of liability of at least \$5MM when filming on the runway. In addition, because the inside of the plane will be constructed in a sound stage, it will allow the camera and grip crews to customized the rigging of cameras, lighting, and sound equipment. In addition, filming at a sound stage will allow you to schedule filming when it is convenient for your production company. This means you can film at anytime of the day instead of only scheduled dates and time.

Having a prop constructed would ensure that the film can be finished on time and it will ultimately be more economical.

CHAPTER 12

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. After reading this chapter, what would prevent you from moving forward on a film project?

The following are the situations in which you should not proceed with a film project:

- Unable to get permission from a copyright owner.
- Any ongoing lawsuits or disagreements that are in existence between copyright owner and other third parties.
- Unable to secure life rights from the individual you wish to depict.

CHAPTER 13

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Overnight a fire takes place in the office building in which you are planning to film. The next day the fire department determines that the fire had started in an office next door to your production set. The fire damaged all the lighting equipment and props. What insurance policies would answer this type of claim? What would you do to keep your production on track? Please explain.

As the fire started in another office, you are not liable for damages to the building and will need to make it clear to the building owner as well as the owner of the office next door.

The insurance policies that responded to this claim were:

- Production package
 - Equipment—replaced the rented equipment that was damaged.
 - Props—replaced the rented props that were damaged.
 - Extra expense—to take care of the costs to find a new location.

CHAPTER 14

Discussion/Essay Questions

Your instructor may assign you one or more of the following questions for discussion in class or as the subject of a paper:

2. Image you are the Safety Director and have received a call regarding an injury of a crew member who has been transported to a hospital. What would you instruct the Line Producer do?

I would request that the line producer do the following:

- Request details of the crew members injuries. Are they life threatening or a minor injury.
- Tell the line producer to clear the area to prevent any other injuries and preserve the accident scene.
- Request the line producer obtain details about how the accident happened from other crew members or witnesses. Have the line producer complete a OSHA 300 log.
- Ask the line producer to find out where the crew member is insured under the payroll service or workers compensation coverage.
- Make a determination as to whether you contact the OSHA state district office.
- Notify your insurance broker.

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