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KROOSS PRIZE DISSERTATION SUMMARIES

When A Handshake Meant Something: Lawyers, Deal Making, and the Emergence of New Hollywood

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> Some reviewers make a point of trying to understand whose picture it is by "looking at the script"; to understand whose picture it is one needs to look not particularly at the script but at the deal memo.[1] Joan Didion

Jack Warner loved shutting down films. It was tradition on the Warner Bros. lot, one he continued long after his three brothers departed the studio. As director Arthur Penn described it, "Warner would give a time frame and then come down to the set, no matter how far along they were, and say 'Your picture wraps tonight.'"[2] It was a display of power, a way to demonstrate who ran the studio. When it came to *Bonnie and Clyde*—a film Warner hated with every bone in his body—he was overjoyed to finally force the hand of Penn and his coproducer/star Warren Beatty. Even though they were right on schedule, "The Colonel," as many referred to Warner, barged his way into their wrap party and forced the crew to shoot the still photos that would be featured in the opening credits. Everyone was taken aback by Warner's actions but felt forced to oblige. Penn caught the eye of Walter MacEwan, Warner's right-hand man, who "stood behind Jack with a chagrined expression, as if to say, 'What can I do?'"[3]

But *Bonnie and Clyde* was not Warner's project to control. Before production began, the executives at Warner Bros. had negotiated a deal with Penn and Beatty. Their memo featured several brief but thoughtful stipulations that seemed agreeable to both sides. Most notably, the location of where to edit the picture would be arranged later by mutual agreement among the parties.[4]

Warner soon realized Penn and Beatty were shipping dailies to New York instead of the studio's own editing bays and planning to edit the film without the possibility that the executive might barge through the doors. He fired off a memo, declaring, "I would not have gone through with this contract if I had known these *uncalled gimmicks* were in it."[5] But none of the studio's executives could do anything to reverse it and please the Colonel. They had

1. Didion, *White Album*, 165.
2. Quoted in Harris, *Pictures at a Revolution*, 258–259.
3. Penn, "Making Waves," 28.
4. Warner Bros. Pictures Inc., "Short-Form Production-Distribution Agreement, Revised 10/31/1966, between Tatira Productions, Inc. and Hiller Productions, Inc.," October 31, 1966, Warner Bros. Archive.
5. Jack Warner, Letter to Walter MacEwen, June 3, 1967, Warner Bros. Archive. Emphasis my own.

acquiesced when Beatty told them he would edit in New York, and now their complacency was binding. The studio's head legal counsel, Peter Knecht, informed Warner that they could either allow Beatty to continue to edit or cause a scandal. Warner could march over to the lot to receive his symbolic bows, but he no longer had control. Instead, contracts had taken over the studio.

"When A Handshake Meant Something" reshapes our understanding of the transformation of the American film industry by contextualizing these changes within a dynamic postwar legal culture. I narrate the fall of the classic studio system that defined Hollywood until the 1940s to the rise of a "New Hollywood" in the 1970s by tracing the emergence the practice of deal making within the industry. Writers, directors, and stars turned to a new generation of lawyers with expertise in contract negotiation, tax law, and copyright to assert their role as the sole creative power of their films. These attorneys revolutionized the studios from production lots into financial institutions that could invest and profit off this competitive landscape. By the 1950s, this burgeoning legal culture would become central to how industry made movies. In a front-page story entitled "Lawyers Take Over Show Biz," the industry trade paper *Variety* declared: "With show biz now big biz and intricately involved with Government, taxes, antitrust, copyright, petitions to the Federal Communication Commission, and so on, there's green pasture aplenty for trained attorneys."[6]

This burgeoning legal culture did not replace the studio system overnight; contracts and their negotiations standardized new practices as deal making became the new lingua franca for the industry. With each film negotiated on a case-by-case basis, each contract could lead to new responsibilities and new definitions of work. Cementing this negotiation process allowed filmmakers to push for greater artistic license while studios arranged for new economic demands. At the same time, this new culture of individualism limited opportunities for collective strength and a diversified media environment.

In reexamining the long-standing myth that renegade directors saved Hollywood through their art by emphasizing the industry's business and legal environment, I argue for the importance of deal making in the postwar developments in art, business, and labor. Hollywood's nascent legal culture simultaneously stimulated an artistic revolution built around individual creativity and transformed financial practices in which studios increasingly acted like banks. I position Hollywood as both a site of media production and a critical case study in the transitional phase in which lawyers used contracts to reframe and reposition the relationship between business and art in postwar society.

The Revolution Will Be Negotiated

Scholars and critics have often described the rise of the Hollywood Renaissance of the 1970s in storied terms. Books such as Mark Harris's *Pictures at a Revolution* and Peter Biskind's *Easy Riders, Raging Bulls* have shaped perceptions of this moment as a cultural revolution, highlighting the unorthodox filmmakers who got the studios to finance boundary-pushing

6. Hy Hollinger, "Lawyers Take Over Show Biz," *Variety*, June 1, 1955, 1.

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hits.[7] The narrative often begins with Hollywood's steady decline after World War II, as audiences migrated toward the suburbs and explored a multitude of leisure activities such as television. Within the industry, a major antitrust case, *United States v. Paramount Pictures, Inc.* (1948), restrained the monopolistic practices of "the majors" like Paramount and Metro-Goldwyn-Mayer (MGM) that previously made hundreds of films a year in factory-like production plants in Los Angeles.[8] Studios reduced their yearly output and continually ran up debts, often chasing trends begun by independent filmmakers that tackled taboo subjects. Influenced by European Art Cinema and no longer hamstrung by the Production Code—a set of industry set practices that ensured every film reinforced moral standards remoral standards—these new *auteurs* (directors considered the author of their films) brought art to the American cinema, saving the ailing studios and creating a Hollywood renaissance starting around 1967. Box office and critical successes like *Bonnie & Clyde*, *The Godfather*, and *Chinatown* epitomized an era "when the movies mattered."[9]

But a contradiction emerged. Film critics such as Richard Corliss found it difficult to square the "curious mixture of rebellion and capitalism" that pervaded the industry at the time.[10] Studios merged into the world's largest conglomerates who were obsessed with financial growth and yet handed over checks to these young rebels. The management running the studios were less likely to be veterans of the older era and more often coming out of business school. Studio system directors like Billy Wilder found this new environment baffling: "The talk at Romanoffs used to be 'let's see if we can get Gable and Tracy in the same picture, and lets [*sic*] get King Vidor to director [*sic*], and it'll be about test pilots.' Now the talk you hear says 'capital gains,' off the top, 100%, Swiss Corporation, etc. etc. It can go too far. The atmosphere is The Deal, The Deal, The Deal."[11] Though top creative talent were no longer constrained by the studio system and were free to peruse their artistic whims, they now had to navigate a legal culture obsessed with the financial realignment of the industry.

Film historians have commonly understood this transition by researching the contours of "independent production," though Matthew Bernstein has noted it has become "an umbrella term, defined negatively, to denote any production practice that is not under the aegis of the major studios of a given period."[12] As scholars like Denise Mann have noted, independent production in the 1950s meant filmmakers "were constantly adjusting their aesthetic goals in response to rapidly evolving industrial-ideological circumstances" guided by both financial and political precarity.[13] Christine Becker suggests that the stars who once had their careers set forth by studios now faced "a daunting set of uncertainties . . . [and] survival would be based

7. See Biskind, *Easy Riders, Raging Bulls*; Harris, *Pictures at a Revolution*; Elseasser, King, and Horwath, *Last Great American Picture Show.*

8. *United States v. Paramount Pictures, Inc.*, 334 U.S. 131, 68 S. Ct. 915, 92 L. Ed. 1260 (1948). For more, see Conant, *Antitrust in the Motion Picture Industry.*

9. Kirshner and Lewis, *When the Movies Mattered.*

10. Richard Corliss, "Film: The Radicals Have Occupied the Asylum," *Museum of Modern Art* members' newsletter, 1969, 3–4, http://www.jstor.org/stable/4380584.

11. "[Diary from Hollywood]," March 25, 1957, David I. Zeitlin Papers, 5-f.90 (Independent production 1956–1957), Margaret Herrick Library, Beverly Hills, CA.

12. Bernstein, "Hollywood's Semi-Independent Production," 41.

13. Mann, *Hollywood Independents*, 3.

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more heavily on their own decisions than those of an external controlling force."[14] While Mann and Jeff Menne have theorized the contradictory impulses felt by independent filmmakers through textual analysis of the films made by these youthful talents—a hermeneutical practice developed by John Caldwell called "industrial reflexivity,"[15]—limited scholarship has tried to understand how and why artists and corporations actually found a tenuous balance and how they found ways of organizing their day-to-day lives.[16]

To understand this period, my dissertation accounts for the typical operations of working in this postwar creative media landscape. Business historians have always been curious about the lives of working people within corporate hierarchies, whether Alfred Chandler's understanding of the middle manager or Julie Berebitsky's investigation into the sexual politics of the office.[17] But there has been less work that explores what Ronny Regev describes as "how producers of culture have become modern workers" and their "work practices and interactions on the job."[18] My study follows her work on the formation of Classical Hollywood—but at the moment these workers *left* the studio. How did these individuals, fueled with romantic notions of art, mix with this new cadre of business executives and financial experts, and where did they find commonality?

I also ask the reverse. I examine how this new type of Hollywood artist fit neatly into the discussions of the rise of the *creative* as a new kind of professional in American corporate life. As Sam Franklin has cogently observed, "Beginning in the early 1950s, academic psychologists launched a torrent of studies into the nature of creativity, largely at the behest of research directors and allied government agencies and aimed at solving their specific needs."[19] Corporations and businesses not only responded to the idea of the creative individual but also they sought to ensure that these employees felt free to act as explorers while delivering desired results. Though speaking to a later era, Richard Florida's *The Rise of the Creative Class* suggests that corporations responded to the rise of the creative individual by reframing their legal relationship: "The old contract was group oriented and emphasized job security. The new one is tailored to the needs and desires of the individual."[20]

Lawyers played a critical role because the growth of the profession was directly tied to the need to create contract flexibility throughout this era. It is through contracts that individuals in Hollywood claimed what I call an "artistic identity" that allowed management to encourage creativity within limits. Rather than rely on classical film history interpretations around the cultural transformation of film art and film authorship, I turn to contemporary business

14. Becker, *It's the Pictures that Got Small*, 23.

15. Caldwell, *Production Culture*; Menne, *Post-Fordist Cinema*, 29.

16. Mann, *Hollywood Independents*; Menne, *Post-Fordist Cinema.*

17. See Chandler, *Visible Hand*; Zunz, *Making American Corporate*; Davis, *Company Men*; Berebitsky, *Sex and the Office.* For film historians, Thomas Schatz's landmark work *The Genius of the System* has been a critical text for understanding the studio production executives (often known as the "moguls") of Classical Hollywood and how they "translated an annual budget handed down by New York office into a program of specific pictures" by managing contracts, screenwriting, production feedback, and editing of films. Schatz, *Genius of the System*, 7–8.

18. Regev, *Working in Hollywood*, 3.

19. Franklin, "Creativity."

20. Florida, *Rise of the Creative Class*, 91.

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literature to demonstrate how corporations engendered the practice of filmmakers through contracts to view their individual work and personality as tied to art.[21]

Many scholars have noted that postwar Hollywood cinema wildly differed "depending on contract provisions," but few have attempted to trace the internal legal relationships as historical artifacts of their era.[22] As Emily Carman notes, "The financial nomenclature of contracts and studio legalese tends to be relegated to footnotes in most studies of stardom and classic Hollywood."[23] My research thus uses long-ignored sources from archival collections: the drafts, correspondence, and notes related to deal making among production companies, the artists, and the studios. These artifacts reveal not only the results of the deal but also the changing rhetoric used by lawyers to articulate the power dynamics between creative individuals and financiers.[24] *Gone With the Wind* producer David O. Selznick suggested in 1957 that the industry was finally paying attention to the "wide variety of other items that are usually naively accepted by the inexperienced independent producer as a portion of 'Exhibit B' of his distribution and financing contract."[25] While legal scholars working on the contemporary entertainment industry have often noted the uniqueness of contracts in Hollywood, I look at these elements and their evolution as a historical phenomenon.[26]

For stars, directors, and writers attempting to become independent, it became critical to turn to lawyers who could understand these uncertainties and use contracts to align their artistic ambitions with Hollywood's financial powers. I thus build on scholarship that interrogates the postwar legal profession, especially working in business industries where Robert Gordon argues "their main stock-in-trade became their expertise, rather than their contacts."[27] Relying on contemporary legal- and business-minded scholarship to explore the relationship of lawyers to deal negotiation, I argue how attorneys transformed the industry's legal *and* creative culture that made these two distinctive paths find common ground.[28]

21. Theories of authorship have dominated film studies since the 1950s and debates in the French film journal *Cahiers Du Cinéma*, the British film journal *Movie*, and the writings of American film critic Andrew Sarris. Excerpts appear in Caughie, *Theories of Authorship*. More recent scholars have positioned auteurism within a commercial sphere of production and the larger political economy. See Corrigan, "Auteurs and the New Hollywood"; Lewis, *Whom God Wishes to Destroy*; Wexman, *Hollywood's Artists.*

22. Lev, *The Fifties*, 27.

23. Carman, *Independent Stardom*, 4. This kind of focus on the contractual aspects and quotidian legal culture of Hollywood has only recently become a site of focus. Even though recent edited collections like *Hollywood and the Law* have brought more attention to the industry's relationship to the law, each chapter still takes critical cases before a court as its central method of inquiry. Paul McDonald et al., *Hollywood and the Law.*

24. Contracts as historical sources have played a critical role in the histories of creative industries as far back as Michael Baxandaal's famed 1972 study of fifteenth-century Italian painters and their transition from craftsmen who filled orders to individuals respected for their particular style through their contracts with the merchant class that commissioned their paintings. Baxandall, *Painting and Experience in Fifteenth-Century Italy.*

25. Quoted in Dodie Hamblin, "[Interview with David O. Selznick]," April 2, 1957, David I. Zeitlin Papers, 5-f.90 (Independent production 1956-1957), Margaret Herrick Library.

26. See Chisholm, "Profit-Sharing versus Fixed-Payment Contracts"; Weinstein, "Profit-Sharing Contracts in Hollywood"; Barnett, "Hollywood Deals."

27. Gordon, "American Legal Profession, 1870–2000"; Shamir, *Managing Legal Uncertainty*; Friedman et al., "Law, Lawyers, and Legal Practice in Silicon Valley"; Auerbach, *Unequal Justice.*

28. Macaulay, "Non-Contractual Relations in Business"; Caves, *Creative Industries*; Bernstein, "Beyond Relational."

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In following the shifts through the rise of entertainment lawyers and the legal culture they helped construct, I demonstrate a vital reconfiguration of labor through the institutionalization of creativity. As former craft workers took seriously their role as above-the-line production, they managed a new set of responsibilities, but most importantly had to articulate a new stance that prioritized individualism and their rights as artists. Because of this new regime, those who broke out of the studio system often changed their views on their position in the industry, no longer part of a collective group against management, but now an artistic individual fighting against the faceless corporation. In particular, what they wrought was a transformation of Hollywood's labor relationship from one between employees and managers to one between artists and corporations. "When A Handshake Meant Something" is a tale that celebrates those who broke through and reshaped an art form while considering the way such changes hurt others in their wake.

Deal Making Hollywood

My dissertation traces the industry from the establishment of the Academy of Motion Picture Arts & Sciences in 1927 to the 1968 release of a cornerstone of the New Hollywood canon, *2001: A Space Odyssey.* Chapter One examines the development of a consolidated legal industry for the film studios and its relationship to the broader anti-Semitic culture in Los Angeles and its ramifications for studio workers. Studios came of age in the 1920s, but the mostly Jewish emigre moguls faced scrutiny from the city's cultural elite and more established industries. However, they found legitimacy by turning to legal representation with the city's sole elite Jewish firm, Loeb & Loeb.[29] The firm helped the studios develop employment contracts that played "fundamental importance" to the "industrialisation of artistic creation," as one legal scholar noted in 1933.[30] I trace this dynamic through two unique cases of New York artists who found themselves at odds with Hollywood: Clifford Odets and Orson Welles. By understanding how their contracts dictated their creativity, sometimes for better (such as Welles's *Citizen Kane*) but more often worse, I argue it became only natural for Odets to later declare, "I go to Hollywood to make a living, not to write something."[31]

Howeverm a new generation of attorneys, influenced by the New Deal's role of legal administration and workers' interests, saw opportunities to dismantle and rebuild the relationship between these studios and the creative individuals they sought to represent. In Chapter Two, I trace attorney Martin Gang's litigation against the studios and Leon Kaplan's negotiations between studios and independent producers. Gang worked his way into Hollywood by representing the stars, eventually becoming a fighter against Hollywood studios for their treatment of stars and the contract system that limited their freedom. In his most famed suit, he argued to end the unfair labor contract system that tied stars to studios by representing *Gone With the Wind* star Olivia De Havilland against Warner Bros. Claiming such practices were "an injustice to her fellow performers and perpetrating a fraud on the public," Gang

29. For a history of Hollywood and anti-Semitism, see Gabler, *An Empire of Their Own.*
30. Kohler, "Some Aspects of Conditions of Employment in the Film Industry."
31. Quoted in Gerald Peary, "Odets of Hollywood," 62–63.

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paved the way for an independent Hollywood that tied freedom with lawyers.[32] Kaplan then constructed the new deal-making culture by becoming a go-between for creative independents and the studios. Kaplan's firm would become one of the largest entertainment law firms before its dissolution in the 1980s, and he would continually use contract negotiation to find the balance between his clients and creating incentive structures for the studios to finance and distribute such projects.

As lawyers negotiated expanded roles for their creative clients, studios took advantage of their newfound position as dealmakers to change Hollywood's business model toward more of an institutional lending model. In Chapter Three, I examine how two lawyers changed the way that United Artists operated in the industry. Robert Benjamin and Arthur Krim took over the independent and artist-friendly distributor in 1951 and reshaped it by understanding their contract practices as flexible for each film. They established several stipulations to finance a wide and diverse range of films and used a profit-sharing model that would guarantee the studio remained in the black no matter any given film's box office. As Benjamin told the press, "Our sole policy is the policy of having no rules except the rule of open-mindedness."[33] Other studios soon followed suit. Paramount President George Weltner (also covered in Chapter Three) reshaped the studio's underlying business structure to appeal more to investors. Warner Bros., as I trace in Chapter Four, embraced the use of the "deal memo"—a short form, often unsigned, that replaced long-form contracts—that asked creatives to act under the same principles as management. Meanwhile, a new team of youthful executives rebuilt the studio's operations around financing. These new deals, often made on as little as a handshake, suggested privilege to those who earned the status to rely on reputational pressures as opposed to the solidification of legal regiments, while also creating an air of management among such creatives that split them from their collaborators.

This material transformation within the business of the film industry allowed creative labor to flourish as self-proclaimed artists, though it often presented new challenges and limitations, too. Writers from other creative mediums, such as television writer Paddy Chayefsky, no longer sold the rights to their works but instead negotiated their way into shepherding the adaptation of their work into feature films from screenwriting to production and finally release, as I discuss in Chapter Five. As another writer told the press, having contractual stipulations to control aspects of production was "the only way a writer can protect a property that bears his name."[34] However, other producers outside Hollywood, including television personality David Susskind, used these contracts first to align themselves with particular authors and then to position themselves as the films' chief artistic voice—despite having no connection to the written work. For Lorraine Hansberry's *Raisin in the Sun*, for example, he purchased the rights and then made several changes to the script without Hansberry present, and then made trailers that featured him front and center without even mentioning the playwright who authored the work.[35]

32. Respondent's Brief at 61, *De Haviland v. Warner Bros. Pictures,* 67 Cal. App. 2d 225, 153 P.2d 983, 153 P. (Ct. App. 1944), California State Archives, Sacramento, CA.

33. Quoted in "Lawyers Lead United Artists Resurgence," *Investor's Reader*, May 1961, 12.

34. "Spunky (And Young) Video Writers Dictate Their Own Film Studio Directors," *Variety*, June 1, 1955, 1.

35. Robert Nemiroff, "Memorandum on Archival Script for *A Raisin in the Sun*," [1981], Lorraine Hansberry Papers, (Box 15, Folder 2), Shomberg Center, New York Public Library, New York, NY; "[David Susskind

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Chapter Six examines both the opportunities and perils engineered by the new administrative labor that ran production companies for stars. For Kirk Douglas, independence through his own production company meant dictating creativity from start to finish through administrative labor—development, publicity, and accounting among others. As he told the press, his corporation "gave *me* the last word."[36] Douglas used this procedure not only to engineer creative productions but also to hold studios to their contractual word—often by using new auditing procedures to ensure studios actually paid their fair share. However, these same processes also allowed administrators to exploit and control the careers of independent female stars such as Carroll Baker. She suffered under the mismanagement of administrators who often exploited her in the same way the studios had. Baker's financial papers only reveal half the story; in her memoir, she recalls how these same kinds of individuals who turned Douglas into a creative juggernaut did not do the same for herself. "Hiring a series of slick, fast-talking, percentage gobbling leeches added nothing to my career, while it sliced deeply into my paychecks. But the worst mistake of all was losing control of the purse strings."[37] Her story demonstrates how this new landscape could use contracts to engineer new forms of exploitation.

I conclude by showing how directors succeeded in New Hollywood as auteurs over other forms of creative artistry. In Chapter Seven, I examine how in the 1960s the Directors Guild of America negotiated its Minimum Basic Agreement to include a "Creative Bill of Rights" and the "Director's Cut," which changed the legal authority of the profession while bestowing them with symbolic power and limiting the power of studio producers, writers, stars, and editors. I then explain how auteurs could use contracts to incorporate different styles into Hollywood productions by analyzing John Frankenheimer and two of his films: *Seconds* at Paramount and *Grand Prix* at MGM. The contract for the former included many stipulations that allowed Frankenheimer to hire cast and crew who understood the experimental film styles that dominated European filmmaking at the time; the contract for the latter got stalled over negotiations related to the numerous dictates of MGM and the camera technology company Cinerama that continued into production, leading to what Frankenheimer's producer called "a climate in which it has become almost impossible even for an extremely able energetic and dedicated director to function." This shaped what turned into an anonymous film.[38] Different studios, technical processes, and budgetary concerns could affect the ways contracts were written, and directors and their attorneys had to carefully negotiate a director's creative rights within the broader economic concerns, trading certain controls to secure the deal. In the Conclusion, I discuss how MGM gave much more freedom and flexibility to Kubrick to make *2001*, a gamble built around a special financial stipulation that endorsed his avant-garde sensibility and pushed the limits of new narrative formats for the studio. The contracts dictated which directors could become artists.

Script for "Regular Trailer" for *A Raisin in the Sun*]," [1960–1961], David Susskind Papers (U.S. Mss 73AN), Box 34, Wisconsin Center for Film and Television Research, Madison.

36. Douglas, *The Ragman's Son*, 257.

37. Baker, *Baby Doll*, 198.

38. Edward Lewis, "Teletype to David Begelman," August 17, 1966, Kirk Douglas Papers (U.S. Mss 176AN—Box 44, Folder 8), Wisconsin Center for Film and Television Research.

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Conclusion

New Hollywood's emergence as well as its domination by corporate and financial powers has its origins in law. Lawyers helped artists achieve their dreams of autonomy, even giving them a role in the promotion and public discourse of their films. At the same time, they helped studios restructure their financing and profit payouts to best ensure their financial future. In many ways, deal making exacerbated the divide between those in Hollywood who cared about art and those who only cared about money. Reframing the story of New Hollywood as one designed by its legal culture reveals the way new boundaries kept out both women and people of color.[39] Miranda Banks has noted how the culture of individualism, which was exploited by attorneys, essentially weakened the labor movement: "By the end of the 1980s, the prestige of the individual writer superseded the notion of craft solidarity or faith in the WGA's [Writers Guild of America] capacity to be a strong representative for its members."[40] In an era in which capitalist markets could have led to corporations aggressively micro-managing every aspect of production, contracts allowed individuals to take the rein.

Cinema and Media Studies scholars have explored images, personalities, craft, and technology to study both the production and circulation of film texts, but most stop short of fully exploring the law. While many studies in the framework of Media Industries look at regulatory measures imposed by the state, few look at law from the bottom up; the kind of work lawyers were paid to do for their clients on a daily basis has remained largely unconsidered. These issues are key for Business History; Supreme Court decisions may reshape corporate policy, but often there are daily decisions of law that can dramatically reshape the nature of a business. My archival research reveals how labor, politics, economics, and aesthetics shifted widely during a transformative period for Hollywood, all through changes in the role of deal making. Moreover, the motivations behind these attorneys' actions—whether they came from their clients, their professional aspirations, or ideological commitments—remain just as revealing as the actual deals in terms of how decisions in media production occurred.

In the last years of his life, Leon Kaplan began writing a memoir entitled "When A Handshake Meant Something."[41] The title suggested a lament for a bygone era in which two lawyers made their agreements via handshakes and then did their best to create a contract that reflected the symbolic gesture. Law and lawyers rarely sit on the sidelines of business; they are omnipresent, shaping the very nature of every deal, whether it is a book-length contract or, as many entertainment lawyers joke today, written on a napkin. Especially in creative media industries, the questions and debates over culture cannot be divorced from the questions of the legal structures that produce it. Contracts were not just a by-product of the New Hollywood but also became the instruments that drove the relationship between an increasingly corporate film industry and newly independent artists—a relationship that continues to today. Entertainment lawyer Donald Passman sums up the curious role entertainment lawyers continue to play in Hollywood: "The intersection between art and commerce is what's fascinating about

39. For recent work on New Hollywood's discriminatory practices, see Smukler, *Liberating Hollywood*; Quinn, *Piece of the Action.*

40. Banks, *History of American Screenwriters and Their Guild*, 158.

41. Robert Kaplan in discussion with the author, September 10, 2016.

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our job, because they've been bashing each other for centuries—yet they also need each other to survive."[42]

Peter Labuza researches the legal, financial, and political histories of creative media industries. His dissertation, "When A Handshake Meant Something: Lawyers, Deal Making, and the Emergence of New Hollywood," was awarded the Society for Cinema and Media Studies prize for Best Dissertation. Labuza received his PhD from the University of Southern California in 2020. He currently lectures in the Film and Theatre department at San José State University. His work has been published in *Journal for Cinema and Media Studies*, *Film History*, *The Velvet Light Trap*, and *The Los Angeles Review of Books.*
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42. Quoted in Jeffrey Anderson, "Start Me Up," *Los Angeles Daily Journal*, April 17 2000, 26.

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