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Who the Independents depend on

Film • TV • New Media

Entertainment Law Circular

July 2018

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Now In Theaters

Sicario: Day of the Soldado, produced by **Black Label Media**, is a sequel to the critically acclaimed 2015 film **Sicario** which premiered at the **Toronto Film Festival**.

Pierce Law Group LLP's Anthony J. Hanna and David Albert Pierce provided certain legal services for this project which opened nationwide on June 29th and stars **Benicio Del Toro** and **Josh Brolin**. Click on the trailer below.



Firm Seminars & Events

On **July 18th**, the **Beverly**

Yikes! This Yelp Decision Is Scary!

By David Albert Pierce, Esq.

A disgruntled client posted defamatory reviews about a company on Yelp. The company sued and won a \$558,000 judgment. In addition to the damages owed by the client, the court ordered Yelp to take down the defamatory reviews even though Yelp was not a named party in the case.

Such third party orders of this type are not out of the ordinary when it goes along with enforcement of a judgement. For example, courts regularly issue wage garnishments from third party employers when their employees are subject to a judgment debt.

However, Yelp refused to comply with the court order arguing, among other things, that the court lacked power to issue such an order against Yelp because such orders are invalid under the Communications Decency Act of 1996 (CDA). Specifically, section 230 of the CDA which prohibits interactive computer services like Yelp to be "treated as the publisher or speaker of any information provided by another information content provider" and "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with [the] section."

The state court of appeals rejected Yelp's claim and affirmed the order instructing Yelp to remove the public comment which the court ruled was in fact

Hills Bar Entertainment Law Section presents a luncheon seminar, "Blockchain Goes Hollywood: How DLT Can Be Used To Manage And Monetize Media Rights." David Albert Pierce is the incoming Chairman of the BHBA Entertainment Law Section and will be introducing the seminar. For registration and more information please [click here](#).

On July 25th- July 29th, David Albert Pierce & Joshua Edwards will be traveling to the Just For Laughs Comedy Festival in Montreal. Pierce Law Group LLP is a proud sponsor of Just For Laughs.

On July 26th, the California Society of Entertainment Lawyers ("CSEL") presents a Right of Publicity seminar entitled, "I'm A Celebrity, You Can't Do That (Can You?)" The event will take place at Wolfgang's Steakhouse in Beverly Hills from Noon to 2 pm. David Albert Pierce served as Chair of the Planning Committee for this seminar and he serves as the MCLE Chair for CSEL. For more information and registration please [click here](#)

Keep A Keen Eye On Union Developments-- Pierce Law Group LLP foresees turbulence ahead
By Anthony J. Hanna, Esq.

The IATSE and Teamster Collective Bargaining Agreements both are set to expire on July 31, 2018. The expiration of these agreements come at a time when the method and manner of how films are produced and distributed are radically different than how such was done in the past.

defamatory as a matter of law. The state appellate court reasoned that the order didn't impose any liability on Yelp and therefore did not violate section 230.

However, early this month the California Supreme Court reversed and held in a split decision that the court order instructing Yelp to remove the defamatory posting from its site is an improper attempt to run around the broad shield that section 230 casts in front of Internet intermediaries such as Yelp.

The Cal Supreme Court stated that the lower court was treating Yelp as a speaker or publisher of information in violation of section 203 by requiring it to take down the post even though no liability was being levied against Yelp. Ultimately, the state Supreme Court stressed the important public policy and need to "facilitate the ongoing development of the Internet" and that it cannot hold interactive computer services responsible for the defamatory statements their users post.

All in all, this is a horrible decision. Courts have always had broad equitable powers to remedy claims of defamation. The public policy behind section 230 was to protect internet service providers when they were not aware of what users are posting and to not make the service providers the arbiter of what constitutes defamation nor to subject them to liability for what is posted on their sites. But this case goes beyond that reasonable public policy and now fully discharges the interactive computer service from assisting in remedying the plaintiff's injury even after such injury was found to have existed by a court of competent jurisdiction.

There is a vast difference between requiring Yelp to act as a judge when it is informed that some comment is ALLEGED to be defamatory versus requiring Yelp to comply with an actual judge who has adjudicated a comment to be ACTUAL defamatory content!

The California Supreme Court said that the court should simply order the defendant to remove his/her own defamatory comment from Yelp. But, what if the defaming troll refuses to comply? What if the defaming troll is unidentifiable?

This case continues to show that "www" continues to stand for the "Wild Wild West" of the Internet. In a time when civility is entirely lost in an age of internet trolls and defamatory comments can be published with the effect of lasting forever, courts and lawmakers need to act.

While interactive computer services should not be held liable for the comments published by users when a constant monitoring system of all things published

UNION & STUDIO NEGOTIATIONS HAVE STALLED

Contract negotiations between IATSE and the Studios have stalled over issues concerning funding the IATSE pension plans which are dangerously underfunded.

Meanwhile negotiations with the Teamsters have yet to even begin since the Studios traditionally hammer out terms with IATSE first and then address the Teamsters.

IATSE RESIDUALS ARE NOW A VERY REAL ISSUE

IATSE has long since held the position that its members are entitled to residuals from film and television exploitation to fund their pension plans. But, until recently these residuals obligations were seldom enforced. Moreover, with the rise of Netflix and other similar platforms, the traditional method of calculating residuals simply doesn't work.

In the case of Nu Image v. IATSE which was decided by the 9th Circuit Court of Appeals on June 20, 2018, the court stated that the federal courts lacked jurisdiction to hear Nu Image's claim for declaratory relief contesting IATSE's pursuit of residuals on the basis that IATSE had allegedly given Nu Image verbal assurances that it would not pursue such payments from Nu Image. When IATSE stated it would vigorously begin enforcement of its residual rights and filed a grievance against Nu Image, Nu Image sought its declaratory relief action from the 9th Circuit. The Court stated that it lacked jurisdiction to hear this case and that such was a matter for the NLRB and the union grievance needed to go forward in that venue.

is not practicable, neither should such services be permitted to entirely ignore simple instructions from an actual court seeking to have actual fully adjudicated defamatory statement removed from their web pages.

For further information concerning defamation or internet/new media matters, contact [John Baldivia](#) or [David Albert Pierce](#)

California Minimum Wage Increases Effective July 1, 2018

There was a time when state Minimum Wage was easy to calculate and consistent throughout all areas of the state. Today, Counties and Cities adopt their own Minimum Wages for which companies must comply.

Whereas, the statewide Minimum Wage remains at \$11.00 hour (\$10.50/hr for companies with 25 or less employees), L.A. County's Minimum Wage has increased on July 1st to \$13.25/hour for companies with 26 or more employees (\$12.00/hour for companies with 25 or fewer employees). And, the Minimum Wage in San Francisco increased on July 1st to \$15/hour.

For a complete guide of Minimum Wages for various cities and counties in California, see: [California Minimum Wage Charts](#)

All California employers must now submit EDD wage reports and payroll tax deposits via electronic submission. Paper filings will no longer be accepted. For more information consult: www.edd.ca.gov/EfileMandate

JUST FOR LAUGHS



Pierce Law Group

LLP is off to Montreal for the Just For Laughs Festival ("JFL") and the annual ComedyPro industry gathering July 26th to 29th!

As always, our comedy clients are again well represented at this year's JFL.

Once again we are particularly proud to have one of

This case illustrates IATSE's new found intention to pursue residuals against production companies and these added costs must now be considered and accounted for when productions sign IATSE agreements.

RECENT US SUPREME COURT DECISION GIVES ENTERTAINMENT UNIONS FURTHER CAUSE FOR ALARM

It can be predicted that all of the entertainment unions will likewise step up enforcement of their rights, not only because all of their respective pension and health plans could be in need of better funding, but also because of the very anti-union decision rendered by the U.S. Supreme Court in the case of Janus v. American Federation of State, County, and Municipal Employees.

This recently decided case found that unions in the public sector cannot require so-called "financial core" non-union members to pay a reduced dues amount necessary to offset the collective bargaining function that the union provides and for which the non-union members receive a benefit. While this case applies to public sector unions, the entertainment industry unions fear its application will extend to private industry unions. If that occurs, unions may suffer further adverse financial hits.

The long and the short of these recent rulings and the changing landscape of how films are distributed could be an indicator that an entertainment industry strike may potentially be looming.

For more information about union issues, contact: [Anthony Hanna](#) or [David Albert Pierce](#).

clients selected as one of JFL's "New Faces To Watch!" This is an incredibly prestigious honor, but we are not at liberty to disclose the name until after the official JFL announcement next week.

We can however proudly announce that our client **Tony Hinchcliffe** will be broadcasting his wildly popular podcast "Kill Tony" live on stage at a JFL venue during the **Comedy Pro** gathering.



And congratulations go out to our clients at "Your Hoods A Joke" Podcast, which will be workshopping their live comedy show of the same name at JFL. The show is produced by **Dan Wong, Danny Mendlow, Danish Anwar, Paul Provenza** and **Babs Roman**.



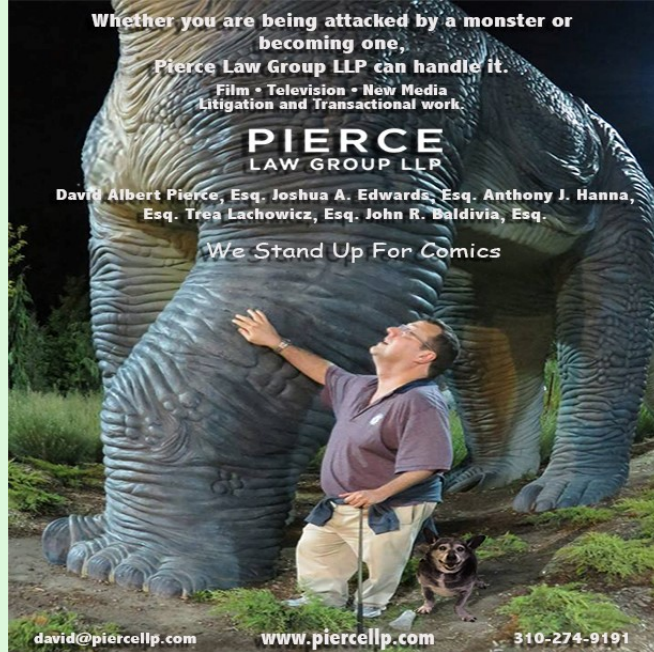
Pierce Law Group LLP is proud to be a **Just For Laughs** sponsor. *If you are headed to Montreal, contact us so we can connect while you are there.*

Congratulations John Baldivia



Pierce Law Group LLP's Litigation Dept Head John Baldivia was featured in the July Edition of Columbia College Chicago's Alumni Magazine.

The article chronicles John's entertainment law career. To read the article, click: [Alumni News Columbia College Chicago Behind The Scenes with Shani Black & John Baldivia](#)



This is our official ad at JFL this year!

Call us at 310-274-9191 or email david@piercellp.com and let us know if you will be in Montreal.

Pierce Law Group In The News



David Albert Pierce, was interviewed by The Hollywood Reporter in regard to an article entitled, "How To Protect Yourself From A Hollywood Scam."

David has brought litigation against multiple comen in Hollywood. He has also helped multiple transactional clients detect comen and avoid entering deals with them.

The article which quotes David can be read here: [How To Prevent Scams.](#)



About Pierce Law Group LLP

Pierce Law Group LLP is a full service, boutique entertainment law firm that provides both transactional and litigation legal services. Our practice areas include entertainment law, intellectual property (copyright, trademarks, right of publicity), film finance, securities law, production counsel, and labor & employment issues affecting the entertainment industry, with an emphasis on film, television, and new media. We represent production companies and other creative businesses as well as artists including producers, actors, writers, directors, comedians, and other entrepreneurs. Our client list includes both Academy Award and Emmy Award winners. We utilize an academic and analytic legal approach to accomplish creative solutions to our clients' goals.

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