

**Protecting Ideas in Hollywood**

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## **Introduction**

Ideas are the lifeblood of Hollywood. Every film, whether it costs \$10 million or \$100 million to make, has an idea at its heart. These story ideas can come from anyone – an uberdirector like Steven Spielberg or a five-year-old girl who just happens to live next door to someone who knows someone working in a movie studio’s development department. These story ideas can be blurted out at a party, tossed out at a pitch session, or written out in a treatment. No matter how they are communicated, these ideas are difficult to track. Yet, in Hollywood, they are also extremely valuable. As a result of these two characteristics, the ownership of ideas is frequently disputed in the movie industry and often leads to legal action (Pristin, 1994; Weiler, 2002).

Since U.S. Copyright law focuses protection on “original works of authorship fixed in any tangible medium of expression” and specifically states that this protection does not extend to ideas, people who believe their story ideas have been misappropriated must turn to common law for recourse (United States Code, § 102). They file suit for breach of an express or implied contract. Courts utilize precedents to determine the validity of these breach-of-contract claims in idea-submission cases. Until very recently, these precedents overwhelmingly favored the Hollywood power players (i.e. big producers and movie studios) and made it difficult for writers and others to protect their ideas (Moss, 2005). This paper will explain the current legal protection afforded to story ideas by detailing the impact of a number of cases that have already worked their way through the legal system and by analyzing two cases currently under consideration in courts of law.

## The Copyright Fight

Though the heart of this paper will focus on idea-submission claims argued on the foundation of contract law, a further discussion of U.S. Copyright law is necessary as a primer. Why? Well, plaintiffs filing breach-of-contract suits for misappropriation of ideas must first convince the court that their claims fall outside “the subject matter of copyright” (Ruddell, 2005). If the disputed idea, for example, is the basis of a screenplay copyrighted by the plaintiff, then the courts will most likely view the U.S. Copyright Act as the guiding legal force and will deny the breach-of-contract claim (Anschell, Hodulik & Rohrer, 2004). This was the outcome in three recent entertainment law cases: *Selby v. New Line Cinema*, *Metrano v. Fox Broadcasting*, and *Fischer v. Viacom*.

In *Selby v. New Line Cinema*, screenwriter William Selby submitted the script for a time travel film called *Doubletime* to New Line Cinema Corporation. New Line did not want to produce the film at that time, but asked to review any future drafts that Selby wrote. Selby also claimed New Line promised to compensate and credit him if they used his ideas in a film. When New Line subsequently produced the time travel film *Frequency* from a script written by Toby Emmerich, Selby argued that they copied his screenplay and misappropriated his ideas. He brought suit against New Line and Emmerich for breach of implied contract. The U.S. District Court for the Central District of California preempted the breach-of-contract claim because it believed both Selby’s ideas and the alleged actions of New Line and Emmerich fell within the subject matter of copyright (Ruddell, 2005; Weiler, 2002; Anschell, Hodulik & Rohrer, 2004).

In *Metrano v. Fox Broadcasting*, paraplegic Art Metrano pitched his idea for a television show to Fox Broadcasting Company. The show, titled *Beyond Belief*, would

tell “stories about people with extraordinary medical conditions and about people who can perform incredible feats” (Anschell, Hodulik & Rohrer, 2004). Metrano pitched the project verbally and utilized detailed index cards that served as a treatment. Fox turned down the project, but later produced a show called *Guinness World Records: Prime Time*. Metrano saw similarities between this show and *Beyond Belief*. He filed suit against Fox, alleging the company breached an implied contract by using his ideas without compensating or crediting him. Again, the U.S. District Court for the Central District of California, focusing on the written treatment Metrano provided to Fox, determined the disputed ideas fell within the subject matter of copyright (Anschell, Hodulik & Rohrer, 2004).

In *Fischer v. Viacom*, Steven Fischer alleged Viacom misappropriated his ideas to develop the *Blue’s Clues* television program. Fischer had previously created an animated character duo comprised of a man named Steve and his blue dog, called Bluey. The characters had appeared in comic strips, and Fischer had approached Viacom with a written proposal for a television show featuring Steve and Bluey. When *Blue’s Clues* appeared on Viacom’s Nickelodeon channel, Fischer filed suit. Among other things, he claimed breach of implied contract (Anschell, Hodulik & Rohrer, 2004). This time, the U.S. District Court for the District of Maryland preempted the breach-of-contract claim. The Court stated that the idea fell “within the scope of the subject matter of copyright, even if the idea itself would not be protected by the Copyright Act” (*Fischer v. Viacom Int’l, Inc.*, 2000).

If any of the plaintiffs discussed above had been able to prove their implied contracts included an element outside the scope of U.S. Copyright law, they might have

been permitted to pursue their arguments based on contract law. However, their implied contracts did nothing more than regulate the use of ideas. In addition, the plaintiffs' arguments all centered on ideas that had – in some way – been expressed in writing. As a result, statutory law in the form of the U.S. Copyright Act became the guiding force in their legal actions.

Most plaintiffs – including those in *Selby*, *Metrano*, and *Fischer* – who claim misappropriation of ideas do not embrace arguing their cases under the banner of copyright infringement because of the difficult standard imposed by the Copyright Act. According to the statute, plaintiffs must prove their work is “substantially similar” to the work that is the subject of the copyright infringement claim (Moss, 2005). They must convince the court, with an exacting list of elements and patterns of similarity in the works, that their work was copied. Under contract law, plaintiffs must merely prove that their idea was used (Weiler, 2002). This is a much less daunting task. However, as the remainder of this paper reveals, pursuing a breach-of-contract claim in idea-submission cases comes with its own challenges.

### **Desny v. Wilder**

Prior to 1956, “pure ideas” enjoyed little legal protection in the United States because few believed ideas fell within the scope of contract law (Weiler, 2002). Then writer Victor Desny sued film producer Billy Wilder and Paramount Pictures. A precedent for contract rights in story ideas was born. Desny alleged Wilder used one of his story ideas in a Paramount film called *Ace in the Hole* without compensating or crediting him and, thus, breached their implied contract (Weiler, 2002). Desny had submitted his ideas to Wilder's secretary via two phone calls. During the first phone call,

he pitched the general idea for the story. During the second phone call, he dictated the story synopsis to the secretary and told her that Wilder and Paramount could use the idea only if they paid him for it (Anschell, Hodulik & Rohrer, 2004).

In *Desny v. Wilder*, the trial court inferred no basis for Desny's implied contract claim. The California Supreme Court overturned this decision and stated that Desny "was entitled to a trial" (Weiler, 2002). In the discussion of its own decision, the California Supreme Court established the foundation for contract rights in story ideas. This foundation was built on two concepts.

First, the court reasoned that story ideas did have value in Hollywood. As Justice Schauer wrote, "In the field of entertainment the producer may properly and validly agree that he will pay for the service of conveying to him ideas which are valuable and which he can put to profitable use" (Weiler, 2002). Thus, Wilder could enter into a contract for Desny's ideas. Second, the court stated the specific elements that are necessary for valid formation of an idea-submission contract. These elements did not differ from the elements necessary to create any valid and enforceable contract. However, the California Supreme Court did put additional emphasis on the promise to pay. The court explained that either the person pitching the idea must obtain an express promise to pay or the circumstances surrounding the disclosure of the idea must show an implied promise to pay (Weiler, 2002). Thus, Desny's first conversation with Wilder's secretary did not result in formation of any contract, but the second conversation – in which Desny specifically asked for compensation – did (Anschell, Hodulik & Rohrer, 2004).

In its *Desny v. Wilder* decision, the California Supreme Court also specifically addressed the practice of blurting out ideas or, in Hollywood terms, presenting

unsolicited ideas to producers. In such circumstances, the court reasoned a promise to pay could never be implied:

The idea man who blurts out his idea without having first made his bargain has no one but himself to blame... The law will not imply a promise to pay for an idea from the mere facts that the idea has been conveyed, is valuable, and has been used for profit; this is true even though the conveyance has been made with the hope or expectation that some obligation will ensue. (*Desny v. Wilder*, 1956)

This discussion merely reiterated (though in more compelling language) the earlier analysis of promise to pay requirements, but the court felt compelled to include it in the decision. Obviously, the court was not unaware of the plight of the Hollywood producer who might unwittingly enter into hundreds of implied contracts simply by listening to someone at a party or by opening an unsolicited piece of mail (Weiler, 2002).

As a result of the California Supreme Court's ruling in *Desny v. Wilder*, idea-submission claims found a home within contract law; and, as one would expect, the number of lawsuits filed for misappropriation of ideas increased (Kulik, 2001). A select few of these cases revised the precedent set in *Desny*.

### **The Desny Revisions**

The post-*Desny* world created a challenge for writers trying to carve out a career for themselves in Hollywood. If they happened to be lucky enough to run into a producer or studio executive who had the power to get movies made, they had to talk about compensation before they could pitch their ideas. The awkward conversation might have played out like the dialogue that follows:

Writer: Mr. Producer, it is so good to meet you!

Producer: Who are you?

Writer: I'm a screenwriter with an idea for the next great film of our generation.

Producer: And, son, what makes you different from the 20 people I meet everyday who say the same thing?

Writer: My idea. It really is brilliant. I'd love to pitch it to you, but first I want it understood that I expect to be compensated if you use the idea in a motion picture.

Producer: (*laughs and walks away*)

As the dialogue reveals, the *Desny* court – in its effort to provide some protection to producers – created a catch-22 for writers new to Hollywood. Producers might promise to pay an established writer for an idea before they even heard that idea pitched, but they were less likely to extend the same privilege to an aspiring writer. Unfortunately, to become an established writer, an aspiring writer needed to pitch an idea to a producer.

Recognizing this dilemma, subsequent decisions in the California courts relaxed *Desny*'s limitations on blurting out ideas (Anschell, Hodulik & Rohrer, 2004). In 1957, just a year after the *Desny* decision, California's Second District Court of Appeals determined that writers did not need to precede their pitches with statements about their expectation of compensation. This was the decision in *Chandler v. Roach*, a case that focused on writer David Chandler's idea for a television series "based on the activities of the public defender's office" (Chandler v. Roach, 1957). Through his agent, Chandler pitched the idea to producer Hal Roach, Jr. Roach expressed interest, and the two parties began to negotiate terms of production. Communication between the parties eventually ended after Chandler's agent retired. Then Roach produced a television series about the public defender's office without compensating Chandler, who sued for breach of implied contract (Chandler v. Roach, 1957).

A jury ruled for Roach, but the appeals court reversed the judgment because it determined the jury was given improper instructions (Chandler v. Roach, 1957). Among

other things, the court believed jurors did not understand “that, in light of the customs and practices in the entertainment industry, a contract may be formed even when the idea man does not expressly communicate an expectation of payment before making his pitch” (Anschell, Hodulik & Rohrer, 2004). Thus, according to *Chandler*, the very fact that a writer and producer engage in a pitch session means they both understand payment is expected.

[T]he assent of the writer is found in his submission of the idea or material to the producer, with the reasonable expectation of payment which can be inferred from the facts and circumstances. The assent of the producer is manifested by his acceptance of the idea or material submitted under the circumstances, a part of which is that it is reasonably understood that a professional author expects payment of the reasonable value of the idea or the material, if used, so that the conduct of the producer in accepting it implies a promise to fulfill those reasonable expectations. (*Chandler v. Roach*, 1957)

Additional cases further relaxed the *Desny* precedent (Anschell, Hodulik & Rohrer, 2004). The case with the most relevance to this discussion is *Whitfield v. Lear*. The facts of this case mirrored to some extent the facts of *Chandler*. Thurman Whitfield, a writer, claimed producer Norman Lear used his idea for a television series without compensating him. However, unlike Chandler and Roach, Whitfield and Lear never discussed business terms. The case hinged only on the fact that Lear received Whitfield’s story idea. Whitfield claimed this receipt implied a contract, Lear disagreed. The New York district court ruled for Lear, dismissing Whitfield’s argument that an implied contract had been created. On appeal, the Second Circuit reversed the decision of the lower court, ruling that a producer who accepts submitted ideas “has by custom implicitly promised to pay for the ideas if used” (*Whitfield v. Lear*, 1984). Therefore, a breach of implied contract claim could proceed to trial even if the two parties had never actually discussed the idea in question.

## Proving Breach-of-Contract

The *Chandler* and *Whitfield* decisions would seem to have given writers – aspiring and established – a greater ability to protect their ideas through contract law. However, writers claiming breach-of contract in idea-submission cases still faced an overwhelming challenge. First, they had to prove their ideas did not fall within the scope of federal copyright law. Next, they had to prove a viable contract was formed. This was a particularly onerous obstacle, since many courts remained bound to *Desny's* stricter interpretation of implied contracts. Finally, if the plaintiffs made it to trial, they had to prove the defendants actually had misappropriated their ideas. Two cases decided within the past two years reveal the extent of the hurdles plaintiffs must surmount to prove their breach-of-contract claims.

In *Keane v. Fox Television Stations*, Harry T. Keane, Jr. alleged that Fox misappropriated his idea to create the television series *American Idol*. Keane brought suit against Fox in Texas on a host of claims, including everything from breach-of-contract to trademark infringement. Keane's case had a number of weaknesses, and the district court dismissed his complaint. Keane appealed, and the Fifth Circuit Court of Appeals affirmed the decision of the lower court. The appeals court decision was not surprising given the deficiencies in many of Keane's arguments. Still, the decision is important because it indicates the court favored stricter requirements for formation of implied contracts.

Keane stated he sent materials describing his idea to the defendants. This fact might have indicated that a viable and enforceable contract had been formed, if the court favored the relaxed requirements for implied contract formation discussed in *Whitfield v.*

*Lear*. Instead, the court emphasized the stricter requirements established by *Desny*. In its decision, the Fifth Circuit stated “that the idea purveyor cannot recover unless he has obtained a promise to pay or the conduct of the offeree reflects an intent to pay for the proffered idea” (Keane v. Fox, 2005). Since Keane never obtained a promise to pay and the defendants never responded to the materials he mailed, a contract had never been created according to this court.

In *Baer v. Chase*, the Third Circuit Court of Appeals offers another strict interpretation of contract law as it relates to idea-submission cases. Here, the interpretation is defined by New Jersey law. The case centers around the television show, *The Sopranos*. Robert Baer, an aspiring writer and former prosecutor, pitched producer David Chase an idea for a film or television show about the New Jersey Mafia (Baer v. Chase, 2004). At the time, Chase was already writing a script “about a New Jersey mob boss in therapy” (Entertainment Law Digest, 2005). Baer and Chase did not enter into an agreement at the time, but Chase later asked Baer to connect him with New Jersey detectives for research purposes. Chase also sent Baer a copy of *The Sopranos* script for review. During this period, Baer claimed that Chase agreed to compensate him if *The Sopranos* became a success. *The Sopranos* did become a success, but Baer received no payment from Chase. As a result, Baer filed suit (Baer v. Chase, 2004).

The New Jersey District Court dismissed Baer’s claim, and the appeals court affirmed the main parts of the decision. First, the court ruled that New Jersey law required a contract – whether it was express or implied – to have a definite price and duration. The facts Baer presented about his contract lacked this definiteness. In addition, the court ruled Baer’s misappropriation claim invalid because his idea was not

novel. According to New Jersey law, an idea must be novel or unique to be afforded legal consideration. The court determined Baer's idea existed in the public domain and, therefore, lacked novelty (Entertainment Law Digest, 2005).

The fact that the *Keane* and *Bear* decisions came from non-California courts must be emphasized. California generally has the most relaxed interpretation of contract formation requirements in idea-submission cases (Anschell, Hodulik & Rohrer, 2004). As the earlier discussion of *Desny* and *Chandler* reveals, California law does not require the definiteness that New Jersey law requires. In addition, the decisions of various California courts – including the decision in *Blaustein v. Burton* – did away with the novelty requirement (Anschell, Hodulik & Rohrer, 2004). These differences arguably make California courts the friendliest to writers trying to protect their ideas.

Art Buchwald is one writer who might agree with the preceding declaration. He successfully sued Paramount Pictures for breach-of-contract in California. The Eddie Murphy film *Coming to America* was the focus of the lawsuit. Buchwald had written a treatment for a film about a member of African royalty who journeys to America and has a series of “fish out of water” experiences (Weiler, 2002). Paramount optioned the treatment and called the project *King for a Day*. Paramount never produced *King for a Day*, and Buchwald eventually optioned the idea to Warner Brothers. However, Paramount later released *Coming to America*, which was so similar to *King for a Day* that Warner Brothers cancelled its plans to produce the Buchwald project. Buchwald sought legal recourse (Weiler, 2002).

In *Buchwald v. Paramount*, the California Superior Court found that the two parties did form a viable and enforceable contract. The court also determined that the

contract required Paramount to pay Buchwald if *Coming to America* proved to be “based upon” Buchwald’s *King for a Day* treatment. This determination led the court to review the similarities between the two works and the access the defendants had to Buchwald’s work. As a result of this review, the court concluded that *Coming for America* was based upon Buchwald’s treatment (Weiler, 2002). Paramount Pictures breached its contract and owed Buchwald compensation.

### **Grosso v. Miramax**

Though the previous discussion of *Buchwald* shows that courts – particularly California courts – do attempt to protect the interests of writers in idea-submission claims based on contract law, writers still have the weaker strategic position in Hollywood. After all, as previously discussed in this paper, writers who claim their ideas have been misappropriated can be boxed in by U.S. Copyright law. If producers or studios can argue that a writer’s claim falls within the scope of the U.S. Copyright Act instead of contract law, then they find themselves in a more advantageous legal position. A relatively recent decision by the Ninth Circuit Court of Appeals might shift a bit of the power into the hands of writers (Thompson, 2004).

In late 2004, the Ninth Circuit issued its decision in *Grosso v. Miramax*. The case began when writer Jeff Grosso sued Miramax for copyright infringement and breach of implied contract. Grosso claimed the Miramax poker movie, *Rounders*, misappropriated ideas from his script, *The Shell Game*. Grosso had previously submitted *The Shell Game* to Miramax through his agent. The district court dismissed both of Grosso’s claims. The appeals court had a different reaction (*Grosso v. Miramax*, 2004).

First, the Ninth Circuit upheld the lower court's dismissal of Grosso's copyright claim. While *Rounders* and *The Shell Game* were both centered in the world of poker, the court did not see enough substantial similarity between the works to meet the copyright infringement standard. Next, the appeals court reversed the lower court's dismissal of Grosso's breach-of-contract claim (*Grosso v. Miramax*, 2004). This reversal established a precedent best explained by Aaron J. Moss (2005) in the Writers Guild of America publication, *Written By*:

By holding that a plaintiff can sue for breach of implied contract when his "ideas" are concretely embodied in a copyrighted screenplay that is not substantially similar to the defendant's movie, the *Grosso* court has greatly expanded protection for writers and others in the business of disclosing ideas, while greatly increasing the recipient's risk in accepting these ideas.

So, thanks to *Grosso*, writers have more flexibility to maneuver their misappropriation claims outside of copyright law and into contract law. However, as Moss predicts, studios and producers will likely react by requiring writers to sign more stringent submission release forms. Many companies already utilize these release forms for writers who submit screenplays. Moss believes the *Grosso* ruling may even lead companies to create release forms that must be signed before they listen to a pitch (Moss, 2005). With this move, studios and producers could reclaim the power *Grosso* shifted away from them. As a particularly bad Hollywood writer might write, "What *Grosso* giveth, the submission release form taketh away."

### **Applying the Law**

The *Grosso* decision concludes this paper's discussion of prior cases illustrating the development of legal protection for story ideas in the motion picture industry. Now, this knowledge must be applied to misappropriation cases currently under consideration

in courts of law. Two different lawsuits filed in two different jurisdictions in 2005 will be the basis of this analysis: *Siemion v. Wald* and *Merrill v. Paramount Pictures*.

The first case pits Brandon Siemion against Jeff Wald and other producers of the NBC television series *The Contender*. Siemion claims he thought of an original idea for a reality program set in the world of amateur boxing. He put his idea in treatment form and registered it with the Writers' Guild of America in 2003. Siemion also alleges he pitched his idea to boxing trainer Tommy Gallagher, who – in turn – pitched it to producer Jeff Wald. According to Siemion, Wald told Gallagher that he liked the concept and would bring it “to Sylvester Stallone ‘and other industry heavy-weights’ to solicit a production deal” (Entertainment Law Digest, 2005). At the same time, Siemion’s agent also pitched the idea directly to NBC Universal. However, NBC Universal declined the project, stating it “had no interest in pursuing a reality-based program about boxing” (Entertainment Law Digest, 2005).

*The Contender* appeared on NBC in March of 2005, and Siemion immediately filed suit in New York District Court. His causes of action are breach of express/implied contract, copyright infringement, and accounting (Entertainment Law Digest, 2005). Though the details in Siemion’s case seem plausible, it is unlikely his lawsuit will prevail. First, the court will presumably toss out his breach-of-contract claim because he wrote a treatment. This written expression of his idea puts it under the purview of copyright law, and the *Grosso* decision will have little influence on this determination. After all, this case will be tried in New York – not in California. New York has no precedent stating plaintiffs can sue for breach-of-contract when their ideas are expressed

in a copyrighted work, and this court is not likely to set such a precedent with its decision in *Siemion v. Wald*.

Thus, Brandon Siemion and his attorneys will be left with one major cause of action: copyright infringement. They will be forced to prove substantial similarity between *The Contender* and the ideas outlined in Siemion's registered treatment. This will be a difficult task since many of the competitive elements of Siemion's idea can be found in other reality television programs. Plus, the defendants' attorneys can easily argue that the boxing elements in *The Contender* came from Sylvester Stallone, not Siemion's pitch. Even if Siemion convinces the court that substantial similarity exists between the two works, the case will not end there. Siemion must also prove that Wald and the other plaintiffs had reasonable access to his idea. Though his lawsuit details how the idea traveled to Wald, much of those details are hearsay. Unless independent third parties can verify that the idea went from Siemion to Gallagher to Wald, Siemion has little hope of proving access. And, in general, he has little hope of having the New York District Court rule in his favor.

The plaintiff in the next case, Christopher Merrill, finds himself in a legal position that is slightly more favorable than Brandon Siemion's legal position. Merrill filed suit against Paramount Pictures in California District Court. He claims the themes, dialogue, settings and characters in Paramount's 2002 film *Crossroads* were copied from his original screenplay, *Dream Alive*. In the lawsuit, Merrill alleges he mailed his screenplay to various studios and producers in 2000. He also included a videotaped pitch for casting Britney Spears in the lead role. According to Merrill, MTV – which co-produced *Crossroads* – must have reviewed his material because a representative of the firm

contacted him. This representative asked Merrill to sign a release form waiving his right to compensation if MTV used “other similar or identical material” (Entertainment Law Digest, March 2005).

Paramount and MTV eventually released *Crossroads* as a Britney Spears vehicle, and Merrill noted “shocking similarities” between the film and his screenplay (Entertainment Law Digest, March 2005). His lawsuit mentions numerous causes of action, including copyright infringement and breach of oral/implied contract. Before the *Grosso* decision, the California District Court would have presumably dismissed Merrill’s breach-of-contract claim because his screenplay fell within the scope of U.S. Copyright law. However, with the precedent of *Grosso*, this court will likely permit the contract law argument to proceed. As a result, Merrill and his attorneys will face the burden of proving a contract was actually formed between the two parties.

As noted earlier in this paper, the California Courts have relaxed the *Desny* requirements for contract formation. This means the District Court will give merit to Merrill’s claim that MTV entered a contract with him as soon as it reviewed his screenplay. However, the defense could counter this claim with an argument that MTV independently created the similar idea. Here, the fact that MTV asked Merrill to sign a release form could actually substantiate the defendants’ position. Defense attorneys could state MTV attempted to act early to protect itself because it was independently developing a project with coincidental similarities to Merrill’s screenplay. Of course, if this was the case, the court might wonder why MTV elected to review the materials Merrill submitted at all. The safest move would have been to return them to Merrill unopened.

This speculation about *Merrill v. Paramount Pictures* could continue ad nauseum. More details are needed to validly predict a specific outcome for the case. However, information currently available seems to favor the plaintiff in the breach-of-contract claim, if the plaintiff can authenticate the allegations listed in the lawsuit. As for Merrill's copyright infringement claim, he would be wise to abandon it and focus his efforts on the contract law argument. After all, U.S. Copyright law requires he prove substantial similarity, and the proceeding analysis of *Siemion v. Wald* illustrates just how difficult a task that is.

### **Conclusion**

The conjectural look at *Siemion v. Wald* and *Merrill v. Paramount* reveals why most writers who claim misappropriation of ideas will either see their cases dismissed or lost. Though U.S. Courts have noted the value of ideas in the world of motion pictures since 1956's *Desny* decision, the legal process continues to favor producers and studios over writers and others who pitch ideas. Today, writers and others who fix their ideas in written form actually fight to escape the protection U.S. Copyright law attempts to afford them because of its exacting standard. They want their claims considered under contract law. Though breach-of-contract is generally considered easier to prove than copyright infringement, the challenge remains great.

Before even attempting to convince the court that their ideas were used, plaintiffs need to prove that a valid contract existed. In many jurisdictions, this can be a demanding task. California has gradually relaxed its requirements for contract formation in idea-submission cases, but this move has not made it easier for writers to win their lawsuits. Rather, the relaxed interpretation simply allows more writers to see their cases

through to trial. A similar result can be predicted from the Ninth Circuit's recent precedent-setting *Grosso* decision. *Grosso* will allow more writers to get their breach-of-contract claims heard in Hollywood, but it is not likely to have much impact on their rate of victory.

Thus, a writer's legal position will remain tenuous at best in Hollywood despite recent court rulings. While many writers and pitchers of ideas will call the situation unfair, it seems to be the only way the law knows how to handle idea-submission claims in the motion picture industry. By positioning the studios and producers on higher ground, the courts prevent businesses from falling prey to false misappropriation claims. Unfortunately, some plaintiffs who make honest claims will also find it difficult to win their cases. This is just one of the many harsh realities of Hollywood – a world where ideas are valuable, difficult to track, and frequently disputed.