

"Playing Hardball in Hollywood"

The Australian Lawyer

Mark Litwak is a Hollywood entertainment lawyer, called the Shark Hunter. Here is a mild-looking man in a shirt and tie, friendly, helpful, quietly spoke. The nickname doesn't seem to fit – until he describes how he deals with shonky film distributors.

"In one case, all the contracts had been signed but this distributor wasn't sending the cheque. We were both speaking at a distributors' event, and he gave a speech about how wonderful his company was.

"Then he asked if there were any questions.

"I jumped up to the microphone at the podium and said: 'I've been listening to what you've said. But how can anyone trust your company when it doesn't keep its promises?"

"There was pandemonium. I got the cheque that afternoon."

Litwak created a similar incident at another film distribution event when pamphlets were handed out at the door listing the facts of a lawsuit Litwak's client had against one of the main people inside.

"He paid up the next day. He also lost a few film deals. Sometimes I advise my client that it's easier and more effective to expose these people, than go through the courts."

If this sounds like something Ralph Nader might do, you're right. Litwak started out in the legal field as one of Nader's Raiders, taking direct action on consumer advocacy and public interest issues.

But Litwak is just as determined in court actions. He'll spend years chasing, and he's prepared to carry his clients until he wins.

"Winning isn't the problem, it's getting payment. These guys have a policy of not paying and believe that if it goes on long enough, the film maker will give up, because they don't have the funds to continue, or it's not worth \$100,000 in legal costs to get back the \$60,000 they are owed."

Litwak recently received a settlement after four years pursuing one distributor. "We were originally after \$50,000 and we won all the court cases and appeals. Finally, the sheriff seized \$300,000 worth of property including his house, two of his three cars and his office, and we were about to take his film library when he paid up. He's had to leave the country.

"I've put about 12 shady operators out of business," Litwak says comfortably.

It's a tough business, and Litwak is a tough operator. He also makes deals for film makers with reputable distributors. "I spend half my time wooing and half my time suing distributors," he says.

So how do people feel when he walks into a room? "Film makers are happy to see me, and so are the reputable distributors. I do about 15 to 20 film deals a year. I am a constant source of product so distributors are reluctant to antagonize my firm."

Litwak has been a lawyer for eighteen years, and is now with Beverly Hills law firm Berton & Donaldson.

His interest in film was sparked by the 1970s anti-nuclear film *The China Syndrome*. "I was involved in anti-nuclear protests. The film made people more aware of nuclear energy and I thought it would be great to do movies like that – social issue dramas."

He went to Hollywood and landed a job as a producer on TV and news programs. The experience was short-lived, but it gave him an insight into the politics of movie making, and how independent film makers, desperate to release their films, were like lambs to the slaughter to unscrupulous distributors.

Often they handed over a film, never saw it again and didn't receive a cent. Their fingers burnt, most never made another film.

It prompted Litwak to write *Reel Power – The struggle for influence and success in the new Hollywood*, and launch a career in advocacy for independent film makers.

He has written four other books, including ones on deal making and contracts in film and television, and a self-defence guide for writers and film makers. Next is a multi-media producer's guide.

Litwak is also a law professor, teaching entertainment and copyright law in universities. He gives lectures to film makers and film bodies, and seminars in the US, England, and last month in Australia, to educate people on how to play the international film distribution game.

"Film schools teach people about film making, but not about the business of film making, and how to protect their rights," he said.

The United States has plenty of entertainment lawyers but Litwak has developed a niche.

"I can give advice that goes way beyond legal areas – what film festivals to enter, how to judge the best place to premiere, how to play four or five distributors off against each other for the best deal, as well as the best protective contract clauses, that prevent things like distributors running up outrageous expense accounts."

Litwak's field is rapidly expanding. He says there has been an explosion of low budget movies, with more than 600 made in the United States last year.

The opportunities for big returns on low-budget films are becoming more apparent, with the success of films such as *El Mariachi*, *Clerks* and *The Brothers McMullen* – the latter costing \$100,000 and earning \$12 million at the box office.

Apart from his international schedule, Litwak has no outward signs of being in the fray of Hollywood power broking. What is it like being an entertainment lawyer in Tinseltown?

"It sounds glamorous, but I've never been in a hot tub with a star, and I usually eat my lunch at my desk. But there are the perks of going to film festivals around the world: Cannes, Berlin, Venice and Toronto. I see some amazing films, and I enjoy my clients. I wouldn't trade to be a tax lawyer."