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Annotation Guidelines

Screenwriters should annotate their scripts to document the source of their work. A careful annotation will help a screenwriter defend against defamation and invasion of privacy lawsuits by demonstrating that the writer acted carefully. Recall that when a public figure or public official sues for defamation they must prove that the defendant acted with actual malice.

Annotations shall specify the source of all script elements except those elements that are completely fictional and arise wholly from the writer's imagination. Script elements include characters, events, settings and dialogue. Annotations are typically written in the margin of the script, or they are in the form of footnotes or endnotes to the text. Annotations should include the following information:

1. **CHARACTERS:** For each character note the following information:
 - (a) Whether the character is a real person, a fictional or a composite character.
 - (b) For real characters, whether the actual person is living or dead.
 - (c) For composite characters, the name(s) of actual person(s) on whom the composite character is based, and what traits can be attributed to the real person(s).

2. **SCENES:** Note whether each script element portrays fact or fiction.
 - (a) If fact, or an inference from fact, describe the source material for script elements, including the following:
 - (i) For books: title, author, publisher and page(s).
 - (ii) For newspaper or magazine articles: title, author, publisher, date and page.

(iii) For materials obtained from the Internet: author, title of article, web site address. If material has been repurposed from another medium, note the title, author, publication etc. of the underlying work.

(iv) For materials based on radio or television interviews or programs: date, time of broadcast, broadcast station or source, interviewer, program name.

(v) For interviews: Name of subject, whether notes or tapes exist, reference to tape or transcript page number.

(vi) For trial or deposition transcripts: the court or other forum, date, person testifying, and transcript page number.

(vii) To the extent possible, multiple sources should be identified for each script element.

(b) If a partly fact and partly fiction, indicate which portions are fact and which are fiction. For factual parts, describe source material as specified in Paragraph 2(a) above.

(c) If entirely fictional, notation is not required.

3. MISCELLANEOUS:

(a) Copies of reference materials referred to in annotations should be retained for at least five years after the film or program has been released. Materials should be cross-indexed by script page and scene numbers.

(b) If margin annotations are coded to avoid repeated lengthy references, a key to such coding should be provided.

SCREENPLAY CHECKLIST

- 1) **DERIVATIVE WORKS:** If the screenplay is based on another work, a copyright report will need to be obtained to make sure all required rights have been obtained. There must be a written agreement between the creator(s) of all materials, including quotations from copyrighted work, granting permission to use the material in the production.
- 2) **DEPICTION RELEASES:** Written releases are required from all persons who are recognizable or whose name, image or likeness is used, and if such a person is a minor, the release should be binding (which may require court approval). If a subject is deceased, a release usually is not needed but may be required in some circumstances. Releases are not needed if the recognizable person is part of a crowd or background shot and is not shown for more than a few seconds or given special emphasis.
- 3) **RESEMBLANCE TO LIVING INDIVIDUALS:** Where work is fictional, names of all characters must generally be fictional. Take care to ensure that the names of fictional characters do not resemble the names of identifiable living individuals.
- 4) **IDENTIFIABLE PRODUCTS:** Where particular businesses, personal property or identifiable products are depicted, written releases must be obtained. Releases are not necessary if property is non-distinctive background.
- 6) **RELEASES:** All releases must provide:
 - a) Right to edit and modify material.
 - b) Right to fictionalize people portrayed.
 - c) Right to market production in all media and markets.
- 7) **TITLE:** Title report for title must be obtained setting forth prior uses of title.
- 8) **DEFAMATION/INVASION OF PRIVACY:** Material should not contain any material that constitutes defamation or an invasion of privacy.
- 9) **MERCHANDISING:** If you are planning on any merchandising spin-offs, make sure your actor agreements grant you the right to depict the actor in merchandising.