



## Martin D. Katz

Partner

Century City  
1901 Avenue of the Stars  
Suite 1600  
Los Angeles, CA 90067

Tel: 310.228.3750  
Fax: 310.228.3950  
[mkatz@sheppardmullin.com](mailto:mkatz@sheppardmullin.com)

### OVERVIEW

Marty Katz is a partner based in the firm's Century City office. He is also co-chair of the firm's Entertainment, Media and Technology Industry Team, with oversight responsibility for entertainment litigation.

### Areas of Practice

Mr. Katz's entertainment background includes representation of studios, independent producers, post-production facilities and broadcasting companies in connection with various types of claims, including those relating to participation accounting, copyright and idea submission, motion picture and television distribution rights, interactive rights and gaming licenses, disputes with talent, executive compensation disputes, employee misconduct, vertical integration, wrongful death and a host of insurance coverage issues unique to the entertainment industry.

Mr. Katz's insurance coverage background also includes the handling of complex coverage disputes on behalf of policyholders concerning mass tort claims; product liability claims; environmental liabilities; construction defect claims; earthquake, natural disaster and other catastrophic losses; fidelity losses and other employment-related claims; aviation and aerospace claims; and insurance company bad faith, as well as risk management consulting for policyholders. Mr. Katz has extensive experience in connection with insurance placed in the London Market and has served on Creditors Committees for various insolvent London Market companies.

Mr. Katz has substantial experience in the evaluation and adjustment of attorneys fees, including litigation over what constitutes reasonable and necessary fees.

Mr. Katz also has substantial trial, arbitration and appellate experience. During the past decade, Mr. Katz has served as lead trial counsel in complex arbitrations, lengthy jury trials, and several bench trials. He has also briefed and argued more than ten appeals.

### EDUCATION

- J.D., University of Michigan, 1983, *cum laude*
- B.A., Northwestern University, 1980, Phi Beta Kappa

### ADMISSIONS

- California, 8th Circuit, 9th Circuit, 11th Circuit

### PRACTICE AREAS

- Intellectual Property
- Labor and Employment
- Litigation
- Entertainment, Media and Technology

### INDUSTRIES

- Construction and Infrastructure
- Entertainment, Media and Technology
- Insurance
- Sports

## EXPERIENCE

### Representative Matters

Mr. Katz served as lead counsel, and has argued two interlocutory appeals, in the matter giving rise to the landmark decision in the entertainment field, *Wolf v. Superior Court*, 106 Cal. App. 4<sup>th</sup> 625 (2003). In that case, the Court of Appeal held that the duty of a studio to account to a profit or revenue participant does not give rise to a fiduciary duty. This case ended the primary exposure for punitive damages that institutional players in the entertainment industry faced for nearly four decades. Mr. Katz tried the remainder of the case before a jury for sixteen weeks in 2005. Following trial, Mr. Katz won another landmark appellate decision in this case. In *Wolf v. Walt Disney Pictures and Television*, 162 Cal. App. 4<sup>th</sup> 1107 (2008), the Court of Appeal confirmed the judgment in favor of Disney on Wolf's claims, reversed the trial court on a contract interpretation issue that enables Disney to correct accounting errors made in favor of Wolf, and clarified the application of the implied covenant of good faith and fair dealing to contracts containing discretionary rights provisions.

Mr. Katz argued the appeal in *Corwin v. The Walt Disney Company*, 475 F.3d 1239 (11 Cir. 2007). This was a copyright case, in which the plaintiff claimed that the Epcot theme park, as built, infringed a painting allegedly shown to Disney in the 1960s. The Eleventh Circuit upheld the district court's decision granting summary judgment in favor of Walt Disney World Co., based on the application of the extrinsic test for assessing claimed similarities, and the doctrine of independent creation. Based on the application of Daubert, the Eleventh Circuit also upheld the district court's decision striking the testimony of the experts proffered by Corwin on the claimed similarities.

Mr. Katz was lead counsel, and argued the appeal, in *Robert Wagner v. Columbia Pictures Industries, Inc.*, 146 Cal. App. 4<sup>th</sup> 586 (2007). In that case, the Court of Appeal upheld the trial court's order granting summary judgment in favor of Columbia Pictures, rejecting Wagner's argument that theatrical motion picture rights are "subsidiary rights" of the right to exploit a television series. In doing so, the court rejected Wagner's reliance on evidence of general intent that was not tied to the words chosen by the parties in their agreement.

Mr. Katz was lead counsel, and argued the appeal, in *St. Paul Fire & Marine Ins. Co. v. Compaq Computer Co.*, 539 F.3d 809 (2008). In that case, the Eighth Circuit affirmed the district court's order granting summary judgment in favor of Compaq, holding that St. Paul owed Compaq a duty to defend a class action arising from allegedly defective floppy disk controllers. The Eighth Circuit held that a claim for breach of warranty fell within the definition of "error" in the Technology E & O policy issued to Compaq, and the relief sought in the class action fell within the definition of "damages." The Eighth Circuit also reversed the trial court's order denying Compaq's claim for eighteen percent statutory penalties under Texas's Prompt Payment of Claims statute.

Mr. Katz was also lead counsel in the matter giving rise to the decision in *Martin Marietta Corp. v. Insurance Co. of North America*, 40 Cal. App. 4<sup>th</sup> 1113 (1995), in which the Court of Appeal broadly interpreted the "personal injury" coverage of a CGL insurance policy.

Mr. Katz was an integral member of the trial and appellate team that culminated in the landmark decision in *Armstrong World Industries, Inc. v. Aetna Casualty & Surety Co.*, 45 Cal. App. 4<sup>th</sup> 1 (1996), following a fifteen month multi-phase trial, in which the Court of Appeal broadly interpreted the "occurrence" wording in CGL and umbrella insurance policies.

Other representative matters include claims arising from or involving:

Participation accounting and contract disputes involving rights holders, writers, actors and other participants

Allocation disputes over television packages and output agreements

Copyright infringement and idea submission claims involving motion pictures and theme parks

Disputes over basic cable distribution rights, focusing on rights of assignment and accounting issues

Disputes over merchandising rights and accounting issues involving cartoon characters

Disputes over "best efforts" and "reasonable good faith efforts" clauses

Disputes over interactive rights and gaming license guarantees

Performer walkout on the eve of principal photography resulting in the shut down of the production

Claims for breach of executive employment/compensation agreements

Disputes involving special effects and 3-D animation house

Disputes over rights to film library

Disputes involving sports memorabilia company

Disputes over long term output agreements with major foreign media companies

Disputes over producer final cut rights, movie ratings

Disputes over exploitation of movies, television series and merchandise by vertically integrated enterprises

Wrongful death claim arising out of the production and broadcast of a talk show

Insurance coverage disputes arising from errant broadcasters, performer injuries, force majeure events

### **Representative Clients**

Mr. Katz's clients have included the following companies, as well as certain of their affiliated entities:

- Adconion Media Group
- Batjac Productions
- Compaq Computer Corporation
- dick clark productions

- Hewlett-Packard Company
- IAC/InterActiveCorp
- Lockheed Martin Corporation
- Metro Goldwyn Mayer Inc.
- Modern Video Film
- Paramount Pictures Corporation
- Reveille LLC
- Saban
- Sony Pictures Entertainment Inc.
- The Walt Disney Company

**HONORS**

- Best Lawyers in America, *Best Lawyers*, 2011, 2012
- Power Lawyer, Entertainment Litigation, *Hollywood Reporter*, 2007, 2008, 2009, 2010, 2011
- Top Media & Entertainment: Litigation Lawyers, Chambers & Partners', 2009, 2010, 2011
- Which Lawyer?, Practical Law Company, Media, 2011
- Litigation Star, *Benchmark Litigation*, 2009, 2010, 2011, 2012
- Leading Lawyer, *Legal 500 US*, 2009
- *California Lawyer* Attorney of the Year (CLAY) Award, Entertainment, 2008
- Profiled by *Daily Variety* in the 2007 Hollywood Law Impact Report
- Best of the Bar, Entertainment and Media, *Los Angeles Business Journal*, 2007
- Top Entertainment Attorneys, *Hollywood Reporter*, 2005
- Super Lawyer on repeated occasions, *Los Angeles Magazine*

**ARTICLES**

- Courts Need to Constrain Fiduciary Duty to Narrow Class of Relationships, April 6, 2006
- Sheppard Mullin Lands Entertainment Group, January 27, 2003