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TOP 100 2020

CORPORATE

Joseph A. Calabrese

Calabrese is global chair of Latham & Watkins' entertainment, sports and media practice. Clients include the Hollywood Foreign Press Association, Warner Bros. Entertainment, Skydance Media, the International Olympic Committee, A24 Films LLC, The Walt Disney Co., Illumination, Miramax LLC, Sonar Entertainment Inc. and Westbrook Inc.

As the pandemic rages, he's scrambled to scrutinize the contracts his clients have signed for the fine print of the clauses that cover unforeseeable circumstances leading to canceled events.

"This is the year of Covid," he said. "I have had to dust off and reread the force majeure provisions in the agreements we have negotiated to see what our clients' rights are. In general, to what extent do they forgive someone's performance due to the pandemic?"

The question is important as key events related to entertainment and sports are canceled or postponed. The Hollywood Foreign Press Association has announced it will push back to late February 2021 its Golden Globes award ceremony, originally set for January. The International Olympics Committee has postponed the 2020 games until next year. "Both of those events we managed to reschedule with the coopera-

tion of NBC, with whom we had productive discussions. Force majeure forgives us; we are not in breach," Calabrese said.

He explained that for a lawyer, there are fine distinctions among the reasons cited in contracts for performance delays or cancellations.

"Force majeure can mean acts of God, local disasters, riots, government restrictions, terrorism or any number of adverse events," he said, citing language from one contract. "If you read carefully, you will see that example did not include 'pandemic.' It does, however, include 'quarantine,' so that contract held up as long as a quarantine was in place."

But questions of interpretation persist. "Is a virus an act of God? Let's discuss," Calabrese said. "In one of my contracts I saw 'epidemic' as an element of force majeure, and I was ecstatic because this was one where my client couldn't perform. It has been a challenging year for all my clients. The impact in entertainment has been severe as everyone gropes for what to do about this threat."

Still, deals get done. Calabrese advised Skydance Media on a \$275 million transaction with RedBird Capital Partners and CJ Entertainment and Merchandising, the South Korean studio behind the Oscar-winning film "Parasite." The strategic invest-



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ment deal was announced in February and went forward despite the coronavirus.

"The virus didn't shut that down," he said. "In the short term this is survivable, but we continue to have hopes for normalcy and a vaccine by the beginning of next year."

— John Roemer