RMM General Meeting Notes – January 30, 2012 (January 2012 Meeting)

Start Time: 6:30PM

Total in Attendance: 24

Location: Law Offices of Nixon Peabody

Agenda:

Introductions:

Went around room and conducted individual introductions.

Guest Speaker: John LaBoda

PowerPoint Presentation – “Five Things Every Filmmaker Should Know About the Law”

1. Limited Liability
   1. Form an LLC or a Corporation by forming a production company or incorporating each film
      1. Production company produces multiple films under one name
      2. Incorporating each film separately creates new entities for each film
      3. Which is better?
   2. Negligence – one is responsible for his/her own actions
      1. Any legal entity won’t protect the injurer
   3. Always do business *as the business*, never as an individual
      1. Identify oneself with his/her given title
      2. Separates business and personal completely
   4. LLC formation costs in New York State – about $1300
      1. Is it worth it?
2. Contracts
   1. Location Releases
      1. Need legal permission to shoot on private and public property
         1. If no Release, one could face many penalties
            1. Also, could get shut down, hassled, embarrassed, and arrested for trespassing
   2. The larger a project gest, the more one needs to worry about this type of issue
      1. Especially if the project gets to a distributor
   3. Always put an equipment storage clause in the agreement/release, so equipment can get stored overnight
   4. Need permissions from business owner *and* building manager
   5. Should also have Notice Releases, which must be posted clearly around perimeter of set
      1. Alerts people of set and automatically gives consent to shoot if a person crosses into the area
      2. Take picture of sign and location to prove it was there
3. Fair Use
   1. “A defense to copyright infringement”
   2. Myths about Fair Use:
      1. Music under five seconds is Fair Use
      2. It’s OK if one doesn’t profit from use of unauthorized use
      3. It’s OK if one gives credit
   3. Truth – nothing can be safely taken
   4. No clear-cut determination of what Fair Use is
   5. Stanford Center for Internet and Society has Fair Use presentation on YouTube
      1. <http://www.youtube.com/watch?v=S521VcjhvMA>
   6. Factors to determine Fair Use:
      1. Nature of Use (transformed into something else?)
      2. Nature of Work (creative or not)
      3. Time work is used (5 seconds vs. 5 minutes)
      4. Impact on market from using work
   7. Using Trademarks
      1. Things to consider:
         1. Is portrayal of trademark endorsing or sponsoring?
         2. How prominent is the trademark portrayed?
         3. Does use of trademark *tarnish* brand?
         4. Will consumer be confused about trademark use?
            1. Ex. “Doritos” vs. “Dolitos”
      2. Information use permitted
      3. Trademark clearance letter is costly and time consuming
      4. Using a prop house will ensure that everything used has been pre-cleared
      5. Also watch for trade dress
         1. Colors, styles, shapes are also copyrighted
4. Financing Films
   1. Sources of Money
      1. One’s self
      2. Bank (loan)
      3. Family, friends, fools (aka “investors”)
      4. Securities offering
   2. Debt vs. Equity
      1. Debt consist of loans to repay, equity is investor money
         1. With debt, one is obligated to repay, regardless of financial outcome of film
5. Finding a Good Lawyer
   1. True entertainment lawyers are few and far-between in upstate New York
   2. Arts & Cultural Council for Greater Rochester and Volunteer Legal Services in New York are good places to start
      1. <http://www.artsrochester.org/>

Questions Session Notes:

Personal Insurance Policy may help with limiting liability

Check with Insurance Agent

Release Forms can help alleviate liability, unless actions are egregious or outrageous

Person injured can still sue, though

Independent Contractor vs. employee could get dicey

Employees require worker’s comp insurance

May only cost $500

Need to have work permits for child actors

Upcoming Projects:

M2M Update –

15 out of 16 completed shorts

Awards Night – Monday, February 13 – at Cinema Theater

Rochester Summer Shorts Scripts

To be read at the March 26 Meeting – Scriptapalooza

Must have script read at Screenwriter’s meeting first for polish and presentation

Will only read 10 pages at the event

Producers’ Meetings

Little Theater, Thursdays 6pm

Executive Board Meetings

Little Theater, Second Thursday of every month 6pm

Other:

Stan shared RMM’s Community Partner Award from RCTV

For *Rochester Directors Forum* show

End of Meeting: 7:40pm