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# TRAILBLAZERS

WEST

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### **What was the genesis of the path that has made you a trailblazer?**

After successfully defending numerous profit participation disputes as Senior Vice President, Head of West Coast Television Litigation for NBCUniversal, I was approached by representatives of the talent who brought those claims and asked to “switch sides” and represent their clients against other major Hollywood studios. Shortly thereafter, I left to launch Kasowitz’s entertainment practice with the goal of leveling the playing field against the bigger and better financed studios.

### **What sort of change has resulted from the concept? :**

We have succeeded in shining the light on the historically opaque practice of “Hollywood Accounting,” resulting in more favorable outcomes for our clients obtained through arbitration, litigation, and informal settlements. While most of these matters are confidential, it is public knowledge that we secured a landmark \$179 million arbitration award—the largest ever issued in a profit participation dispute—for actors Emily Deschanel and David Boreanaz, and producer Kathleen Reichs in connection with their profit participation interests in the television series “Bones”.

Studios have responded to that and our other successes by starting to replace profit participation deals with less valuable series bonuses in which talent earns a bonus when a series meets benchmarks such as completing a certain number of seasons.

### **What bearing will this have on the future?:**

Recently, the “streaming wars” involving Netflix, Disney+, HBO Max, and others have created significant demand for premium content, including content involving legacy profit participants. So, the business of ensuring that these participants are treated fairly remains quite good. Going forward, however, talent who want a larger share of proceeds from movies and television series beyond modest bonuses will have to negotiate aggressively for traditional profit participation clauses if they want to continue sharing equitably in the fruits of their creations.