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# Introduction to "Independent Stardom: Freelance Women in the Hollywood Studio System"

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« EMILY CARMAN »

# *Independent Stardom*

FREELANCE WOMEN IN THE  
HOLLYWOOD STUDIO SYSTEM

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## Introduction

### INDEPENDENT STARDOM IS BORN

By the late 1930s, the actress Carole Lombard had achieved A-list film stardom through what appeared to be an unconventional path in the Hollywood studio system: freelancing. As a freelancer or “free agent” (in the industry parlance of the time), Lombard chose her own film projects and negotiated individual deals with multiple studios. Moreover, her freelance contracts contained numerous provisions that guaranteed her creative control over her career and star image.<sup>1</sup> She retained the power to choose the director, cinematographer, costar, producer, screenwriter, story, costume designer, makeup artist, hairstylist, and even her publicist. She also negotiated a “no loan-out” clause, meaning the studio could not outsource her contract to another studio.

In addition to ensuring that Lombard was one of the highest paid actors of the period, these provisions enabled her to reach the apex of her career. She cemented her reputation as Hollywood’s top comedienne in *Nothing Sacred* and *True Confession* (both released in 1937, the first directed by William Wellman and the latter by Wesley Ruggles) while also establishing her ability as a dramatic actress in *Made for Each Other* (John Cromwell, 1939). All of these films were part of three-picture deals that she negotiated concurrently with Paramount Pictures and Selznick International Pictures (SIP). By the time she negotiated with RKO Radio Pictures in 1939 for another freelance deal, Lombard not only earned \$100,000 per film but also got a cut of her film’s box-office profits. Reflecting her unusual status within the industry, Lombard’s high earnings and professional accomplishments appeared to generate as much public interest as her love affair with Clark Gable (who became her second husband). Indeed, in 1939, the popular film fan magazine *Photoplay* extolled the actress’s freelance achievements before her personal life, noting that Lom-

bard “freelances, she draws approximately one hundred thousand dollars per picture, plus profit percentage. Last year her income totaled nearly half a million, and, in addition, Hollywood’s most box-office screen lover [Gable] is also [the] number one man in her life.”<sup>2</sup>

Lombard was in the vanguard yet again when in 1940 she and her agent, Myron Selznick, crafted a “contract like no other” with RKO that included a new profit-participation deal.<sup>3</sup> For her last two films in this agreement, the actress relinquished her \$100,000 flat-rate fee in exchange for a \$25,000 advance *against* her projected \$150,000 interest in the film distributor’s gross, which equated to instant earnings for the actress as soon as these films were released.<sup>4</sup> This “percentage deal” contract, personally negotiated by Selznick and RKO president George Schaefer, also included a number of specific terms such as story approval and a billing clause that she could only costar with an established leading man; it specifically designated the fourth picture as a “Lombard-Hitchcock” collaboration (*Mr. and Mrs. Smith* in 1941, the only Hollywood comedy directed by Alfred Hitchcock).

Perhaps the most interesting aspect of Lombard’s new percentage deal was how it safeguarded the actress’s gross earnings from Hollywood’s monopolistic distribution and exhibition practices. Her 10 percent share included earnings from both domestic and foreign box-office receipts, including any specialty (i.e., higher-priced) road-show screenings at RKO theaters, and an arbitrated share of the studio block-booking packages of her films.<sup>5</sup> Her renegotiation proved to be a worthwhile financial move, with her total earnings amounting to approximately \$133,000 for *Mr. and Mrs. Smith* and \$91,000 for *They Knew What They Wanted* (Garson Kanin, 1940), roughly the equivalent of her usual \$100,000 flat fee.<sup>6</sup> In addition, these earnings were taxed at the capital gains rate of 25 percent versus the 77 percent tax rate for personal income at the time. Indeed, Lombard’s keen apprehension of industry know-how extended to production as well as contract negotiations. Kanin called her “the best producer in the business since Irving Thalberg.” He also explained, “She has great intuition for which writer to get on a script. She knows what kind of story to do and can give pointers to its structure. And she’s a great saleswoman. She has one of the best agents in the business but she really does not need one. She makes her own deals and does as well as anyone could.”<sup>7</sup>

Lombard’s remarkable career, and the exceptional degree of control she exerted over it, runs counter to conventional narratives of the Hollywood studio system, which depict film stars as studio property and de facto indentured servants. It also challenges the commonly accepted periodiza-

tion that locates the development of Hollywood talent freelancing within the postwar era by emphasizing two key events: the California Supreme Court's 1944 "De Havilland Law,"<sup>8</sup> which ruled in favor of actress Olivia de Havilland in her suit to end her contract with Warner Bros.; and the innovative percentage deal that Lew Wasserman negotiated for actor James Stewart for *Winchester '73* (Anthony Mann, 1950).

Carole Lombard was far from alone in her successful freelance labor practices; indeed, she was part of an overlooked but significant trend of female independent stardom in 1930s Hollywood. Constance Bennett, Clara Bow, Claudette Colbert, Irene Dunne, Janet Gaynor, Katharine Hepburn, and Miriam Hopkins all participated in "net"-only profit-sharing deals similar to the one that would make headlines for Stewart fifteen years later, earning a percentage of their films' *overall* gross profits after the initial production costs had been recouped.

*Independent stardom* is the term I use to describe this alternative freelance path in 1930s Hollywood. This not only resulted in better salaries for these actresses, but also garnered them more control over their careers. In addition to the actresses mentioned above, Ruth Chatterton, Dolores del Río, Ann Harding, Ida Lupino, and Barbara Stanwyck all achieved varying levels of economic and professional independence through their active negotiations with film corporations over the course of the 1930s and, in some cases, into the 1940s. To minimize the risks of freelancing (giving up the job security of a long-term studio contract, along with the status conferred by association with a major studio), these women employed a number of strategies. They worked with prominent, prestigious, independent producers such as David O. Selznick and Samuel Goldwyn, as well as with the shrewd talent agents Myron Selznick and Charles Feldman; they remade their on-screen images by personally choosing to "off-cast" themselves in new and different leading roles; and they made multiple pictures at a time for a variety of studios.

The omission of these women from the narratives of Hollywood history is striking and raises important questions in regard to film historiography and American cinema. The phenomenon of female independent stardom in pre-World War II Hollywood presents a rich field of investigation for several reasons. Significantly, it offers scholars the opportunity to rethink the experience of star "serfdom" in the Hollywood studio system as a process of collaboration and negotiation with producers and major studios that afforded women tremendous professional opportunities. It likewise proves compelling from the perspective of film historiography, as it constructs an alternative experience of Hollywood, principally in re-

gard to gender and contract-labor conditions. These were business-savvy women who challenged the hierarchical and paternalistic structure of the film industry. They took a proactive role in shaping their careers through their freelance labor practices, thereby dynamically participating in what Thomas Schatz has called (quoting André Bazin) the “genius” of the studio system: its fusion of art, human labor, and commerce on a massive scale.<sup>9</sup> What is particularly striking about these female stars, however, is that they worked independently during a time when studio heads and producers presumably controlled and manipulated stardom as part of their oligopolistic business practices. Consequently, independent stardom changes the way in which we think about stardom, gender, and power dynamics in 1930s Hollywood, and calls for a new perspective that recognizes the place of women and their pioneering freelancing in American cinema and US labor history.

This book’s methodology mobilizes a broad spectrum of archival research—studio contracts and legal documents, industry trades, newspapers, and fan magazines—to unearth the story of independent stardom in Hollywood. I make extensive use of contracts and studio memos pertaining to stars’ film contracts and their negotiations with agents, studio executives, and producers to attain them. The financial nomenclature of contracts and studio legalese tends to be relegated to footnotes in most studies on stardom and classic Hollywood, but here they are foregrounded as crucial to our understanding of the contractual, cultural, and legal terms of independent stardom. This multifaceted archival approach also raises the issue of access to studio archives as they relate to questions of film historiography, specifically which studios’ historical legal and production materials are available for this kind of research. In this regard, of the major Hollywood studios, the Warner Bros. Archives (WBA) at the University of Southern California is the only accessible archive, housing the production, distribution, and exhibition records that document the activities of a vertically integrated studio.<sup>10</sup> It should come as no surprise, then, that a great deal of scholarly work on studio-era stardom focuses on Warner Bros. stars—especially James Cagney, Bette Davis, and Olivia de Havilland.<sup>11</sup> Moreover, these stars’ very public battles with the studio over its oppressive suspension policy and binding long-term contracts generated a great deal of press in the industry trade magazines, *Variety* and the *Hollywood Reporter*, both of which are readily available digitally or on microfilm. Given this visibility and ease of access, it is not surprising that these events have been well documented.<sup>12</sup> However, as Tom Kemper notes in *Hidden Talent*, his insightful study of talent agents, these three Warner Bros. stars’

careers “betray poor management, a dimension that is generally elided in most histories on classical Hollywood.”<sup>13</sup> Thus, they are far from exemplary cases, making the attention they receive in most film histories somewhat misleading.

Among my goals in *Independent Stardom* is to cast the widest net possible in terms of accessing archival studio collections that contain substantial contracts, legal records, studio memos, or payroll cards using readily available collections as well as those that are less utilized or incomplete. Looking at a variety of stars (employed at or by various studios) as case studies across a range of primary sources contributes to what Eric Smoodin calls the “textuality of the historical field” by supplying “new subjects and modes of historical inquiry.”<sup>14</sup> In addition to WBA, this study makes use of the legal files of the Twentieth Century-Fox Collection;<sup>15</sup> the employee payroll cards of the RKO Radio Pictures, Inc., Studio Collection (1922–1952) housed at the UCLA Performing Arts Special Collections; and the legal files and studio memos from the David O. Selznick Collection (which also contains documents from his business partner Jock Whitney and his brother, talent agent Myron Selznick) at the Harry Ransom Center at the University of Texas at Austin. The Margaret Herrick Library houses some MGM legal department records as well as Paramount production materials, select contract summaries, and an impressive array of popular fan magazines from the 1930s, while the United Artists Collection at the Wisconsin Center for Film and Theater Research contains the company’s corporate records from its founding in 1919 until the early 1950s.<sup>16</sup> The USC Cinematic Arts Library’s Archives of Performing Arts contain a sampling of records from MGM, Universal, and Twentieth Century Fox.<sup>17</sup> The consultation of a wide array of primary materials enables us to recast the Hollywood star story from one of servitude to free agency.<sup>18</sup> *Independent Stardom*’s “rewriting” of American film history seeks to interrogate past historical assumptions and create a nuanced understanding of how independent stardom functioned in the studio system and provided an opportunity for female empowerment in Hollywood.

#### RECASTING HOLLYWOOD INDEPENDENCE

In addition to establishing the historical significance of the overlooked phenomenon of independent stardom, this book also asks the crucial question of why this “traditional” historical narrative has dominated. To begin to answer this question, we need to revisit the two celebrated markers of

star independence in studio-era Hollywood: Olivia de Havilland's legal victory over Warner Bros., and James Stewart's profit-sharing deal at Universal. These events have been misrepresented in histories of American cinema as the initial flashpoints of freelance Hollywood, when in actuality they are the culmination of the self-determining actions and negotiations of women in the 1930s. Indeed the California Supreme Court verdict that became known as the "De Havilland Law" signified an important victory for top stars and a substantial setback for film corporations, as studios could no longer prevent an artist from "sitting out" a contract to become a free agent.<sup>19</sup> Nor did stars have to resort to lengthy court battles as the most viable way to win control over their careers at the expense of their screen exposure. (De Havilland herself remained off-screen for nearly three years while her case went all the way to the California Supreme Court.)

Likewise, female independent stardom in the 1930s preceded what has often been lauded as the pivotal achievement of actor independence in studio-era Hollywood: the deal-making tactics of James Stewart and Lew Wasserman, his maverick agent.<sup>20</sup> In 1950 Wasserman negotiated a lucrative freelance deal with Universal Studios for the actor to make *Winchester '73*, winning him a sizable percentage of the film's box-office earnings. We might ask why this is considered the first significant instance of profit sharing among Hollywood stars given the fact that numerous prominent female stars had freelanced and negotiated for a percentage of their films' profits a decade earlier.

To understand this lapse in American film history, we must juxtapose the contractual terms of Stewart's deal with those of the top female stars in the 1930s. What made Stewart's agreement so remarkable is the exceptionally large salary that he earned from his 50 percent cut of the net profits from his Universal films *Winchester '73* and *Harvey* (Henry Koster, 1950), which amounted to more than \$600,000.<sup>21</sup> This deal enabled the actor to reduce his exorbitant personal income tax, as his percentage was taxed at the much lower capital gains rate; this strategy also protected Universal from additional financial risk by not having to supply the actor's salary up front, ahead of the production.<sup>22</sup> The generally accepted ramifications of Stewart's deal in 1950 are that it generated the most lavish sum of money for a freelance actor's profit-sharing agreement, signified the demise of long-term contracts for talent, and substantially altered talent salary negotiations in Hollywood. However, while we should not dismiss the significance of Stewart's *Winchester '73* deal as a reflection of postwar star muscle, it did not garner major headlines in the industry trades, nor did it send shockwaves around the film industry in 1950.<sup>23</sup> Its overstated

importance seems more of a manufactured publicity story engineered by the legend of postwar, agency-driven Hollywood rather than one of historical actuality.

In fact, such deals had been a long-standing practice for powerful stars as far back as 1919, when Charles Chaplin, Douglas Fairbanks, Mary Pickford, and D. W. Griffith all self-produced and distributed their films after forming their own studio, United Artists (UA), as an alternative to the emerging, vertically integrated studio-system model.<sup>24</sup> This move guaranteed that any profits from their films would go directly to them. Even after the major studios solidified their monopolistic control over Hollywood filmmaking after the transition to sound in the late 1920s, there remained autonomous avenues in the star system. For instance, upon their arrival in Hollywood, the soon-to-be screen stars Irene Dunne and Barbara Stanwyck (both Broadway actresses) rejected long-term contracts with major studios. Stanwyck worked at an array of studios from the very beginning of her career (UA, Columbia, and Warner Bros.), while Dunne negotiated a two-year contract with RKO that retained her right to return to New York to act in plays between film productions.

*Independent Stardom's* historiographical intervention also extends to star studies and our understanding of Hollywood stardom. As Paul McDonald notes, there has been a tendency in academic star studies to separate the stars' images from the film industry that employs and sustains their labor.<sup>25</sup> While there is significant literature on individual stars in relation to their screen performances and their cultural images (most prominently, Richard Dyer's seminal text *Stars*), these works tend to eschew issues of contract labor—in particular, freelancing—and how a star's individual agency impacted her career and public persona.<sup>26</sup> Similarly, most studies of screen actors' labor in the 1930s, particularly Danae Clark's *Negotiating Hollywood*, emphasize collective-bargaining labor organizations like the Screen Actors Guild (SAG) and focus less on the efforts of individual stars and the strides they made toward professional independence in Hollywood, in addition to omitting any discussion of gender.<sup>27</sup> The studies that do focus on individual stars and their place in the industry tend to concentrate primarily on their failed attempts to get out of their seven-year standard contracts. By default, these historical accounts have depicted Hollywood as an all-powerful "grand design" business structure that dwarfed the individual efforts of stars to attain agency within the studio system.<sup>28</sup>

Furthermore, these works do not fully consider the impact that freelance women had on the star system during the 1930s. In this regard, the

phenomenon of independent stardom and the opportunities it afforded women in Hollywood extends the vibrant discourse of feminist film historiography in its focus on the underemphasized achievements of women as editors, directors, screenwriters, and producers during the 1910s and '20s.<sup>29</sup> Furthermore, this vein of scholarship also underscores the importance of primary research in constructing these histories, including written memoirs, fan magazines, audience studies, advertisements, and screenplays. Yet these studies tend to stop short of examining women's contributions to Hollywood cinema during the sound era and beyond, after the film industry became a big-business enterprise. On this point, Karen Ward Mahar, in her book *Women Filmmakers in Early Hollywood*, contends that by the mid-1920s female star power had "diminished, the independent movement had ended, and the gendered studio emerged" to produce a thoroughly masculinized film industry that minimized women's opportunities for the creative crafts behind the camera.<sup>30</sup> However, they were a mainstay *in front* of the camera in the following decade of sound cinema, when female stars truly did rule the Hollywood screen as top box-office attractions.<sup>31</sup> Thus, if we probe further and go beyond the screen to examine the behind-the-scenes negotiations, we find that star autonomy remained intact for some women in the 1930s. In many ways, *Independent Stardom* picks up where Mahar's book leaves off; the "independent movement" had not ended, nor had the "gendered studio" snuffed out female autonomy in Hollywood, especially if we examine the occupation most available to women during this time: acting/stardom.<sup>32</sup> As *Independent Stardom* argues, women's off-screen agency persisted in the 1930s, especially because of the freelance career choices that enhanced their professional opportunities, all of which are illuminated in the studio contracts and legal documents examined in this book.

#### STARRING IN A DIFFERENT STORY

*Independent Stardom* delves deeper into the careers, depictions of stardom, and audience fascination with these freelance actresses of the 1930s. *Professional agency* is the phrase I use to refer to how these stars used the legal terms of their labor as actors and their unique creative public personae—their "celebrity" images—to attain increased professional visibility in the Hollywood film industry. They did this by bargaining with major studio executives and producers more on their own terms. Together with their contract labor and screen images, their independent stardom

engendered a new kind of image (and commodity) in the Hollywood market: the female free agent.

Along these lines, *Independent Stardom* also explores the plausible reasons as to why women were the ones to dominate independent stardom at first. Chapter 1 considers the industry milieu of 1930s Hollywood to highlight how female stars negotiated the independent avenues made available to them in the studio system. At the time, the industry presumed that women moviegoers made up the overwhelming majority of the motion picture audience in the 1930s; as a result, films were tailored to female consumers and thus gave privileged status to female actors. Likewise, as chapter 2 underscores, women outnumbered their male star counterparts in the freelance realm, thereby making independent stardom in studio-era Hollywood truly a female phenomenon. This is illustrated by the remarkable freelance career trajectories of key female stars over the course of the 1930s, which can be traced in the terms of their individual contracts. Janet Gaynor, Miriam Hopkins, and Carole Lombard each began as studio employees who had long-term option contracts by 1930, but they all decided against re-signing long-term studio contracts in order to become free agents from the mid-1930s onward.<sup>33</sup> In contrast, Constance Bennett, Irene Dunne, and Barbara Stanwyck signed limited, non-option contracts beginning in 1930 and were freelancing at several studios by the middle of the decade.

Independence, however, meant different things for different women. In this regard, *Independent Stardom* considers the flipside of independence in the studio system, as freelancing was not necessarily the ideal choice for working Hollywood women. Indeed, the combination of steady employment and a dependable weekly salary guaranteed by a long-term studio contract was a desirable option to many aspiring actors during the 1930s. (In fact, the major studios employed approximately 500 actors on such contracts.) While the top Hollywood talent bracket had the discretion and leverage to choose freelance employment over a long-term contract, most did not have this option. Chapter 2, then, also considers the reverse experience of Hollywood freelancing through the case studies of the Chinese-American actress Anna May Wong and Mexican actress Lupe Vélez. While freelance labor was liberating for Anglo A-list stars, actresses of color often experienced an imposed independence that was not necessarily their ambition or personal preference, but was instead determined by Hollywood's institutionalized discriminatory business practices. Put simply, free agency was a hindrance, rather than an advantage, to their film careers.

But for those women who benefited from freelancing, independent stardom represented the opportunity to take ownership of their off-screen images as well, mainly through advertising campaigns, film fan magazines, and studio publicity, as well as in national newspapers and magazines. In this way, they effectively became architects of their images by correlating their contractual agency with their creative-image commodity. This is the focus of chapter 3, which analyzes how these texts depict a synergy between these women's careers and their star personae by reporting on their freelance contracts alongside the more traditionally "feminine" aspects of each star's career—that is, glamour and romance. Thus, the fan and popular press characterized these Hollywood women and their impressive careers as an average experience for the modern working American woman in the 1930s. I argue that these women's self-promotion of their freelance personae in the popular press reveals how this type of labor became a significant characteristic of their star celebrity that, in turn, further "sold" them to their fans.

*Independent Stardom* reveals the challenges, merits, and stakes of independence that female stars experienced in 1930s Hollywood. Ultimately, the book aspires to dispel the notion that there was no true agency available to working women in studio-era Hollywood. In fact, this was quite the contrary for a cadre of A-list actresses in the 1930s.

# Notes

## INTRODUCTION

1. This growing trend of A-list stars that Lombard belonged to was also noted in “10 Exclusive Stars,” *Variety*, July 3, 1935, 2, 23.

2. Faith Baldwin, “Do Hollywood Women Spoil Their Men?,” *Photoplay* 53, no. 5 (May 1939): 18.

3. See “Arbitration between Myron Selznick and Company, Inc. and Carole Lombard,” January 1941, Myron Selznick Collection (MSC hereafter), Harry Ransom Center (HRC), the University of Texas-Austin (UT-Austin), p. 53.

4. This revision of her salary and percentage deal is illustrated in RKO payroll cards from July 8, 1940, and September 9, 1940.

5. Road-show screenings were a practice in Hollywood in which a film opened in a limited number of theaters in large cities such as Los Angeles, New York, and Chicago for a specific period of time before the nationwide general release. Block-booking was a practice of the Hollywood major studios in which independent theater owners were forced to take large numbers of a studio’s pictures sight unseen, including second-rate B movies along with A-class star features. The contractual terms for Lombard’s RKO deal are delineated in Selznick’s client notebook, MSC, HRC, UT-Austin.

6. These figures are found in the Carole Lombard legal file, DOSC, HRC, UT-Austin.

7. Larry Swindell, *Screwball: The Life of Carole Lombard* (New York: William Morrow and Company, 1975), 273.

8. The court’s ruling, California Labor Code Section 2855, is referred to as the “De Havilland Law.” (Even though they misspelled the actress’s name in the court case and capitalized the “de” in the ruling, it became published as such.)

9. The term “genius of the system” references the title of Schatz’s landmark book on studio-era Hollywood, in which he quotes André Bazin’s observation that the American cinema up until the 1950s “is a classical art, but why not then admire in it what is most admirable, i.e., not only the talent of this or that filmmaker, but the genius

of the system.” Thomas Schatz, *The Genius of the System* (New York: Henry Holt and Company, 1988), 2.

10. Donated to the University of Southern California in 1977 by Warner Communications, the Warner Bros. Archives spans the period between 1917, when the company was founded, to 1967, when Jack Warner sold the studio to the conglomerate Seven Arts. For more on the novelty of the Warner Bros. Archives at USC, see my article “That’s Not All Folks: Excavating the Warner Bros. Archives,” in *Moving Image* 14, no. 1 (2014): 30–48. Note that Warner Bros. was one of the “Big Five” studios, along with Paramount, MGM, RKO, and Twentieth Century-Fox. It was vertically integrated in that they owned and operated the three major facets of the film industry—production, distribution, and exhibition—whereas the “Little Three” (Columbia, Universal, and United Artists) did not own and operate all three. While the United Artists files are housed at the Wisconsin Center for Film and Theater Research in Madison, they contain only the distribution records, given that the studio’s primary function was as a distributor for independent productions.

11. See Tino Balio’s investigation of Cagney’s and Davis’s labor strife with Warner Bros. in the 1930s in *Grand Design: Hollywood as a Modern Business Enterprise, 1930–1939* (Berkeley: University of California Press, 1995), 157–161. Though their studies expand beyond Warner Bros. stars, even more recent star-system books, including Jeanine Basinger’s *The Star Machine* (New York: Knopf, 2007) and Jon Lewis’s *American Film: A History* (New York: W. W. Norton, 2007), perpetuate the “star serfdom” narrative of 1930s Hollywood. Although “the Warner three” clearly had poor contracts, agents, and bad overall strategies for their careers at the time, all of them learned from their disappointing experiences. Cagney would return to Warner Bros. with one of the best contracts on the lot by 1939. Represented by his brother, he received story approval and a percentage deal, while Davis became a client of Lew Wasserman in the 1940s and the “queen” of the Warner Bros. lot. De Havilland eclipsed them both with her legal victory over Warner Bros. in 1944.

12. These headlines include “De Havilland Sues For Work,” *Variety*, July 14, 1944, 1, 4. For Cagney, see “Warners Adamant,” *Variety*, April 19, 1932, 3; “James Cagney Called Bad Boy,” *Variety*, March 11, 1936, 3; and “WB Statement Characterizes Cagney Decision,” *Variety*, March 18, 1936, 3. See also “Bette Davis Salary Tiff with WB,” *Variety*, July 8, 1936, 3.

13. Tom Kemper, *Hidden Talent: The Emergence of Hollywood Agents* (Berkeley: University of California Press, 2010), 131. Kemper’s important book underscores the key role that agents played in Hollywood, in particular by negotiating vibrant careers for A-list talent.

14. Eric Smoodin, “The History of Film History,” in *Looking Past the Screen: Case Studies in American Film History and Method*, edited by John Lewis and Eric Smoodin (Durham, NC: Duke University Press, 2007), 29.

15. The Twentieth Century-Fox Collection (with records ranging from the 1920s to 1980s) was formerly housed at UCLA but has been reclaimed by the studio and is no longer available for research access.

16. There is no fully centralized or comprehensive archive available for MGM, and unfortunately some of the studio's archival records were discarded. For instance, all MGM musical material, including orchestra arrangements and parts, were discarded in the late 1960s. However, some content is available at USC, the Margaret Herrick Library (art and legal documents related to production and wardrobe departments, as well as scripts), UCLA Performing Arts Special Collections (architectural set plans, scripts, in-house research production files from the 1930s and 1940s), and the Frances Howard Goldwyn Hollywood Branch of the Los Angeles Public Library. I have been unable to determine the precise whereabouts of the pre-1948 Paramount legal materials. Likewise, the UA collection at University of Wisconsin–Madison contains the company's corporate records from its founding in 1919 until the early 1950s, yet its files detail the aspects of motion picture sales and distribution. I was unable to locate any individual talent contracts for my freelance case study stars whose films were released by UA. For a complete listing of the archival collections consulted for this book, see Appendix 2.

17. For a complete listing of USC's special collections pertaining to cinema, see [http://www.usc.edu/libraries/collections/performing\\_arts/](http://www.usc.edu/libraries/collections/performing_arts/).

18. While this approach yields a versatile and rich web of research through which to construct revisionist film histories, it also faces material limitations in terms of access, especially when it comes to legal files. For example, the legal materials of RKO and Twentieth Century-Fox are not currently accessible, while only partial legal records are available for Paramount and MGM. The disappearance of these primary sources from public access has created a research challenge for historians, who are forced to rely on secondary sources from scholars who had the fleeting opportunity to consult these collections. In addition to this book, see Janet Bergstrom's work on F. W. Murnau and his tenure at Fox, "Murnau in America: Chronicle of Lost Films," in *Film History* 14, nos. 3/4 (2002): 430–460; Kemper, *Hidden Talent*; and Lea Jacobs, *The Decline of Sentiment: American Films in the 1920s* (Berkeley: University of California Press, 2008). These are among the most recent and potentially last scholarly works to utilize the Fox collection.

19. I will return to this case in further detail in Chapter 4. See also Emily Carman and Philip Drake, "Doing the Deal: Talent Contracts in Hollywood," in *Hollywood and the Law* (BFI/Palgrave, 2016); as well as Schatz, *Genius of the System*, 318; Jonathan Blaufarb, "The Seven Year Itch: California Labor Code Section 2855," *Communications and Entertainment Law Journal* 6, no. 3 (1983–1984): 653–693; and *De Haviland v. Warner Bros.*, 67 Cal. App.2d 225, 228, 153 P.2d 983, 984 (1944).

20. These include Dennis McDougal, *The Last Mogul: Lew Wasserman, MCA, and the Hidden History of Hollywood* (New York: Da Capo Press, 2001), 153–157; Schatz, *Genius of the System*, 470–473; Denise Mann, *Hollywood Independents: The Postwar Hollywood Takeover* (Minneapolis: University of Minnesota Press, 2008), especially chap. 2, "Backstage Dramas," 31–64; and Douglas Gomery, *The Hollywood Studio System: A History* (London: BFI, 2005), 210–220.

21. This deal gave Stewart a sizable amount of the *adjusted* distribution gross once

they deducted the studio's 25 percent distribution fee, recouped its actual cost (approximately \$917,374) for producing the film, and accounted for other general studio overhead costs. As burdensome as these expenses might seem, McDougal explains that "they were minimal compared to the net profit definitions before and after *Winchester '73*." See McDougal, *The Last Mogul*, 153. McDougal goes on to acknowledge that "*Winchester '73* was not the first gross profit deal, but it was the biggest," as gross profit sharing was "real money."

22. See Gomery, *Hollywood Studio System*, 205–206, for more on Wasserman's maverick talent brokering with the studios on behalf of his clients.

23. As Tom Kemper explains, the Stewart/Wasserman deal was "not the pivotal moment it often gets painted as in film histories" and was "more or less a singular accomplishment for MCA." See *Hidden Talent*, 236, 273.

24. Tino Balio's *United Artists: The Company Built By the Stars*, vol. 1: 1919–1950 (Madison: University of Wisconsin Press, 2009) documents the UA story of Hollywood independence.

25. Paul McDonald, *The Star System: Hollywood's Production of Popular Identities* (London: Wallflower, 2000), 1, 3.

26. See Dyer, *Film and Theory*, edited by Toby Miller and Robert Stam (New York: Blackwell, 2000), 603–617, and *Stars* (London: BFI, 1998), to name only a couple of his important scholarly works on film and media stardom.

27. Danae Clark, *Negotiating Hollywood: The Cultural Politics of Actors' Labor* (Minneapolis: University of Minnesota Press, 1995).

28. The phrase "grand design" references the title of Balio's book. Other studies include Schatz, *Genius of the System*; Cathy Klaprat, "The Star as Market Strategy: Bette Davis in Another Light," in *The American Film Industry*, edited by Tino Balio (Madison: University of Wisconsin Press, 1976), 351–376; and Robert Allen, "The Role of the Star in Film History [Joan Crawford]," in *Film Theory and Criticism*, 5th ed., edited by Leo Braudy and Marshall Cohen (Oxford: Oxford University Press, 1999), 547–561. These studies tend to focus on the amount of control that the major studios exerted over their contract stars.

29. Karen Ward Mahar's *Women Filmmakers in Early Hollywood* (Baltimore: John Hopkins University Press, 2008); Cari Beauchamp's *Without Lying Down: Frances Marion and the Powerful Women in Early Hollywood* (Berkeley: University of California Press, 1998); and Jennifer M. Bean and Diane Negra, eds., *A Feminist Reader in Early Cinema* (Durham, NC: Duke University Press, 2002) all underscore various women pioneers in Hollywood.

30. Mahar, *Women Filmmakers*, 203. The obvious exceptions to this rule were Mary Pickford (producer and board member at United Artists), the director Dorothy Arzner, editor Margaret Booth, and screenwriters Frances Marion and Anita Loos (although they were substantially outnumbered by their male counterparts).

31. I discuss the importance of female stars and female fans in 1930s Hollywood cinema in Chapter 1.

32. Mahar, *Women Filmmakers*, 203.

33. An “option” contract denoted that the studio had the option to renew or “drop” the contract with the actor, whereas a “non-option” contract signified that the studio must renegotiate directly with the actor to renew or extend the agreement.

## CHAPTER ONE

1. Douglas W. Churchill, “Producers Sign All Comers As Cinema Talent Booms,” *San Francisco Chronicle*, March 14, 1937. The article also states there were more than 750 performers under contract in Hollywood, up from the 450 reported in 1936.

2. *Ibid.*

3. Sarah Berry, *Screen Style: Fashion and Femininity in 1930s Hollywood* (Minneapolis: University of Minnesota Press, 2000), xvi.

4. See Ethan Mordden, *Make Believe: The Broadway Musical in the 1920s* (New York: Oxford University Press, 1997), 6, in which he calls the Broadway stage of the 1920s “the age” for heroines.

5. Balio, *Grand Design*, 235.

6. *Ibid.*, Appendixes 1 and 3, 405–406, 411–412. All of these trade journals polled exhibitors on their top box-office attractions (stars’ films that made the most money and sold the most tickets).

7. “Fifty Best Draw Names,” *Hollywood Reporter*, July 27, 1936, 1–2. Dunne ranks at 13, Lombard at 17, Gaynor at 20, and Stanwyck at 34. The top fifty star rankings broke down to an almost fifty-fifty split, with female stars gaining twenty-three spots on the list and men slightly outnumbering the women with twenty-eight spots.

8. This presumption persisted into the 1930s, until the advent of “scientific” audience research engineered by George Gallup (founder of Audience Research Institute) and Leo Handel (of the Motion Picture Research Bureau) in their polls for RKO. See Melvyn Stokes, “Female Audiences of the 1920s and early 1930s,” in *Identifying Hollywood’s Audiences*, edited by Richard Maltby and Melvyn Stokes (London: BFI, 1999), 43–44; and Susan Ohmer, *George Gallup in Hollywood* (New York: Columbia University Press, 2006). I also discuss this audience shift further in chap. 4.

9. Stokes, “Female Audiences,” 44.

10. See Frederick James Smith, “Does Decency Help or Hinder?,” *Photoplay* 26 (November 1924): 36; Beth Brown, “Making Movies for Women,” *Moving Picture World*, March 26, 1927, 34. These numbers are also cited in Gaylyn Studlar, “The Perils of Pleasure? Fan Magazine Discourse as Women’s Commodified Culture in the 1920s,” in *Silent Film*, edited by Richard Abel (New Brunswick, NJ: Rutgers University Press, 1996), 263; and Stokes, “Female Audiences,” 43.

11. Stokes, “Female Audiences,” 44. While several film historians have underscored how fan magazines in the American silent-film era affirmed the significance of the female audience to Hollywood cinema through its “textually inscribed” address to female readers, the 1930s has largely been neglected as an equally important era in which Hollywood films were marketed largely toward women audiences. Film