

Pandemic, Production, and Labor: COVID-19 as a Catalyst for Industrial Change in Hollywood

Sam Nolan

Markham, VA

B.A. Media Studies, University of Virginia, 2018

A thesis presented to the Graduate Faculty of the University of Virginia in candidacy for
the Degree of Master of Arts

Department of Media Studies

University of Virginia

March 2022

Dr. Aynne Kokas

Dr. Andrea Press

Dr. Paul Dobryden

Table of Contents

| | |
|---|----|
| <i>Abstract</i> | 4 |
| <i>Introduction</i> | 5 |
| <i>Literature Review</i> | 10 |
| Critical Junctures | 10 |
| Revolutionary Communication Technology | 11 |
| Severe Social Disequilibrium | 15 |
| <i>Methodology</i> | 20 |
| Political Economy of Communication | 20 |
| Case Study | 22 |
| Critical Discourse Analysis | 23 |
| Historical Analysis | 26 |
| <i>Data</i> | 28 |
| The Above-the-line Perspective..... | 28 |
| What is Above-the-line? | 28 |
| Above-the-line Contracts and Labor Precedent | 29 |
| Scarlett Johansson and the Disney Lawsuit | 30 |
| Pre-COVID Contracts..... | 31 |
| <i>Black Widow</i> 's release & Johansson's Suit..... | 33 |
| The Industry Reacts | 37 |
| Putting it all together..... | 42 |

| | |
|--|---------------|
| The Below-the-line Perspective | 47 |
| What is Below-the-line? | 47 |
| Industry Disruptions and Below-the-Line Labor | 49 |
| Below-the-line Strikes and Labor Precedent | 51 |
| The IATSE (almost) Strike of 2021..... | 61 |
| Putting it all together..... | 67 |
| Conclusion | 69 |
| Wrapping Up..... | 69 |
| For the scholarship: Next Steps | 71 |
| For the Industry: Next Steps..... | 72 |
| Bibliography | 75 |

Abstract

COVID-19 and its related disruptions have revealed significant imbalances of power and inequitable social practices. In the American film and television industry, these disruptions have led to the formation of a critical juncture - a period in which previously held institutions, social rituals, and norms of practice are pressured to the point of collapse. This critical juncture has led to a reevaluation of labor practices for both above and below-the-line workers in Hollywood, as illustrated by two majorly publicized events: actress Scarlett Johansson's lawsuit against the Walt Disney Company and major union IATSE's nearly averted worker strike. I use these events and their ensuing industry press coverage as case studies, wherein I employ critical and historical discourse analysis to demonstrate that both cases are emblematic of a wider shift within Hollywood: reclamation of creative worker autonomy and freedom from corporate studio producers. I conclude that both case studies, while possessing comparable historical antecedents, are historically unique as they were both directly induced by COVID-19 disruptions. In this way the COVID pandemic has acted as a catalyzing force, quickly accelerating already existent trends within Hollywood's established norms and practices.

Introduction

“Coronavirus Cancellations: Every Film, TV Show, and Event Affected by the Outbreak” reads a headline from *IndieWire*, with the attached article claiming to provide “a full rundown of all the ways the coronavirus is changing the entertainment landscape around the world” (IndieWire, 2020). This rundown goes on to list all the major productions, events, and releases interrupted or delayed by the global pandemic. *Indiewire*’s list, while a comprehensive description of the disruptions brought to the American film and television industry, does little more than providing a list of what notable properties were affected by state-imposed shutdowns of business and commerce. The COVID-19 pandemic and its sudden emergence onto the world stage brought dramatic economic change to America’s most visible industry, the shuttered productions COVID-19 left in its wake lost Hollywood millions if not billions of revenues.

IndieWire’s headline is indicative of a broader trend to focus almost solely on the effects of the global pandemic on the media products emerging from Hollywood, how films and television shows have changed since the outbreak of the Coronavirus in early 2020. I wish to argue that a more important investigation would be how the COVID-19 pandemic has affected the film and television industry itself. Kent Hamilton, the president of Front Row Insurance puts it well: “Things are challenging because the old ways don’t work.” In a single sentence Hamilton encapsulates the feelings of an entire industry, that the norms of practice and production which existed within Hollywood previously have suddenly become outdated and obsolete.

Hollywood was already an industry in flux when the coronavirus began to run rampant in early 2020. The intrusion of tech conglomerates like Google and Amazon into the film industry led to several headline worthy mergers which shook up the hierarchy of studios in Hollywood. Disney’s acquisition of Fox in 2019 eliminated roughly 4,000 previously secure jobs and

removed Fox from the MPAA, making room for Netflix. AT&T restructured Time Warner and gave the boot to the heads of its entertainment divisions (Bloom, 2019). At first glance, corporate changes such as these do not have direct impacts on an industry's labor force. But in Hollywood, these alterations to the labor landscape have reduced demand for traditional jobs like film loaders and set designers. The digital emphasis Big Tech brought to Hollywood encompasses the available jobs, creating "friction" between employers and the Hollywood labor force. "I do think there will be a gap [between worker skills and employer needs]", stated veteran animator Chris Erwin. "I do not have an answer for the workers who fall into that chasm" (Bloom, 2019).

Hollywood has always relied on the gig economy, and the arrival of the tech industry only entrenched this norm. The film industry is harder to break into than ever and the creative opportunities offered by tech companies "will only increase the prevalence of the gig economy here" (Bloom, 2019). Workers were more reliant than ever on "flexibility, constant reinvention, and personal relationships. It was amid this uncertain moment that COVID hit the industry, with its industry wide disruptions bringing gig economy practices to a halt as companies struggled to form a plan for the new COVID moment. This moment itself is difficult to define as a distinct period since the pandemic has not yet subsided. Pandemic related disruptions are the key to defining the COVID moment; this allows one to focus on the effects of the global pandemic rather than become entangled trying to differentiate which changes were induced by COVID or what were previously extant trends in Hollywood.

In this thesis I investigate the ways in which COVID era disruptions affected Hollywood production practices, specifically how the pandemic has accelerated industry transition into a new and undefined era. This is not to say that Hollywood's industrial norms have not changed in the past, for in fact few other industries have such a visible history of change than film and

entertainment. But the Coronavirus pandemic and its various disruptions have highlighted many of the structural inadequacies inherent in contemporary Hollywood. The industry relies on workers who piece together a living via various gigs, a labor order that often leads to periods of unemployment or underemployment. Further complicating issues is the nature of payment within the industry. For many workers within Hollywood, wages are the norm. But for more visible laborers such as actors, salaries and guaranteed payments ensure compensation, even during times of extraordinary disruption such as the COVID-19 pandemic. What little protection for these workers that exists comes not from major studios or employers but rather from unions such as the International Alliance of Theatrical Stage Employees (IATSE).

Understanding the relationship between Hollywood studios and their laborers can explain how small shifts in management of production cultures result in broader shifts in industry practice. Such a concept can be expanded to include not just the relationships between Hollywood studios and their workers, but the relationships the industry has cultivated with technologies such as the DVD and video on demand platforms like Netflix or Hulu. Digital streaming platforms were already on the rise prior to the Coronavirus outbreak, but the isolation and quarantine measures meant to curtail infection spread have inadvertently led to an explosion in popularity for Streaming Video on Demand services as audiences were forced to watch film from home.

Using a political economic theoretical framework, I present in this thesis a discourse analysis of contemporary reports about the economic conditions which have influenced the film and television industry's adaptations of practice in its attempts to survive a period of severe disruption. Additionally, I leverage historical analysis to demonstrate the power organized labor movements have in exerted industry change in Hollywood. The COVID-19 pandemic's role in

illuminating labor inequities has led to rapid changes in worker affordances in Hollywood, both for the highly visible workers of the above-the-line caste and the below-the-line laborers who are so often exploited. I present my investigation via case study, demarcating my examples along these labor lines.

For the above-the-line perspective I turn to Scarlett Johansson's lawsuit against the Walt Disney Company, arguing that the COVID-19 induced surge in streaming projects has rapidly changed the way in which above-the-line workers negotiate their contracts. The Johansson case has led to a shift in how actor contracts are negotiated, effectively eliminating the practice of "soft contracts" for Hollywood stars. Where once big-name actors received sizable back end deals contingent on project's performance, now actor contracts demand upfront payments to cover the loss of box office revenue from digital releases. Disputes such as Johansson's indicate a loosening of studio control over the industry, and an empowerment of above-the-line laborers.

IATSE's closely averted labor strike serves as my below-the-line example, wherein I argue that dangers of operating within a global pandemic highlighted the exploitative practices of production within Hollywood, and that this highlighted induced rapid structural change to better protect below-the-line workers. Organizations such as IATSE provide support structures for their members, often in the form of financial aid such as the Actor's Fund. As Kate Fortmueller describes in her book *Hollywood Shutdown*, the support apparatuses of the industry were quickly overwhelmed by the vast scale of the pandemic crisis. By May of 2020 over a hundred and twenty thousand people had lost jobs in the media industry, unemployment on a scale previously unheard of within the motion picture industry. The ensuing scramble by unions and guilds to support their constituents lead to industry wide calls for federal support and "strategized plans to financially assist members during the closures" (Fortmueller, 2021). The all-encompassing

nature of the pandemic meant that freelancers and gig workers were not able to rely on jobs and income revenues that would otherwise sustain them during periods of unemployment or underemployment. Making a living with side hustles or part time work was severely hampered by sweeping closures of businesses such as gyms, restaurants, and concert venues (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021). This labor inequity was further highlighted when streaming platforms and digital companies like Netflix embraced COVID safety measures and continued to pay cast and crew even when productions were forced to shutter. Finally, I relate these examples to Robert McChesney's theory of "critical junctures". Critical junctures explain how social change works within industries as within a critical juncture there resides a range of options that is much greater than there is otherwise (McChesney, 2007). Using critical juncture theory reveals that Hollywood stands on the precipice of change. Much like it once did with the introduction of home media in the 1980s and Internet streaming platforms in the 2010s, Hollywood prepares for its transition into a new era of existence.

Literature Review

Critical Junctures

There exist specific periods of time in which old institutions, social rituals, and modes of production are pressured to the point of collapse. In *Communication Revolution* Robert McChesney calls these periods “critical junctures”. At the most basic level, a critical juncture describes a “brief” period (McChesney states that critical junctures “usually last no more than one or two decades”) wherein “policies could have gone in other directions, and, had they done so, put media and society on a different path” (McChesney 2007, p. 9). Critical junctures explain “how social change works”, as within a critical juncture there resides a “range of options for society” that is “much greater than it is otherwise” (McChesney 2007, p. 10). To make a comparison to the field of anthropology, the critical juncture serves the same role as the “missing link” in human evolution: a state or entity which allows for the explanation of human progression. For media and communication industries, critical junctures occur when at least two of the following conditions are met:

- 1) There is a revolutionary new communication technology that undermines the existing system,
- 2) The content of the media system, especially the journalism, is increasingly discredited or seen as illegitimate; and
- 3) There is a major political crisis – severe social disequilibrium – in which the existing order is no longer working and there are major movements for social reform.

McChesney claims that in the past century alone there has occurred three separate critical junctures: the Progressive Era, a period marked by journalistic and political crisis; the 1930s, where electronic technology emerged from the apathetic background of the Depression; and the

1960s and 1970s, where popular movements like the Social Rights movement forced many Americans to face biting social critique. Nearly two decades ago McChesney felt that a critical juncture was imminent, if not already occurring: “Today we are in the midst of a profound critical juncture for communication” (McChesney, 2007, p. 3).

Of the three conditions laid out by McChesney, it is the first and third that apply most directly to the film industry and my research in this thesis. The second condition, or when media content is seen as illegitimate, does not figure into this investigation of Hollywood. Discourse critical of the content of Hollywood products certainly exists, but these are discussions focused on the artistic value of these products. A dissatisfaction with major cinematic trends does not reveal changes in industry structure or practice but rather consumer tastes. To reiterate, a critical juncture is not dependent on all three conditions. The contemporary moment for film and television clearly meets the first and third conditions, resulting in the formation of a critical juncture.

Revolutionary Communication Technology

The first condition, or when a new communication technology undermines the existing system, was met prior to the outbreak of coronavirus. The Internet is of particular interest for McChesney, who in 2007 was still unsure of the medium’s impact on communication industries. The digital revolution of the 1990s and 2000s threatened communication industries with extinction or complete overhaul, the very presence of these new technologies was “forcing a rethinking of communication in boardrooms and among policymaker across the nation” (McChesney, 2007, p. 143). The Internet, McChesney claims, has the potential to become the fourth great communication transformation in human history, a communication revolution so massive in its scope that it may “alter the very way our species developed” (McChesney, 2007, p. 144). The medium offers the “potential for instant communication by all people to each other

and our collective knowledge at all times” (McChesney, 2007, p. 144). But to assume that the Internet’s introduction to communication spaces will result in an unambiguously positive and progressive outcome is both foolish and ignorant. Previous communication transformations have yielded outright negative results. The introduction of writing led to the enslavement of “vast numbers of people” and that the countless atrocities perpetrated in the past half millennium have come at the hands of societies “with widespread if not universal literacy” (McChesney, 2007, p. 145). For the transformation to net positive or progressive results is very much within our control, as a democratic engagement with structural crisis will prevent the elite driven restructuring in the 1960s and early 1970s.

Unfortunately for the film and television industry, corporate elites have already played a major role in establishing digital technology in the industry, with companies like Netflix and Amazon leading the charge. Internet-distributed television and film is one such technology and falls within the often-nebulous category of “new media”. New media like Internet-distributed television does not replace older media, despite the implications of McChesney’s first condition. Media cannot be killed off. As Amanda Lotz astutely points out, the “complex industrial formations, audience practices, and textual attributes” of old media like the written word persist and impact contemporary society (Lotz, 2017, p. 1). While media persists, it is the systems of distribution that “evolve with considerable regularity” (Lotz, 2017, p. 1). These systems provide new affordances that facilitate “wide-ranging change to the production and consumption of media” (Lotz, 2017, p. 1). Internet-distributed television and film continues this tradition, for it has acted as a “new mechanism of distribution” for video consumption, be it television or film (Lotz, 2017, p. 1)

Internet-distributed television and film has a longer history than one might suspect. Initially called “web TV”, the first forays into Internet-distributed television began back in 2004 but often did not include “full-length, professionally produced” content (Lotz, 2017, p. 6). It was not until 2010 that Internet-distributed television reached a turning point in its popularity. 2010 marked the launch of HBO Go, “surge in attention to Netflix streaming”, and “expansion in robustness of Hulu” (Lotz, 2017, p. 11). These developments were accompanied by the introduction of tablet technology the same year, which Lotz (2017) claims helped to popularize the view that television and film are fluid mediums that can exist on an array of different screens, not just television screens.

This thesis and Lotz’s (2017) discussions focus on subscription video-on-demand services such as Netflix, Amazon Prime Video, Hulu, HBO Max, and Disney+. Subscription video-on-demand, often shortened to SVOD, was thoroughly popularized by Netflix, so much so that the platform has “become a verb (“let’s Netflix it,” “Netflix and chill”) (Lobato, 2019, p. 13). Netflix’s success was a result of its disruption of the “long acculturated sense that television content should be viewed on a television” (Lotz, 2017, p. 71). Further cementing Netflix’s central role in the tale of Internet-distributed television are the affordances the service offered to consumers. The Netflix Queue, now the Netflix List, allowed users to make sense of nonlinear television:

“The queuing that Netflix introduced provided its subscribers with a different paradigm for thinking about and organizing viewing behavior, and one that substantially challenges the long dormant, linear, ‘what’s on’ proposition” (Lotz, 2017, p. 74)

Netflix's model of online distribution of content is significant because it marked "a transformation in the underlying structure and business models of television by freeing content from a linear schedule" (Lobato, 2019, p. 25). This transformation created a new paradigm where personally selected and non-linear content is drawn from an "industrially curated library" (Lobato, 2019, p. 25).

SVOD services like Netflix should not be categorized as internet media. Lobato (2019) argues that such services are "much more television-like than internet-like" as they "shun many of the interactive affordances of internet media in favor of established narrative structures, aesthetics, and experiences" (Lobato, 2019, p. 28). SVOD platforms in fact outright reject established conventions of digital media. SVOD content is not user generated, holds no social aspect, and is not free. SVOD platforms are essentially another permutation of television and film, except for "its route into people's homes" (Lobato, 2019, p. 28).

SVOD styled distribution was quickly identified as an appealing new method of video consumption. For Hollywood studios and producers, SVOD platforms facilitate various cost reduction strategies. Producers do not need to negotiate distribution contracts with theater groups and physical media distributors. As a result, traditional methods of lowering production costs have been curtailed, methods like filming taking place outside of Southern California. As Scott (2002) notes, most of this production exodus was directed towards Canada, Britain, and Mexico; all countries with "relatively low wages, low rental rates for sound stages and equipment, advantageous foreign exchange rates, government tax credits, and so on" (Scott, 2002, p. 968). The rise of SVOD platforms allowed for studios to vertically integrate and have full control of distribution for their

products, and no longer need to outsource foreign labor. Fortmuller (2021) notes, that while early adopters of streaming were “primarily tech companies challenging Hollywood from the outside” newer services such as Disney+, HBOMax, and Peacock were launched by “legacy studios” that sought to capitalize on the growing digital market (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021, p. 40).

Internet-distributed television enabled and popularized new models for revenue. The subscriber model has experience significant success, has quickly proven itself against legacy practices of pricing and selling. Subscriber-only revenue models are not a not a unique practice to Internet-distributed media. As Lotz (2007) notes, subscriptions to prints goods like magazines have been popular for the past century, such transactions are still “distinct from the concept of portals” (Lotz, 2017, p. 35). This is due in large part to the content offered by SVOD platforms. Traditional print-based subscriptions offered specific publications or brands; digital and SVOD subscriptions provide paying users with access with a wide breadth of content selection (Lotz, 2017). The success of digital subscription models has lessened Hollywood studios’ dependence on advertisers, opening opportunities for smaller studios and producers and lessening the stark disparity existent in the American film and television industry.

Severe Social Disequilibrium

The third condition eluded McChesney at the time of his writing: “The third condition – the overall stability of the political and social system – is the great unknown” (McChesney 2007, p. 11). The actual structure of contemporary Hollywood reeks of “severe social disequilibrium”, as it’s an industry that has become highly stratified between “the majors and their cohorts of

allied firms” and the “mass of independent production companies” (Scott, 2002, p. 957).

“Majors” refers to the eight contemporary major studios in Hollywood: Metro-Goldwyn-Mayer, Paramount Pictures, Sony Pictures Entertainment, Twentieth Century Fox, Universal Studios, Walt Disney Company, and Warner Bros. These majors, Allen Scott argues, engage in “varying degrees of vertical integration” that includes the ownership of major sound stages and significant postproduction facilities (Scott, 2002, p. 966). While Hollywood is structured around inequity, that structure is not enough to qualify for McChesney’s third condition; it was still an overall stable system. For the third condition to be met, the stability of Hollywood’s existing order would need to face extreme disruption.

It took nearly two decades for such a disruption to occur, and the COVID-19 pandemic thoroughly interrupted the overall stability of our contemporary systems. Specifically, COVID interrupted the transition towards a fully globalized society by halting the flow of commodities across the world. Instead of their products becoming immobilized in a random port, filmmakers and Hollywood studios found themselves unable to provide customers with their products because those products were suddenly unviable to produce (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021). COVID protections severely limited the productions of film and television products, causing delays and cancelations that cost studios millions of dollars in lost revenue. In the case of film, traditional modes of distribution also became impossible to use. Quarantine protections meant that film theaters were left empty, and studios scrambled to find ways to overcome both obstacles.

Production was also directly affected by the pandemic. Filming for projects such as the latest *Mission Impossible* and Matt Reeves’ *The Batman* were halted by positive COVID tests within the cast and crew. Concerns over worker health, or rather concerns that concern over

worker health would halt production, led to creative solutions on how to deal with the disease. Production companies such as Tyler Perry Productions and Netflix Studios sought to limit the spread of contagion by sequestering creatives within a “bubble” like the NBA’s experiment at Disney World. Tyler Perry’s approach is of note here. Recognizing that the national response to the pandemic was hampering the industry’s return to normalcy, Perry gathered cast and crew for his *Sistas* and *The Oval* productions to his estate on a former military base in Georgia. When the Georgia state government issued lackadaisical directives for avoiding the spread of COVID, Perry went to great lengths to ensure that protocol was in place, crafting a thirty-page handbook that covered everything from hygiene to transportation (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021).

Hollywood as an industry relies on workers who piece together a living via various gigs, a labor order that often leads to periods of unemployment or underemployment. Further complicating issues is the nature of payment within the industry. For many workers within Hollywood, wages are the norm. But for more visible laborers such as actors, salaries and guaranteed payments ensure compensation, even during times of extraordinary disruption such as the COVID-19 pandemic. What little protection for these workers that exists comes not from major studios or employers but rather from unions such as the International Alliance of Theatrical Stage Employees (IATSE) and Local 600 (the International Cinematographers Guild). Organizations such as these provide support structures for their members, often in the form of funds such as the Actor’s Fund (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021). As Fortmueller describes in her book *Hollywood Shutdown*, the support apparatuses of the industry were quickly overwhelmed by the vast scale of the pandemic crisis. By May of 2020 over a hundred and twenty thousand people had lost jobs in

the media industry, unemployment on a scale previously unheard of within the motion picture industry. The ensuing scramble by unions and guilds to support their constituents lead to industry wide calls for federal support and “strategized plans to financially assist members during the closures” (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021).

The all-encompassing nature of the pandemic meant that freelancers and gig workers were not able to rely on jobs and income revenues that would otherwise sustain them during periods of unemployment or underemployment. Making a living with side hustles or part time work was severely hampered by sweeping closures of businesses such as gyms, restaurants, and concert venues (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021). This labor inequity was further highlighted when streaming platforms and digital companies like Netflix embraced COVID safety measures and continued to pay cast and crew even when productions were forced to shutter (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021). This focus on safety allowed Netflix to quickly resume production in July of 2020. Quarantine and work from home directives forced filmmakers, especially below-the-line workers, to conduct creative processes from home. This shift did not affect the industry equally. Some sectors such as animation and editing, were hardly affected, as editors and animators were able to easily continue their work from home (Fortmueller, *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*, 2021). The digital nature of animation and post-production lead to a small boom for companies such as Bento Box (the studio behind Fox’s television sitcom *Bob’s Burgers*). Unlike many contemporaries, Bento was able to hire additional freelancers in March of 2020. This is not to say that the animation and post-production sectors were unaffected by the

pandemic. Many of the laborers in these fields are freelancers, workers struggling within the gig economy that pervades much of Hollywood.

There does not yet exist any sizable body of scholarly work detailing the effects of the pandemic on the lives of Hollywood workers. Scholars like Kate Fortmueller, who I have drawn from extensively in my research, have done great work chronicling a contemporary description of the events of the pandemic and Hollywood's reactions. Theory and investigations will come with time once the dust settles. It is my hope that this thesis facilitates such study, providing a theoretical springboard for further research that further illuminate just how much the industry has changed.

Methodology

Political Economy of Communication

If this thesis is to serve as a foundational text for further study into the impact of COVID on Hollywood, I need to be as explicit in my rationale for structuring this thesis and my research. I utilized the “political economy of communication” as an overarching theoretical framework, as it is well suited to this thesis’ focus on industry study, particularly in how political economy of communication facilitates investigations on structures of power and labor. Jonathon Hardy claims that analyses of labor have become increasingly important for political economy of communication. Specifically, regarding media labor, Hardy notes the fact that attention to the topic is “belated but diverse”. Such analyses often focus on the “transformation in working practice and arrangements, de-professionalism, and professional-amateur hybridizations” (Hardy, 2014). Hardy concludes that the “purpose of PEC is not to iterate the pessimistic against optimistic speculation. Instead, it tries to investigate the political economic conditions for communications practices and uses the analysis of existing arrangements to consider the constraints on possible arrangements. This purpose neatly aligned with my goals of uncovering how methods of production and compensation had been altered by the COVID-19 pandemic.

Political economy of communication has a history of neglecting explication of its research methods, a habit which I seek to avoid here. In using political economy of communication as my primary theoretical lens I relied on the classic PEC approaches of “burrowing down” into trade press reports and “listening in” to the “frank, insider discussions therein” (Corrigan, 2018). To obtain useful and reliable data from industry press I relied on John Scott’s four “quality control criteria” to assess trade documents I read: authenticity, credibility, representativeness, and meaning.

Authenticity concerns whether a document is what it purports to be. An authentic document is dependent on its “soundness” and “authorship”. Soundness refers to a document’s status as an original or reproduction and whether a reproduction is faithful to the likeness of the original in its legibility (Corrigan, 2018). Ascertaining authorship is achieved through determining who or what “really produced” a document. In trade press this process is simple as a simple referral to a by-line or journalist’s attached bio. Authorship does not totally account for bias, but it does a lot to inform researchers of a document’s authenticity. Typically, authenticity becomes an issue when dealing with other documents. As my research dealt mostly with contemporary sources soundness was a non-issue as each source was sourced digitally. So too was authorship never in question, as I was easily able to determine who wrote each piece I read.

Credibility is in reference to “how distorted [a document’s] contents are likely to be” (Corrigan, 2018). To identify credible documents, a researcher must inspect its “accuracy” and “sincerity”. These criteria are of great concern when dealing with trade press, as it important to not draw from sources that actively seek to advance pro-corporate industry talking points or interests. I avoided drawing my primary sources from corporately branded texts, relying instead on unaffiliated trade press with established industry credibility. This included publications such as *Variety* and *Vanity Fair*. Individual articles were sourced directly from their publication’s website through integrated search functions.

Representativeness is used to describe “whether the documents consulted are representative of the totality of relevant documents” (Corrigan, 2018). This is determined via a document’s “survival” and “availability”. Most documents I used as sources in my research were contemporarily written news articles posted to publication websites, thus their availability was never in doubt. So too was their survivability.

Meaning is rather self-explanatory. It refers to how PEC researchers must understand “the words, images, and other meaning – conveying devices therein” (Corrigan, 2018). Meaning is understood to be the “extent to which the evidence is clear and comprehensible to the researcher” (Corrigan, 2018). Traditionally, meaning is derived at one of two levels: literal and interpretive. The literal approach is focused on “unambiguous facts and figures” while an interpretive approach uses “textual, rhetorical, semiotic, discourse, or ideological analysis” that allows for latent meanings in trade press. For this thesis I relied on a literal approach, as my primary interest lay in the facts of each case study and the timeline of events they created.

Case Study

A qualitative case study approach was utilized as this study’s framework. A qualitative case is described by Merriam (1998) as “an intensive, holistic description and analysis of a single instance, phenomenon, or social unit” (Hesse-Biber, 2017). Stake (1995) states that qualitative case studies utilize “naturalistic, holistic, ethnographic, phenomenological, and biographic research methods” (Hesse-Biber, 2017). When constructing the methodology and structure for my thesis research I found myself drawn to the arguments made by Stake (2005): “case study concentrates on experiential knowledge of the case and close attention to the influence of its social, political, and other contexts” (Hesse-Biber, 2017). These characteristics aligned closely with my intended subject of the coronavirus pandemic and Hollywood. I elected to use exploratory methodology, deeming that I wanted my research as an initial entry point into the subject, affording me the opportunity to apply any theories to further cases.

As I planned to use two separate cases for my research, this study fell into the “collective” category of case study, so called as the approach “allows to compare and contrast different cases” (Hesse-Biber, 2017). I believed that a thorough investigation of my core research

question necessitated at least two different perspectives to accurately demonstrate the COVID-19 pandemic's role in affecting Hollywood industry norms. Additional cases prove that the examples provided were not flashes in the pan or unprecedented outliers, instead by presenting two similar but separate cases I was able to demonstrate that COVID-19 induced multiple industry wide changes. I approached each case study with two methodologies: critical discourse analysis and historical discourse analysis.

Critical Discourse Analysis

Critical discourse analysis was the first of two primary research methodologies used in this thesis. Broadly speaking, critical discourse analysis is a qualitative and interdisciplinary approach focused how language within popular discourse. Under the methodology of critical discourse analysis language is viewed a form of social practice, in which ideologies become embedded. Within the framework of critical discourse analysis, “discourse is held to be socially shaped as well as socially constitutive” (Johnson & Mclean, 2020). Importantly for this thesis, critical discourse analysis is particularly useful for revealing inequitable power relations that exist within specific institutions. When coupled with the revelatory nature of political economy of communication, becomes a vastly useful tool for investigating how power relations are perceived within the American film and television industry.

In addition to its inherent revelatory nature, critical discourse analysis was an appealing methodology because of its flexibility. Critical discourse analysis is not tied to a specific form of research, rather a desire for “robust contextual understandings of the dynamics of particularly topics or problems” provides researchers with wiggle room in determining study structure (Johnson & Mclean, 2020). In the early stages of research for this thesis I was still unsure on how to best approach my overarching research question of “how did the COVID-19 pandemic

affect power relations existent within Hollywood.” I determined that critical discourse analysis’ flexibility would service as a boon for ensuing research, as I would not be tied to a particular set of methods. This would allow for methodology to be established as I moved through my research. The only limitation established at the outset of this thesis was a focus on textual discourse, specifically within entertainment industry press publication such as *Variety*, *The Hollywood Reporter*, and *Billboard*. Following the example set by Norman Fairclough, I worked to shift my analysis between descriptive, interpretive, and explanatory stages. My research was organized in this sequence in the data portion of this thesis.

Descriptive came first. For each case study I set the stage as it were, describing to the reader the context within each example occurred. With the example contextualized, I provided a chronological description of events, guiding readers through the story and its major beats and ensuring that the basic framework of the case study example was established and that readers would be acquainted with the characters in each example and the issues at stake. In the case of Scarlett Johansson’s lawsuit, I presented the reader with Johansson’s core complaints against the Walt Disney Company, the order of events in which the lawsuit was filed, and the preceding events that led to Johansson’s lawsuit. For the below-the-line perspective of the nearly averted International Alliance of Theatrical Stage Employees (IATSE) strike of 2021 I followed a similar pattern. First, the reader is provided context on what IATSE is and the role the union fills. I then outlined to the reader how the COVID-19 pandemic revealed below-the-line worker complaints against working conditions on production sets. I then outlined the demands IATSE made for its members during negotiations with the Alliance of Motion Picture and Television Producers (AMPTP), the trade association primarily responsible for negotiating all industry-wide guild and

union contracts. Following this, I organized IATSE's demands for the reader and detailed whether each demand was met during negotiations for a new basic agreement.

After this descriptive stage I provided interpretation of each event. It in this stage that I presented the reader with my analysis of each case study and its effects on the American film and television industry. For the Scarlett Johansson case study, I argued that Johansson's lawsuit demonstrated Disney's eroding control on the creative workers it employs. Pressing further, I stated my belief that Johansson's public rebellion against, and censure of, Disney provides the foundation for further empowerment of above-the-line workers. For IATSE's case study I explained that the new basic agreement signed by IATSE and AMPTP continued the goals of the 2008 Writers Guild of America strike, wherein below-the-line workers expressed discontent with the residual formula assigned to them and a desire to reclassify made-for-Internet projects to allow for greater worker compensation. The IATSE case study I argued, served to achieve these goals by redefining internet streaming media and winning below-the-line workers better working conditions.

Finally in the explanatory stage I expanded on why I believed each study was emblematic of the rapid industry-wide changes catalyzed by the COVID-19 pandemic. In my explanation I leaned heavily on the claims that the Coronavirus pandemic accelerated the establishment of Streaming Video on Demand (SVOD) services like Disney+. While platforms like Netflix and Hulu existed prior to the Coronavirus outbreak, I explained that pandemic protections such as business closures and social distancing forced studio producers to seek alternative means of distribution for their products, with SVOD platforms being the logical choice. The ensuing focus on streaming platforms reinvigorated the discourse surrounding worker affordances on "new

media” projects. When coupled with the disruptive nature of the pandemic, these discourses evolved into direct action that saw workers reclaim some power from studio producers.

Historical Analysis

Historical analysis was a necessary tool in establishing precedent for my argument. Specifically, I used historical analysis of previous labor conflicts within Hollywood to demonstrate that such events are key moments in redefining rules and norms within the American film and television industry. This historical analysis served two different functions within my below-the-line case study. First was analysis of cause-and-effect relationships. Historical analysis allowed for the identification of precipitating events in Hollywood’s labor past. Analysis of cause-and-effect patterns illustrate the influence of human interests in evoking change in the industry. Second, historical analysis allowed me to draw comparisons across the different eras of Hollywood. These comparisons helped me to identify enduring issues within the industry. The identification of these issues, mostly including fair worker compensation and working conditions, explained the developments of the industry over the years, providing the context necessary to understand our contemporary paradigm. Most importantly of all, historical comparison afforded me the opportunity to highlight the role COVID-19 played in recent labor

Historical analysis is inherently based on the skills of historical comprehension. Assessment of historical accounts is reliant upon the ability to differentiate between expressions of opinion and informed hypotheses “grounded in historical evidence” (University of California, Los Angeles, 2022). This requires researchers using historical analysis to assess the evidence which authors draw upon. Determining bias, context, and motivation are all important tasks in a historical analysis. In the selection of sources, I used historical compensation skills to ensure consistent quality of evidence gathered. This involved picking articles and contemporary sources

on each historical event in industry press that did not exhibit obvious bias in its reporting, a process that drew heavily on Scott's four quality control criteria of authenticity, credibility, representativeness, and meaning.

Data

The Above-the-line Perspective

In classic Hollywood fashion, the effects of the COVID-19 pandemic are most visible for the film industry's above-the-line workers, namely the famous directors and actors that dominate Hollywood news cycles. Scarlett Johansson is one of, if not the most, famous actress active today, so her lawsuit against the Walt Disney Company made the paradigmatic shifts in the industry highly visible, leading to intense public discourse about the future of Hollywood and its modes of productions. In this section I demonstrate how Johansson's lawsuit is emblematic of the shifting power dynamics that were accelerated by pandemic induced closures and restrictions. Johansson's suing of Disney, and the ensuing industry discourse, provide the building blocks for a new Hollywood paradigm wherein workers may reclaim bargaining power from studios and industry ownership.

What is Above-the-line?

When used in the film and television industry, above-the-line refers to the costs of production associated with the major creative talent attached to the project (Kench, *Above the Line Film Positions & How They Work in a Budget*, 2021). Above-the-line works are highly visible to those outside the industry. Notable above-the-line roles include directors, actors, writers, and producers. These are the individuals who operate as the "management group" for a given project and are committed to the project rather than a particular aspect of the project's production (Morley & Silver, 1977)

Above-the-line workers are seen as indispensable on film set, which prevents their transfer or termination from projects, despite a director's most fervent wishes. By signing their contracts during preproduction, above-the-line workers are faced with rigid expectations for their

contributions and compensation for their work (Morley & Silver, 1977). In cases when above-the-line workers face contract disagreements with studios and producers, drastic action can be the only way to reclaim some of their lost power and autonomy. British-American actress de Havilland and her contract disputes with Warner Bros. serve as a direct historical comparison to Scarlett Johansson's suit against Disney and establishes historical precedent for above-the-line actors using legal action to wrest control of their labor back from Hollywood studios.

Above-the-line Contracts and Labor Precedent

Born in 1916, de Havilland first rose to cinematic prominence in the 1930s, appearing alongside Errol Flynn in *Captain Blood* (1935) and *The Adventures of Robin Hood* (1938). But it was for her role as Melanie Hamilton in *Gone with the Wind* that launched de Havilland into Golden Era stardom (Thomas, 1986). de Havilland signed with Warner Bros. in 1937 for her part in *The Adventures of Robin Hood* and was personally cast by Jack Warner himself (Matzen, 2010). de Havilland's contract was set to expire in 1943 after seven years of working on Warner Bros. productions, but the actress was informed that the studio was adding an additional six months to the contract, citing previous suspensions (Thomas, 1986). At this point in Hollywood's history, California state law allowed film studios to suspend under contract actors for refusing a role and that the resulting suspension could be added onto the contract period (Kass, 1976).

de Havilland filed a civil suit against Warner Bros. on August 23, 1943, wherein she and attorney Martin Gang sought declaratory judgement, a legal determination whether the actress was still bound by her contract. de Havilland's suit cited a preexisting section of the California Labor Code which prevented employers from enforcing employee contracts longer than seven years from the date of the contract's first performance (Kass, 1976). The case went to the Los

Angeles County Superior Court, which ruled in de Havilland's favor in November of 1944 (Thomas, 1986). The Court's decision is one of the most significant legal developments in Hollywood's history, as it significantly reduced the power of film studios and afforded above-the-line workers with greater creative freedom through the prevention of predatory contractual practices. As a direct consequence of de Havilland's revolt, Warner Bros blacklisted the actress from the industry. She did not work for another film studio until two years later (Thomas, 1986).

Olivia de Havilland's case demonstrates for us that above-the-line labor, despite its visibility and celebrity, can be subject to predatory and abusive labor practices. De Havilland's legal uprising against studio powers has had far reaching effects, the "seven-year rule" is now known as the De Havilland Law (Belloni, 2007). De Havilland laid the groundwork and paved the road as it were, providing later above-the-line laborers with a blueprint for successful retaking of workers' rights in an uncaring industry. Nearly eighty years later, Scarlett Johansson would continue the tradition when she sued the Walt Disney Company for breach of contract.

Scarlett Johansson and the Disney Lawsuit

On the morning of July 29th, 2021, entertainment attorneys from the Periwinkle group submitted a complaint to the California Superior Court alleging that Hollywood star and actress Scarlett Johansson had been the victim of "intentional interference with contractual relations" and suffered from a "induc[ed] breach of contract" (Periwinkle Entertainment, INC., F/S/O Scarlett Johansson, A California Corporation vs The Walt Disney Company, A Delaware Corporation, 2021). In the complaint, Johansson claimed that the Disney Corporation had breached her contract for the Marvel Studios' release of *Black Widow*. Disney had, according to Johansson, promised that *Black Widow*'s release would be "a *theatrical* release" (emphasis original) (Periwinkle, 2021). By releasing *Black Widow* onto the Disney+ streaming platform the

same day as its theatrical release, Johansson and her legal team alleged that the Disney Company had attempted to lure movie going audiences to its new streaming service in a bid to increase its stock price and initial subscriber count, ostensibly keeping revenues to itself (Periwinkle, 2021). More importantly for Johansson, Disney wished to “substantially devalue” (Periwinkle, 2021) its agreement with the actress to compensate her based on box office receipts generated by the film. While the use of streaming services had been on the rise prior to the COVID-19 outbreak, it was the pandemic and the subsequent measures to stem it that truly catalyzed a shift in the balance of power within the film industry, as above-the-line workers realized that traditional modes of compensation were no longer attainable or realistic. The Johansson lawsuit demonstrates this has been particularly evident in contractual negotiations, as above-the-line workers no longer rely on “soft” contracts, or mutual agreements between two parties that do not specify the deliverables owed by each party, but rather shift to more explicit agreements with upfront payments.

Pre-COVID Contracts

Black Widow was officially announced in 2019, but Johansson’s contract was finalized on May 9th, 2017. Referred to by the lawsuit as the “Agreement” (and so also described in this text), Johansson’s contract supposedly “guaranteed her a share of “box office receipts”” (Periwinkle, 2021). These receipts were meant to be receipts for *Black Widow*’s theatrical ticket sales. Johansson’s suit claimed that in a bid to protect her payout from these receipts Johansson “obtained from Marvel a valuable contractual promise that the release of the Picture would be ‘a wide theatrical release’” (Periwinkle, 2021). Such an agreement hinged on the understanding that “a wide theatrical release” entailed that *Black Widow* would be released “*exclusively in movie theatres*, and that it would remain *exclusively in movie theatres* for a period between approximately 90 and 120 days” (emphasis original) (Periwinkle, 2021). Such a period, the

lawsuit contended, was “industry-standard at the time of the Agreement” and “standard practice for prior Marvel movies distributed by Disney, including those starring Ms. Johansson” (Periwinkle, 2021).

Launched roughly six months after finalization of the Agreement in November of 2019, Disney+ played a significant role in Johansson’s breach of contract. As a fledgling subscription video-on-demand service (“SVOD”), Disney+ faced intense competition as the SVOD market had become increasingly saturated, with mainstays such as Netflix, Amazon, and Hulu jostled for dominance with other relative newcomers such as Time Warner’s HBO Max and Apple’s Apple TV+. Johansson’s legal team asserted that Disney faced major concerns that consumers would be unlikely to buy into Disney+ and its \$7 monthly access fee (which at the time of writing has been increased to \$8). To better entice consumers, Disney’s then CEO Bob Iger announced that Disney+’s catalog would include its entire library of feature films as well as many popular television series such as *The Simpsons* and other original content, with the only exception being Harve Foster and Wilfred Jackson’s infamous *Song of the South* (Periwinkle, 2021; Bakare, 2019). Most crucially argued Johansson’s suit, Disney announced that Disney+ “would eventually be the go-to source to stream the MCU” or the Marvel Cinematic Universe, an acronym used to refer to all film and television texts using Marvel characters (Periwinkle, 2021).

Such announcements, stated Berlinski, caused Johansson “unease,” leading her to seek assurances from Marvel and Disney that the Agreement would be upheld “with respect to the theatrical release of the Picture guaranteed in her contract” (Periwinkle, 2021). In May of 2019 Marvel’s David Galluzi responded to Johansson’s concerns stating:

“We totally understand that Scarlett’s willingness to do the film and *her whole deal* is based on the premise that the film would be widely

theatrically released *like our other pictures*. We understand that should the plan change, we would need to discuss this with you and come to an understanding as *the deal is based on a series of (very large) box office bonuses*” (emphasis original) (Periwinkle, 2021).

Such communication was taken by Johansson as confirmation of both parties’ understanding that “(1) the box office bonus component of Ms. Johansson’s Agreement represented the lion’s share of her expected compensation, and (2) the wide theatrical release that Marvel had promised would be ‘like our other pictures’, meaning the standard Marvel/MCU 90-120 days of theatrical exclusivity (Periwinkle, 2021).

Black Widow’s release & Johansson’s Suit

In late March of 2021 Disney violated its promises to Johansson and announced that *Black Widow* would be released to theaters and Disney+, citing the COVID-19 pandemic as a major factor in the decision. Of note is that *Black Widow* was set to be available through Disney+ Premier Access, “a service available only to Disney+ subscribers that provides unlimited on-demand access to select films for an additional \$30-per-film fee beyond the monthly subscription cost (of Disney+)” (Periwinkle, 2021). Disney+ Premier Access launched in September of 2020 “to allow audiences to watch the latest cinematic release from Walt Disney Studios from the comfort of their own home during the ongoing pandemic at a premium” (Pateman & Marshall, 2022). Johansson’s counsel expressed belief that Disney directed Marvel to ignore their agreement with Johansson.

Black Widow’s digital release significantly impacted its box office performance. The Disney+ Premier Access release grossed more than \$60 million during its first weekend according to Disney’s own admission. Digital success such as this “cannibalized” *Black Widow’s*

theatrical numbers (The Walt Disney Company, 2021). Johansson's lawsuit includes an unattributed quote from "one well-known Hollywood trade journal":

"Veteran distribution executives say it's clear that the availability of the movie on Disney+ cannibalized box office, noting that an entire household might have gone to see the movie in the theater but could instead just pay \$30 to watch it together" (Periwinkle, 2021).

Another publication is quoted as saying:

"There's no question that the Disney+ Premier availability of *Black Widow* ate into its domestic opening weekend box office" (Periwinkle, 2021).

Despite *Black Widow*'s poor theatrical performance, Disney's stock price rose by 4% in the days following the film's release (Periwinkle, 2021). Johansson's legal team contended that this digital switcheroo had been Disney's plan all along. "A day-and-date" release on the Disney+ platform would instantly inflate the number of Disney+ subscribers, a key-metric in increasing stock price. Additionally, by offering digital releases of well-known or tentpole films Disney would be able to reduce subscriber "churn", an industry term used to describe the "percentage of service subscribers who discontinue their subscription within a given time period," and would later be able to justify any future price increases to Disney+'s \$7 monthly subscription fee (Periwinkle, 2021; Frankenfield, 2021). By delivering "blockbuster content" like *Black Widow* to its subscriber base, Disney+ is the only streaming platform that has a chance to one day compete with rival streaming giant Netflix", which more importantly for the company's many investors, would lead to further bolstering of Disney's market valuation (Periwinkle, 2021). With all these factors in consideration, Johansson and her counsel concluded that "Disney chose to placate Wall

Street investors and its bottom line, rather than allow its subsidiary Marvel to comply with the Agreement (Periwinkle, 2021).

The Johansson suit expressed the actress' displeasure with Disney saving "very large" amounts of money that would otherwise be owed to Johansson, although it is never made clear by the suit nor Disney's financial records the percentage owed to Johansson, leaving the star's missed payout up for conjecture. As stated plainly by Johansson's lawsuit: "Disney intentionally induced Marvel's breach of the Agreement, without justification, in order to prevent Ms. Johansson from realizing the full benefit of her bargain with Marvel" (Periwinkle, 2021). Johansson's lawsuit contended that personal gain also influenced Disney's decision: "Disney's financial disclosures make clear that the very Disney executives who orchestrated this strategy will personally benefit from their and Disney's misconduct". Disney Chief Executive Officer Robert Chapek was one such beneficiary, as in the fiscal year 2021 Chapek was awarded equity grants totaling 3.8 times his \$2.5 million base salary. Citing Disney's 2021 Annual Report, Johansson's lawsuit states the justification made by Disney's compensation committee was that Chapek "worked to quickly program new offerings on our DTC [direct-to-consumer] and linear channels" and "launched our direct-to-consumer services in several key markets" (Periwinkle, 2021). Also singled out was former Disney Chief Executive Office Bob Iger, who Johansson's lawsuit claims received just over \$16.5 million in the form of stock grants.

The given reason for Iger's substantial payout was that he "[s]uccessfully launched Disney+ and drove unprecedented subscriber growth in the first year" (Periwinkle, 2021). Disney's 2021 Annual Report provides further illumination, stating that increased revenues were due to "four releases in the current year, *Black Widow*, *Raya*, *Jungle Cruise*, and *Cruella* compared to one release in the prior year, *Mulan*" (The Walt Disney Company, 2021). From

October 2020 to October 2021, the number of Disney+ subscribers rose by 60%, from 73.7 million to 118 million (The Walt Disney Company, 2021). Most importantly for Disney's shareholders, the increase in direct-to-consumer subscription revenues played an important role in offsetting "lower theatrical releases" and "lower electronic home entertainment sales", which "reflected the impact of COVID-19" (The Walt Disney Company, 2021).

Even further evidence indicates that Disney executives were responsible for meddling in *Black Widow's* release. In a January 2021 interview, Marvel's president Kevin Feige was asked whether *Black Widow* would "stick to a theatrical release or go to Disney+". Feige was hesitant to reveal any concrete plan but did state that Disney's intent for the Marvel Cinematic Universe was for its "storytelling to continue to unfold both in theatres and on Disney's flagship streaming". The COVID-19 pandemic presented a unique opportunity for Disney to experiment with day-and-date releases on its SVOD platforms and the "storytelling" Feige alluded to. As stated in the company's 2021 Annual report, "COVID-19 and measures to prevent its spread has impacted our segments in a number of ways... We have delayed, or in some cases, shortened or cancelled theatrical releases" (The Walt Disney Company, 2021). Even prior to its move to a digital day-and-date release, *Black Widow* had undergone a series of delays. Initially scheduled to be released on May 1st, 2020, the film was delayed several times as a direct result of the COVID-19 pandemic's first outbreak, being one of the many Disney film productions that faced "suspension" in March of 2020. By September 2020, *Black Widow* had been pushed back to theatrical release on May 7th, 2021, (Periwinkle, 2021). It becomes clear upon cursory investigation that Disney saw digital platforms as alternatives to traditional releases as the COVID-19 pandemic severely "limited the availability of film content to be sold in distribution windows subsequent to the theatrical release" (The Walt Disney Company, 2021).

The final nail in the coffin can be found in Disney's 2022 Investor Presentation. In a filing to the SEC, Disney notes that "Consistent Execution on Long-Term Strategy" was fulfilled by its executives. Of note is how executives like Chapek and Iger led "successful execution of our [Disney's] direct-to-consumer strategy, reaching 179 million subscriptions" and "Delivered premium content across various channels and continued to develop a strong creative pipeline as a result of creative endeavors" (The Walt Disney Company, 2021). Iger and Chapek clearly succeeded in bolstering Disney's stock value and revenue, the latter of which increased by 3% in 2021 (The Walt Disney Company, 2021). What Disney and its executives did not anticipate was the major backlash they would face for such decisions, which eroded the company's reputation as an employer and its ability to negotiate above-the-line contracts. Industry discourse clearly demonstrates that above-the-line workers such as actors or directors saw Disney's treatment of Johansson and *Black Widow* as cause for reevaluating the types of contracts they wished to sign.

The Industry Reacts

The filing of Johansson's lawsuit sent waves through the Hollywood community and mainstream news. In an interview with *Variety*, director Joe Russo expressed concern over the effects the suit would have on the filmmaking industry. "I do think it was indicative of a significant change that's been happening" Russo stated. "Corporations are panicking at the moment, because I think that half the studios are going to disappear in the next 5-10 years, and the game has changed dramatically" (Vourlias, 2021). Russo has worked on several major MCU projects in the past, including tentpole *Avengers* films. His expression of unease indicates a serious shift in how above-the-line workers view contract negotiations. Other prominent Hollywood names shared Russo's concern. "It's indicative of a larger struggle taking place in our business as talent shifts from one way of getting paid to another" stated Jason Blum, CEO

and of Blumhouse Productions (Lang, Littleton, & Maddaus, 2021). Blum built a reputation as a producer by persuading big name actors like Ethan Hawke to “exchange upfront fees on his low-budget horror films for profit participation that could pay for decades” (Donnelly, 2021). The absence of theater crowds made such an exchange much less appealing to actors working on Blumhouse produced films. “Talent is grabbing as much as possible on the front end because the traditional route to after-market profits through syndication sales and international licensing is disappearing as conglomerates build content war chests feed global platforms” *Variety* writers Brent Lang, Cynthia Littleton, and Gene Maddaus claimed in their coverage of the Johansson suit. “Johansson’s July 29 filing in Los Angeles Superior Court exposes the undercurrents of fear and uncertainty roiling the creative community” the trio wrote (Lang, Littleton, & Maddaus, 2021). These undercurrents are leading to actors abandoning the “soft contract” practice that had previously dominated Hollywood, instead demanding up-front payments that put far less onus on the performance of cinematic projects. Big name stars like Dwayne Johnson and Ryan Reynolds are now able to command immense front-end payments, effectively swinging the balance of power away from studios.

The Johansson lawsuit also reveals “the bare-knuckles business environment that has emerged as the industry battles the tiring effect of “whipsaw revamping” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021). The COVID-19 pandemic drastically altered the landscape of Hollywood, as it did for essentially any other industry. But the disruption created by the pandemic led to business opportunities that might not have otherwise materialized or reached similar success. Disney+ benefited greatly from the pandemic’s arrival, and Disney executives were quick to claim that the service was

“innovative solution to content distribution at a time when traditional moviegoing is depressed” (The Walt Disney Company, 2021).

The way Disney went about announcing *Black Widow*'s digital release and the film's subsequent performance also signaled a shift in practice for the filmmaking industry. “Until now, no traditional studio has publicly shared viewership numbers for any of the multitude of their movies that are debuting simultaneously in the home because of COVID-19” wrote Pamela McClintock for *The Hollywood Reporter* (McClintock, 2021). Many analysts agree that “day-and-date releases cannibalize box office and diminish other ancillary revenues” McClintock wrote. While Disney only garnered 2 million households for its digital release of *Black Widow* (2 million out of a 100 million or more customer pool), the company got to keep the entire \$60 million dollars it earned with Disney+ Premier Access, money that Disney would have otherwise split with cinemas under a traditional release (McClintock, 2021). Publishing viewership may seem like an innocuous practice at its face, but it reveals Disney's desire to legitimize day-and-date releases on digital platforms as the practice leads to significantly reduced costs related to distributor fees.

Black Widow's box office performance was, in a word, disappointing. Initially tracked to clear \$90 to \$100 million, *Black Widow* slumped in its second weekend. Barely clearing \$80 million, the film experienced a drop of “41 percent from Friday to Saturday – unheard of for a Marvel pic”, with a 15 percent drop being the norm (McClintock, 2021). This uncharacteristically poor performance was immediately linked to *Black Widow*'s release on Disney+. Hollywood research firm Screen Engine/ASI found that *Black Widow* had “cannibalized box office grosses more than other day-and-date offerings – including Disney+ Premier offerings such as *Cruella* (2021) – among customers who would have waited to watch it

in a theater had it not been available immediately on premium video on-demand” (McClintock, 2021).

Disney has justified this poor theatrical performance by citing *Black Widow*'s performance on Disney+. The film did in fact help entice potential customers to the service, with 39 percent signing up for the express purpose of watching *Black Widow* (McClintock, 2021). While many of those viewers ended up canceling their subscriptions after viewing *Black Widow*, the strategy of a digital day-and-date release “did help stem churn and retain customers who might have otherwise ended their membership” (McClintock, 2021). Disney has avoided giving any indication of whether its current practices will extend past the end of the COVID-19 pandemic, instead stating that the company's current decisions are being driven by pandemic-era rules. Disney Media and Entertainment Distribution chairman Kareem Daniel enforced this stance in a statement on July 21, 2021:

“*Black Widow*'s strong performance this weekend affirms our flexible distribution strategy of making franchise films available in theaters for a true cinematic experience and, as COVID concerns continue globally, providing choice to consumers who prefer to watch at home on Disney+” (McClintock, 2021).

Disney has provided little indication that this stance will change, stating in its 2021 annual report that:

“The impact of these disruptions and the extent of their adverse impact on our financial and operating results will be dictated by the length of time that such disruptions continue, which will, in turn, depend on the currently unknowable duration and severity of the

impacts of COVID-19 and its variants, and among other things, the impact of governmental actions imposed in response to COVID-19 and individuals' and companies risk tolerance regarding health matters going forward.” (The Walt Disney Company, 2021).

If anything, such corporate speak demonstrates that Disney has no plan, or more importantly, no desire to return to previous practices. The new normal of direct-to-consumer focus saves Disney far too much money for the company to ever return to its previous modes of practice.

Disney's freewheeling attitude towards film release altogether ignores concerns that money is being left on the table. McClintock (2021) quotes BoxOffice Pro analyst Shawn Robbins harbors a more cautious view on digital day-and-date releases:

“As more people grow comfortable returning to cinemas, how much money is left on the table by essentially discounting a new release for families able to share one purchase across an entire household, not to mention with friends and extended family?”

This loss of revenue has been a source of great concern not just for studios like Marvel or Disney, but for the creatives working on pandemic-era films as well. As the news of Johansson's lawsuit broke, support came pouring in. Creative Artists Agency co-chairman Bryan Lourd was eager to lend his support to Johansson, which is unsurprising given that Johansson is a CAA client. Lourd publicly criticizing the studio a day after news of the lawsuit broke. “They have shamelessly and falsely accused Ms. Johansson of being insensitive to the global COVID pandemic, in an attempt to make her appear to be someone they and I know she isn't” Lourd said in a statement (Vlessing, 2021). Lourd went on add:

“This suit was filed as a result of Disney’s decision to knowingly violate Scarlett’s contract. They have very deliberately moved the revenue stream and profits to the Disney+ side of the company, leaving artistic and financial partners out of their new equation. That’s it, pure and simple. Disney’s direct attack on her character and all else they implied is beneath the company that many of us in the creative community have worked with successfully for decades.” (Vlessing, 2021)

In a response to Johansson’s lawyer John Berlinski, Disney claimed that “the lawsuit is especially sad and distressing in its callous disregard for the horrific and prolonged global effects of the COVID-19 pandemic” (Hoffman, 2021). Such a claim led to backlash within the film community, with many criticizing Disney’s response as hypocritical, pointing out that the company had laid off more than 30,000 workers through the course of the pandemic (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021). The pettiness exhibited by Disney led to many members of the film community siding with Johansson. An unnamed talent agent voiced such sentiments in an interview with *Variety*: “Good for her. A lot of other actors are cheering for Scarlett and rooting her on. She has a lot of power and that makes this a visible conversation that puts Disney on the spot. By doing all of this in public, she might be able to change the rulebook” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021).

Putting it all together

This changing of the rulebook is manifesting itself as a shift in the balance of power during contractual negotiations. Previously, studios like Disney held significant bargaining power in large part due to the continued success of Marvel films, some of the “only sure-fire box

office draws” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021). Landing a Marvel film was the surest way an actor could raise their asking price for other films and “help them get other passion projects greenlit” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021). Being blacklisted or iced out from Marvel film opportunities can lead to career stalling. This leaves Disney with the upper hand in its previous negotiations, with one agent complaining that the company has “all the leverage” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021). But previously studios held to their promises even if contractual language was not precise. Leigh Brecheen, an agent who reps big name clients such as Conan O’Brien and John Oliver lamented at the current Disney scandal: “The Hollywood I grew up in, people had an understanding that terms were generally understood, and you’d be dealing with the people on the other side of the table again and again. That is gone” (Gardner, 2021).

Johansson’s lawsuit marked a shift in that paradigm. Prior to its filing, A-list film stars saw their top-end salary stall out around \$20 million for a single film. The meteoric rise in popularity for streaming platforms holds the potential to raise that pay ceiling, with streaming giants like Amazon or Netflix willing to “pay out 100% of actors’ backends in order to land stars like Ryan Reynolds or Dwayne Johnson for their projects” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021). More traditional companies such as Disney or Warner Brothers have struggled to establish their own compensation models as they have aggressively muscled their way into the streaming sphere. The COVID-19 pandemic has highlighted this misstep, as digital day-and-date release became the only reliable method of release. Joe Pichirallo, a former film executive, weighed in on the

current situation: “Everything is very haphazard right now, but sometimes it takes a crisis to resolve big issues, and this is a very big issue. Considering these new distribution patterns, a new compensation system needs to be worked out, so talent doesn’t feel like they’re being disrespected or treated poorly” (Lang & Maddaus, 'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney , 2021).

Johansson’s lawsuit will serve as a sort of “crucible” for the issue of compensation. The current system allowed for a lot of leeway, with *Hollywood Reporter* noting that “not every point in an actor’s contract is negotiated to its zenith” (Gardner, 2021). In fact, Gardner notes that actor contracts include a good deal of ambiguity, a conscious decision leading to liberal use of shorthand writing. Gardner quotes a “top talent lawyer”, who requested anonymity “to avoid this quote ever being used against clients in court”: “if you’re going to ask for something better be sure you’ll get it. Often, the smart ones conclude it’s in the best interest to not raise the issue. The last thing you wish to create is clarity that you don’t have what you wanted” (Gardner, 2021). Gardner notes that in the case of Johansson and *Black Widow*, it is that same ambiguity that led to Johansson and Marvel’s Agreement breaking down. Marvel Chief Counsel Dave Galluzi’s email to Johansson assuring the actress that “should the plan change”, Marvel would “need to discuss this with you [Johansson] and come to an understanding” (Periwinkle, 2021) is a prime example of this Gardner argues. While Johansson and Berlinski focused on Galluzi’s email in their lawsuit as primer evidence of Disney’s disregard for the Agreement, the very wording of Galluzi’s email raises questions about deniability. As Gardner notes:

“Even if it [the Agreement] amounts to an enforceable amendment for a theatrical release (rather than just consultation), it doesn’t explicitly guarantee ‘exclusive’ theatrical release. And, even if implicitly it does,

how long must it play in theaters until *Black Widow* can show up on Disney+? That's a pretty important point to gloss over, and yet it's that kind of indefiniteness that's been rather characteristic of the paradigmatic Hollywood deal" (Gardner, 2021).

As one unnamed attorney notes of Galluzi's email, "He was saying this is our plan. That's a red flag. What do you mean it's our 'plan'? That's our deal. Plans change. Agreements don't" (Gardner, 2021).

While the merits of Johansson's lawsuit are argued in industry discourse, what is truly "inarguable" is how "talent reps are now looking at this spectacle and drawing hard lessons. The takeaway, as they see it, is that Disney, not unlike one of the rapacious tech giants, is prioritizing the rule of contract over the rule of relationship. And that economic incentives and measures of success no longer are quite aligned in the movie business" (Gardner, 2021). While the Johansson case spurred similar lawsuits, Gardner contends that its lasting impact will be a shift in "the psyche of dealmakers. Everyone is now suddenly realizing that ambiguity in contracts has become less tolerable" (Gardner, 2021). Hollywood stars have already begun to take notice and change tactics, sensing that "the old way of making money for A-list talent has atomized" (Lang, Littleton, & Maddaus, 2021). Matt Damon informed reporters at the Cannes Film Festival of his decision to turn down an offer for James Cameron's *Avatar* in exchange "10% of the profits" (Lang, Littleton, & Maddaus, 2021). Above-the-line talent, despite their celebrity, have historically profited far less off their creative work than the studios they work with. "Owners do better than talent. Consistently, every time, always without fail", argues *Variety*, using "owners" interchangeably with studios (Lang, Littleton, & Maddaus, Battle Royale, 2021). Streaming platforms like Netflix and Apple are rewriting this rule, as streamers recognize that talent are

sacrificing box office back ends to appear in films slated for digital day-and-date releases.

Variety's Matt Donnelly points to actors like Daniel Craig, Dwyane Johnson, and Ryan Reynolds as prime examples of this shift. Craig will earn \$100 million for his starring role in *Knives Out 2* and *Knives Out 3* thanks to the mega deal he signed with Netflix (Donnelly, 2021).

This new contractual economy has posed serious problems for big studios. Warner Brothers faced borderline mutiny when it announced that its full slate of films for 2021 would be released on its HBO Max platform. "For the past 12 or 18 months, every distributor developed different needs and different ways of apportioning compensation" AGBO Productions co-founder Mike Larocca told *Variety* in 2021 (Lang & Maddaus, 2021). Producers and creatives have attempted to be innovative like Larocca suggested. Jason Blum signed a \$400 million deal in 2021 with Peacock and Universal for a trio of sequels to *The Exorcist*. "That's me doing my best to embrace the new Hollywood" Blum quipped to *Variety* in an interview. "Better movies and TV shows are made when creators' financial interested is tied to how users access that content" Blum continued. (Lang, Littleton, & Maddaus, 2021). As Blum points out, front-end fees hold a certain allure for creatives. Having guaranteed front-end fees lets actors "spend time and energy making better movies", stated an unnamed "top film agent" in an interview with *Variety*. "With streaming, back end was already going away. [Front-end] fees make it easier to know where you stand" (Lang, Littleton, & Maddaus, Battle Royale, 2021). Front-end fees represent clarity and fair treatment for actors. "All the clients ever want is to be treated fairly by the studio" entertainment lawyer Roman Silberfeld stated to *Variety*. "They want to have even ambiguous agreements interpreted fairly" (Lang, Littleton, & Maddaus, 2021).

Whether this trend continues to solidify into hegemonic practice is unclear. "How many major stars are going to be willing to sign on for a case like this?" questioned entertainment

lawyer Neville Johnson (Lang, Littleton, & Maddaus, 2021). Hollywood culture clearly wants more to follow Johansson's example. Johansson's suit affects disputes that arise during the "transitional period" of COVID-19 era Hollywood. "It's not like it was two years ago, where there was a set definition of a back end" stated *White Noise* producer Uri Singer. "Now, you are not even sure there will be a theatrical release, and that changes things completely" (Lang, Littleton, & Maddaus, Battle Royale, 2021). The contemporary nature of this trend, and of any investigation such as this section, becomes problematic when attempting to predict whether this shift in the balance of industry power will endure. The COVID-19 pandemic continues despite efforts to curtail it, or rather perhaps due to a lack of concerted public effort. Any predictions I might make about the nature of the industry are inherently reliant on whether the pandemic persists and sadly I simply do not have an answer to that question. However, the pieces are in place for significant change to occur in Hollywood. COVID has served as a catalyst, accelerating the trend towards a norm of digital distribution and the increased bargaining power of above-the-line workers as best exemplified by Johansson's lawsuit against Disney.

The Below-the-line Perspective

What is Below-the-line?

As opposed to *above-the-line*, *below-the-line* denotes production costs associated with film production that occur after principal photography has already begun (Squire, 2006). The term itself has a twofold meaning: "it relates to both the division of a film's budget, and the division of a film's crew" (Kench, What is Below the Line in Film & Which Crew Members Qualify?, 2021). When used to describe film industry workers, below-the-line refers to film crew members whose roles are considered technical in nature (Squire, 2006). Below-the-line workers can be further differentiated between production and post-production positions (Contis, 2019), but for

the purposes of this analysis below-the-line will be used in its broadest sense: workers operating outside the primary creative decision making during film production and post-production and “who are budgeted at a ‘variable rate’, meaning that their pay can fluctuate based on certain factors affecting a production” (Kench, What is Below the Line in Film & Which Crew Members Qualify?, 2021).

Most workers in the film industry fall into the below-the-line category, making up the labor backbone of Hollywood. Production Designers, Line Producers, Script Supervisors, and Sound Mixers are but a small sample of the wide variety of below-the-line positions (Contis, 2019). Below-the-line workers like infamous “Best Boys”, the name given to assistants of a film’s Gaffer and Key Grip, are often seen as disposable (Abreu, 2020). It is common for below-the-line workers to be swapped out over the course of a film’s production, usually “at the discretion of a film’s producers or at the request of the director” (Kench, What is Below the Line in Film & Which Crew Members Qualify?, 2021). It is because of this perception as “disposable” workers that below-the-line crew members receive variable rates of pay. Below-the-line workers are not paid for “any days spent off-set, meaning if shooting is delayed, a day of production is canceled, or a scene/location is cut from the production schedule” that worker will earn less compensation than they would have otherwise (Kench, What is Below the Line in Film & Which Crew Members Qualify?, 2021). Often below-the-line crew members are only involved in a production for a handful of days, quickly moving on to other productions as needed. This practice earned below-the-line workers the nickname “day-players” but also illustrates how these laborers are especially vulnerable to industry disruptions (Kench, What is Below the Line in Film & Which Crew Members Qualify?, 2021). When film productions are stalled below-the-line workers are left out in the cold without guaranteed income.

Scholarly literature on below-the-line focuses on the issue of labor stability. It is in this literature that one can observe the seesaw like struggle “between the *producers* and *labor*” (Nielsen, 1988, p. 121). Academic work on Hollywood labor has consistently been performed with a focus on the union and collective bargaining practices of the early 20th century. The union is “economic bedrock upon which the U.S. motion picture industry is founded” and provides clear examples of changes to workplace norms within Hollywood (Nielsen, 1988, p. 130). Scholars like David Bordwell caution against a total focus on accounts of unionization, as these narratives “do not stress an important area of labor activities – the fight by *individual* craft workers for recognition and bargaining power” (Bordwell, Staiger, & Thompson, 1985, p. 312). But what Bordwell and other below-the-line scholars often ignore discussing is the effects of extra-industry disruptions. Outside of World Wars one and two, below-the-line scholarship discount how disruptions outside Hollywood can affect below-the-line labor practices.

Industry Disruptions and Below-the-Line Labor

The COVID-19 pandemic was, and still is, one such disruption. Major productions such as *Mission Impossible 7* stalled because of the pandemic, with Paramount stating that “out of an abundance of caution for the safety and well-being of our cast and crew” the film’s Venetian based production would be placed on hiatus and that production plans were “altering” in attempts to abide by health and safety regulations (D'Alessandro, 2020). Decisions such as these are made without concern for the wellbeing of below-the-line workers. Crew members for *Mission: Impossible 7* were left wondering whether production would ever resume, let alone resume in the same location and with the same crew (Epstein, 2020). A lack of clear communication from studios and producers forced below-the-line organizations such as the Writers Guild of America

(WGA) and the International Alliance of Theatrical Stage Employees (IATSE) to turn towards an honored Hollywood tradition: the strike.

IATSE's threats of a strike signal a paradigmatic shift in industry practice and power for below-the-line workers. The disruptions posed by the COVID-19 pandemic placed a significant amount of bargaining power in the hands of Los Angeles area IATSE chapters. As *The Los Angeles Times* noted in September of 2021 this leverage was due to its timing:

“The dispute comes at a time when major studios are eager to ramp up productions after last year’s hiatus caused by the COVID-19 pandemic...studios [are] citing massive losses they incurred from the health crisis, which forced the cancellation or delay of numerous productions and severely limited box office returns.” (Sakoui, 2021)

While a strike was nearly averted by ratification of a three-year contract on November 15th of 2021, the actions of IATSE and its members are highly emblematic of the first and third criteria for McChesney's Critical Juncture theory:

- 4) There is a revolutionary new communication technology that undermines the existing system: the rise of streaming platforms resulting from pandemic induced isolation led to IATSE demands for streaming projects to no longer be classified as “New Media”, claiming that below-the-line workers attached to such projects are paid even less than other types of productions (Bahr, 2021).
- 5) There is a major political crisis – severe social disequilibrium – in which the existing order is no longer working and there are major movements for social reform: the COVID-19 pandemic highlighted the disparity in treatment for above-the-line and below-the-line workers. While above-the-line workers such as star actors Dwayne “the Rock” Johnson

and Ryan Reynolds were able to command multi-million-dollar paydays for the Netflix produced *Red Notice*, below-the-line workers were struggling to make a living wage (Dellatto, 2021). Additionally, the “ebullition of streaming platforms thirsting for hot new shows and films” placed increased pressure on below-the-line workers as production workloads increased without an equal increase in compensation and protection (Sakoui, 2021).

While the deal that emerged on November 15th did not fulfill all IATSE’s demands, nor did it succeed in overwhelmingly pleasing IATSE constituents (with less than 4% of the 63,000 eligible members splitting the difference during vote proceedings), the resulting protections and guarantees represent a win for below-the-line workers in Hollywood. More crucially, IATSE’s new contract provides important precedent for below-the-line workers to continue reclaiming labor rights from major Hollywood studios and the norms of production that operate within the American Film Industry. Like below-the-line strikes of the past, the IATSE conflict has laid the groundwork for more equal and egalitarian modes of film production.

Below-the-line Strikes and Labor Precedent

Below-the-line labor in Hollywood has traditionally expressed itself through strikes, using collective bargaining tactics to make its issues visible to not only the public but to the studios that control the industry. Strikes and other similar interruptions to production schedules have consistently proven to be an effective tactic in gaining work protections for below-the-line laborers, not only providing increased compensation but reducing the risks and demands that had become inherent in below-the-line film labor. This has been demonstrated repeatedly over the course of Hollywood’s history, extending beyond the Golden Era of Hollywood, so named because of the relative stability and security offered to production workers at the time

(Lukinbeal, 2007). Film eras and cultural norms shift but one truth remains constant in Hollywood: nothing evokes structural change faster than a good old-fashioned strike.

Hollywood Black Friday and the Establishment of Strike Norms

One of the most influential, and assuredly the most infamous, labor strikes in Hollywood history is Hollywood Black Friday, often referred to as Hollywood Bloody Friday. As the Second World War reached its conclusion, labor tensions in Hollywood were rising to new heights. On March 12th, 78 members of the Screen Set Decorators walked out on ongoing productions, citing seven months of a “war of attrition” between below-the-line laborers and an oppressive studio system (Doherty, 2021). A contemporary report from *The Hollywood Reporter* noted that “Nearly 60 percent of all production was blacked out yesterday, and 12,000 film workers made idle, as members of the Screen Set Designers, Decorators and Illustrators ‘hit the bricks’ in front of all major studios, and joined by cardholders in a dozen top industry crafts, precipitated Hollywood’s worst labor tieup in nearly a decade” (Doherty, 2021).

An important factor contributing to this walkout was the “bitter jurisdictional dispute” over which union would represent the dissatisfied set decorators during deliberations with studio management (Doherty, 2021). Workers were split between two options: the more established and conservative International Alliance of Theatrical and Stage Employees (IATSE) or the “confrontational, up-and-coming rival” the Conference of Studio Unions (CSU) (Doherty, 2021). IATSE was seen as “a tool of the bosses – corporate and mob”, a claim that was justified when IATSE head honcho Willie Bioff was convicted and sentenced to eight years in Alcatraz for charges of extortion (Variety, 1955). CSU and its fiery leader Herbert K. Sorrell espoused class-conscious rhetoric, and by 1945 had already found success with strikes, having led Disney animators to victory in 1941 (Doherty, 2021).

The combative relationship between IATSE and CSU meant that there were essentially four sides to the labor conflict – the studios, IATSE, CSU, and the Los Angeles police. Tensions hit a boiling point in October when nearly 300 members of the rivaling unions clashed at the Warner Bros. lot gates. IATSE workers “wanted to get inside and go to work” and CSU strikers were “determined to keep them out” (Doherty, 2021). It was at this point that “all broke loose” – cops, strikers, and strikebreakers all waded into a viscous melee where “various implements of war were used, including tear gas bombs, fire hoses, brass knuckles, clubs, brickbats, and beer bottles” (Doherty, 2021). This violent outbreak, and the 40 or injuries resulting from it, earned this strike its infamous nickname of Hollywood Black Friday. As a direct result of Black Friday, CSU’s perceived ties to Communist agendas, and “an unprecedented wave of major strikes” that swept the United States in 1945 and 1946, Congress passed the Taft-Hartley Act (McCoy, 1984). The Taft-Hartley Act amended the National Labor Relations Act of 1935 which had afforded workers the right to “join unions, bargain collectively, and engage in strikes” (Wagner, 2003). The National Labor Relations Act stated that:

“industrial strife which interferes with the normal flow of commerce and with the full production of articles and commodities for commerce, can be avoided or substantially minimized if employers, employees, and labor organizations each recognize under law one another’s legitimate rights in their relations with each other, and above all recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety, or interest” (Cornell Law School, n.d.)

The amendments added by the Taft-Hartley Act created a list of prohibited actions including union staples jurisdictional strikes, wildcat strikes, political strikes, secondary boycotts, and more (Cox, 1960). Additionally, Taft-Hartley set the stage for the McCarthy era investigation of Hollywood ties to Communism, requiring union leaders to

“File affidavits with the United States Department of Labor declaring that they were not supporters of the Communist party and had no relationship with any organization seeking the ‘overthrow of the United States government by force or by any illegal or unconstitutional means’” (Nicholson, 2004)

Crucially for labor organizers in Hollywood, Taft-Hartley introduced new requirements for legal strikes, forcing unions and employers “give 80 days’ notice to each other and to certain state and federal mediation bodies before they may undertake strikes” (Sanger & Greenhouse, 2002).

While the CSU ostensibly failed to achieve its goals with the 1945 strike, its actions, and the inactions of IATSE scabs, dramatically altered the landscape and affordances for labor actions that followed.

1980 Actor’s strike

Hollywood faced a strike once again in 1980. In May the Screen Actors Guild (SAG) and the American Federation of Television and Radio Artists (AFTRA) became engaged in joint negotiations with film studios and television networks, in hopes of improving labor contracts for the next three years (Kopp, 1980). The actors represented by the two labor unions are counted amongst the below-the-line majority in large part due to their lack of celebrity: many of the members for each union were “background actors” cast in minor roles and without the protections afforded to big name stars. These members stated that the chief point of concern for

their dispute was the emergence of the home video market, with both SAG and AFTRA arguing that their constituents were owed appropriate payment for the distribution of home entertainment, specifically “pay television and prerecorded videocassettes and videodisks” (Kopp, 1980). Union leaders stated their desire “to establish firm guidelines for their participation before the home video market becomes fully developed” (Kopp, 1980). SAG proposed a salary payment of an “advance against 12% of the eventual gross revenues for films and television shows made especially for the pay Tv, videocassettes and videodisks” (Kopp, 1980). Additionally, SAG demanded that actors receive payments “each time feature films, which have been sold to cable and television systems, are shown more than 12 times per month”, a serious ask considering contemporary cable and television companies showed “individual movies up to 20 times per month” (Kopp, 1980). Finally, SAG also called for a “35% increase in all salary categories for its members” (Kopp, 1980). Industry representatives balked at the demands of a profit-sharing plan for home video releases, arguing that home media was not yet a major business with roughly only 2 percent of all American households owning a VCR at the time (Fortmueller, *Below the Stars: How the Labor of Working Actors and Extras Shapes Media Production*, 2021). At that time, it was common practice to pay actors a one-time salary for participation in production for a film or television show, “with no future profit sharing” to be had (Kopp, 1980). The demands presented by SAG and AFTRA were extensive and would dramatically alter industry norms for worker compensation.

Negotiations broke down as they so often do, and on July 21st members of SAG and AFTRA organized a walkout. The resulting disruption halted production of “almost all network programs except news broadcasts, education programs, daytime soap operas, and game shows”, all of which operated under separate union contracts (Townsend, 1980). As the strike persisted

through early August, it proved to be quite costly for the American film and television industry, as *Billboard* estimated that the strike was costing \$40 million per week (McCullaugh, 1980). SAG and AFTRA's strike had become incredibly disruptive, with television network officials afraid that "rather than begin new programming with a prospect of having to suspend new shows and revert to reruns, the start of the new season might be delayed indefinitely if the strike goes on into late summer or fall" (Townsend, 1980).

SAG and AFTRA's strike ultimately proved successful in dramatically changing the film and television industry. On September 17th, after nearly 8 weeks of strike, SAG and AFTRA representatives reached an agreement with industry officials regarding the home media demands (Carmody, 1980). Actors would now be entitled to 4.5% of a film's gross after it played for "ten days over a one-year period" (Grein & Kopp, 1980). The same percentage was applied to home releases after 100,000 units were sold (Grein & Kopp, 1980). An agreement on benefits and salary increases was not met until September 25th, upon when union and industry representatives agreed to increase actor wages by 32.5% "in minimums over the three-year term of the contract" (Grein & Kopp, 1980). Furthermore, actors were set to receive an increase in residuals exceeding 30%, as well increases to "pension and welfare provisions, including a dental plan; immediate improvements in work conditions with an overhaul of schedules and an increase in overtime benefits; a non-discrimination program regarding hiring and casting practices; and improved working conditions for minors" (Grein & Kopp, 1980). By late October the agreement was ratified by union members with 83.4% of the vote (Fortmueller, *Below the Stars: How the Labor of Working Actors and Extras Shapes Media Production*, 2021).

The 1980 strike proved to be important not only because it increased compensation and protections for below-the-line members of each union, but it also "underscored the many shared

interests between SAG and AFTRA and demonstrated the effectiveness of joint bargaining” (Fortmueller, *Below the Stars: How the Labor of Working Actors and Extras Shapes Media Production*, 2021). This realization led to the unions entering “Phase 1” of a merger, wherein the two organizations would continue to jointly negotiate contracts (Fortmueller, *Below the Stars: How the Labor of Working Actors and Extras Shapes Media Production*, 2021). Phase 1 would go on to last until 2012 when the unions merged to create SAG-AFTRA, significantly altering the landscape of worker representation in the film and television industry, making it much easier for below-the-line workers to receive proper benefits and compensation in an industry all too eager to take advantage of them.

2008 Writers Guild of America Strike

Discourse on below-the-line compensation for “new media” residuals did not hit Hollywood until 2007, when the 12,000 film and television screenwriters of the Writers Guild of America walked out of ongoing productions on November 5th (Horiuchi, 2007). Much like the previous two strikes outline above, the WGA strike proved influential in shifting the expectations and norms of practice within Hollywood and its adjacent industries. Like the SAG-AFTRA strike in 1980, the 2009 WGA secured below-the-line union members guaranteed compensation, updating the “residual calculation formula” that “dated back to the beginning of the VHS era” (Mapes, 2008). Although the WGA was unable to secure all its demands, the 2008 strike was crucial in updating the labor rights of below-the-line workers during a period of technological transition.

The WGA and other labor unions in Hollywood negotiate their member contracts with the Alliance of Motion Picture and Television Producers (AMPTP), a trade association that represents many of the most important film and television production companies in Hollywood.

According to the AMPTP since 1982 it “has been the trade association responsible for negotiating virtually all industry-wide guild and union contracts, including those with American Federation of Musicians (AFM); Directors Guild of America (DGA); International Alliance of Theatrical Stage Employees (IATSE)” among others (Alliance of Motion Picture and Television Producers, n.d.). The AMPTP serves as the representative for motion picture and television producers during negotiations in “58 industry-wide collective bargaining agreements” (AMPTP, n.d.). The AMPTP negotiates what is called the Minimum Basic Agreement, or MBA, with industry unions. MBAs are extensive documents that cover all the protections and affordances given to union workers and play an important role in codifying industry definitions and jargon. For example, the 2004 WGA Minimum Basic Agreement provided definitions for many industry practices such as “polish” (the writing of changes in dialogue, narration, or action, but not including a rewrite) and “publication rights” (the right to publication of the work in book form or in magazine or periodical form, including serial publication” (Writers Guild of America, 2007).

Minimum Basic Agreements are not only crucial for ensuring the protection of below-the-line workers but for codifying the language that informs uniform industry practice. Union and producer disagreements over Minimum Basic Agreements represent an industry breakdown of understanding for these important factors and create major disruptions for the industry as recodification is negotiated. When MBA negotiations between WGA and AMPTP broke down in 2007 the key points of contention included DVD residuals, union jurisdiction over animated and reality television programs, and worker compensation for “new media” which the WGA defined as “the Internet, cellular technology, and any other delivery system not already covered in the MBA” (Writers Guild of America, 2008). The current practice, as established in 1985, was for WGA members to receive .3% “of distributors’ gross for the \$1 million and .36% thereafter”,

payment which amounted to “less than 5 cents per unit for a typical videocassette or DVD” (Writers Guild of America, 2008). The WGA proposed for the formula to be double to .6% for the first million dollars of reportable gross and to increase residuals from .36% to .72% for productions that moved over \$1 million in gross (Writers Guild of America, 2008).

What proved to be most interesting in the WGA proposal was it calls for redefinition of “new technology” and “made-for-Internet projects” (Writers Guild of America, 2008). At the time of WGA’s proposal “new technology” format productions were only covered by “a pension and health only” plan that included no “guaranteed minimums, separated rights, credits or residuals” (Writers Guild of America, 2008). Much like the producer discourse that surrounded the home media debate in 1980, film and television producers in 2008 argued that the emergent field of made-for-Internet projects lacked the established presence to warrant compensation like what the WGA proposed. Producers and studios wished to maintain the status quo and stave off any changes to expectations for compensation earned on made-for-Internet projects, essentially treating attached workers as second-class citizens in the film and television industry. Industry and studios heads were not shy in expressing their disdain for WGA’s proposals, usually justifying their reluctance to provide workers with adequate compensation with excuses that new media sectors were yet to be developed. FOX CEO Barry Diller’s comments to the FOX Business Channel are representative of studio head attitudes and excuses. “There are no profits in the work that is digitized and spread throughout the internet” Diller claimed. “We [executives and studios] want to freeze this area until we can understand the revenues, which aren’t going to develop for another few years” (Seidelman, 2011). Diller’s comments were dismissive of below-the-line workers’ desire to be fairly compensated for their contributions and obfuscated studios’

desire to keep profits away from workers, or at least until a point where studios had figured out how to expand their margins from made-for-Internet projects.

The pressure exerted by WGA's strike was immense, as dozens of television programs faced postponed productions, shortened seasons, or simply ran out of new episodes with no one around to write new scripts (Kaplan, 2007). The effects of the strike extended beyond Hollywood. As then California governor Arnold Schwarzenegger stated, the strike "has a tremendous economic impact on our state" (CBC, 2007). Economic forecasts predicted a loss of \$380 million in revenue if the strike reached 22 weeks (Stanhope, 2007). Despite the amount of money that stood to be lost, the WGA and AMPTP did not reach an agreement until February 10th, 2008. Not all the WGA's demands were met: the calculation of DVD residuals remained unchanged and WGA representation of reality television and animation was dropped from negotiations in favor of a focus on the "new media" debate. "Giving up animation and reality was a heartbreaking thing for me personally" WGA president Patric Verrone stated. "But it was important that we make a deal that benefitted the membership, the town as a whole, that got people back to work and that solved the biggest problems in new media" (CNN, 2008).

The "new media" issue proved to be the WGA's big win coming out of the strike. In an email to members WGA Verrone and WGA co-president Michael Winship stated that the new MBA "establishes a beachhead on the Internet and in new media that will guarantee our share of a potentially vast and bountiful future" (Verrone & Winship, 2009). According to the new MBA, writers were entitled to compensation from new media projects, receiving "1.2% distributor's gross receipts for download "rentals" (where the consumer pays for time-limited access to media) and 0.65%-0.7% of receipts for download purchases" (Mapes, 2008). Additionally, writers would benefit from "2% of distributor's gross receipts for ad-supported streaming of

television programs and feature films, but only after a 17-day streaming window in which no residuals must be paid” (Mapes, 2008). The WGA’s new media win proved to be exceptionally beneficial for writers as the film and television industry pivoted to made-for-Internet projects and SVOD platforms like Netflix and Amazon Prime. New media studios were “obligated to hire Guild writers”, guaranteeing not only employment for members but compensation that was calculated before studio producers fully understood how to profit off new media releases.

The IATSE (almost) Strike of 2021

Much like the previous three strikes detailed above, IATSE’s threats of a strike and the demands it made significantly altered the affordances and protections given to below-the-line workers in the film and television industry. However, unlike the strikes of 1945, 1980, and 2008 the IATSE averted strike was precipitated largely by the presence of the COVID-19 pandemic.

The pandemic provided three catalysts for labor conflict:

- Due to quarantine and self-isolation protocols, the popularity of streaming SVOD platforms skyrocketed, with many companies jostling for position in a suddenly crowded market.
- The health and safety concerns that arose from operating under a global pandemic overwhelmingly affected below-the-line workers.
- The disruption to productions across the industry uniquely positioned unions in a strong bargaining position from which they could propose new protections and better compensation for their members.

Without these catalysts I argue that IATSE would not have threatened a strike, nor would the union have found such overwhelming support and success in its proposals. The COVID-19 pandemic not only facilitated labor conflict but the disruptions, or the critical juncture if you

will, it helped to create provided the means for a successful rewriting of Hollywood's industrial norms.

Who Is IATSE And Why Should We Care?

The International Alliance of Theatrical Stage Employees, Moving Pictures Technicians, Artists, and Allied Crafts of the United States, Its Territories and Canada, otherwise known as the International Alliance of Theatrical Stage Employees (IATSE), is one of the largest labor unions operating within the film and television industry. With membership totaling over 150,000 workers as of 2020, IATSE represents a significant portion of the below-the-line workforce within Hollywood, covering positions such as artisans and technicians (Cieply, 2011). Such a large body of membership is due in large part to the union's willingness to integrate new forms of entertainment media and technological advances and the workers associated with them (IATSE, n.d.). The 150,000 members of IATSE comprise 366 Local Unions, which are "organized by geographic region and craft jurisdictions" and each Local Union is "an autonomous, independent 501© nonprofit entity" that "determines their own Constitution and By-Laws, officer elections, dues structure, membership meetings and more through democratic processes" (IATSE, n.d.). These Local Unions are split into 13 distinct geographical districts between the United States and Canada, with each district led by a designated secretary whose "responsibility is to maintain records of the Districts activities and finances, coordinate the District's initiatives among the constituent locals, and facilitate communication between the locals" (IATSE, n.d.). At least every two years a "District Convention" is held, where delegates of affiliated locals can share training and education. Additionally, these conventions serve as the testing ground for resolutions and amendments to the union's Constitution (IATSE, n.d.). These Local Unions are lead IATSE International which provides member chapters with:

- Coordination for the negotiation of nationwide agreements within the United States and Canada
- Craft, safety, and leadership education
- Strategic organizing and collective bargaining campaigns

IATSE International is led by its General Executive Board, which consists of the International President (currently Matthew D. Loeb), the General Secretary-Treasurer (James B. Wood0, and 13 International Vice-Presidents (IATSE, n.d.). All these officers are elected during the IATSE International Convention which is held every four years (IATSE, n.d.).

Strike! Unless?

Negotiations between IATSE and AMPTP broke down in September 2021 when both organizations could not come to an agreement over the Hollywood Basic Agreement (which covers Los Angeles County) and the Area Standards Agreement (which covers the rest of the United States) (Maddaus, IATSE Reaches Deal on Area Standards Agreement, Setting Stage for National Ratification Vote, 2021). This breakdown came after nearly 4 months of back and forth, resulting in the AMPTP rejecting IATSE proposals for safer working conditions and hours, living wages, and break time. The AMPTP’s callousness angered IATSE representatives and the union was unafraid to voice its displeasure publicly:

“It is incompressible that the AMPT, an ensemble that includes media mega-corporations collectively worth trillions of dollars, claims it cannot provide behind-the-scenes crews with basic human necessities like adequate sleep, meal breaks, and living wages. These issues are real for the workers in our industry and change is long overdue.” (Kelley, 2021)

IATSE members had long complained of the indignities facing them in an uncaring industry. “18-hour days, little to no time off, wage theft, sleepless (and therefore extremely dangerous drives home from set, untreated medical emergencies, and lost time with loved ones” are but a taste of what IATSE workers had to endure (Specter, 2021). Additionally, a trend towards shorter production schedules led to less overall income from individual projects, with “the general dearth of series with multiple seasons has diminished the number of roles with relative job security and chances for promotion” (Kilkenny, 2021). Amy Thurlow, a member of IATSE chapter 871 corroborated these claims:

“There used to be a clear ladder where the first season, you were the writers’ PA, the second season you were the writers’ assistant or script coordinator, maybe the second or third season you got a freelance job, and once you freelanced, the next season you would staff. And you can’t get there when there’s only one season of a show” (Kilkenny, 2021)

These complaints clearly illustrate an unsustainable work environment that was predicated on exploiting a working class eager to break into the film and television industry. IATSE’s proposals were far from unreasonable. As Matthew Loeb detailed in a membership email on August 31st, 2021, “it remains clear that the employers are unwilling to resolve our priority issues – living wages, reasonable rest, meal breaks, sustainable benefits, and streaming (aka “not so new media”) (Loeb, 2021). IATSE announced on September 21st a “nationwide strike authorization vote” (Robb, 2021). The threat of a strike was especially potent given the malus placed on Hollywood by the COVID-19 pandemic. Studios were eager to make up the losses from the previous year, and by threatening a strike IATSE could compromise or delay a

return to “normal” for the industry (Sakoui, 2021). The overwhelming number of below-the-line workers threatening to walk off sets would halt productions across the country. “A strike, if it comes, would lead to a nationwide shutdown of TV and film production, because three of the locals – 600, 700, and 800 -are “national” unions” noted *Variety*. Chapter 600 represents 9,600 camera operators and cinematographers alone. (Maddaus, An IATSE Strike Would Shut Down Film and TV Production Coast to Coast, 2021).

Strike was only averted when on October 16th a new “tentative agreement” was reached between IATSE and AMPTP. In a release to union members, IATSE broke down the details of the agreement into two separate documents: the *Economic Agreement* and *Working Conditions Agreement*. The highlights of the *Economic Agreement* include:

- Yearly scale wage increases of 3% in each year of the Agreement, compounded. This first increase is retroactive to August 1, 2021.
- Wages will increase for streaming features with a budget of \$20M or more. These gains will be in addition to the yearly 3% wage increase.
- High Budget SVOD Tier 1 series made for services with less than 20M subscribers and Tier 2 high budget SVOD series for services with more than 20M subscribers will see increased wages and unworked holiday pay in subsequent season. These gains will be in addition to the yearly 3% wage increase.
- An entirely new tier that captures 20 minutes or longer streaming SVOD productions at budgets below the mid-budget tier. Before, these projects were fully subject to negotiation; there is now a wage minimum and the contract working conditions apply (IATSE, 2021).

As for the *Working Conditions Agreement*, IATSE was able to secure the following:

- Local and nearby hire employees will have a 10-hour daily turnaround on all television, features and SVOD streaming productions over 20 minutes long.
- Hourly employees will receive 54 hours of rest when working five consecutive days in a week, and 32 hours of rest when working six days.
- After four meal penalties, each additional half hour meal penalty will now be paid at \$25.00. This represents a 100% meal penalty increase when working on location outside a studio and an 85% penalty increase when working in a studio (IATSE, 2021).

On November 15th IATSE announced that its members had ratified the new contract. Out of the 641 total delegate votes cast, 359 voted for and 282 voted against. As for the popular vote, 73% of the 63,209 eligible members cast a ballot, with only 50.3% voting yes to 49.7% voting no.

Industry Effects

While ratification occurred before an organized strike could be assembled, IATSE's threats of disruption quickly led to a restructuring of practice in Hollywood. At stake were "quality-of-life issues and conditions on the job like and meal breaks", issues which should not be issues at all. The new agreement between IATSE and AMPTP succeeded in dramatically lifting below-the-line workers at the bottom of the pay scale from poverty to a living wage, undoubtedly a significant win for worker's rights in the industry. Furthermore, the new provisions included in the basic agreement significantly improve the wages and working conditions for below-the-line laborers employed on streaming and SVOD projects. This represents a victory in the battle for Internet and "new media" worker rights. Starting in 2008

with the WGA strike, unions and labor representations have worked to increase the level of worker affordances within those spaces.

Most crucial of all is the role the COVID-19 pandemic played in facilitating these industry wide changes. COVID-19 operated as a revealing presence, as the disruptions it created in the industry and daily life made the issues facing Hollywood below-the-line workers highly visible, making it easier for workers to recognize their exploitation and for the public to lend its overwhelming support to IATSE's position. Finally, COVID-19 served as a tool for IATSE and its members. Without the disruptions COVID caused to film and television productions in the previous year, IATSE would not have succeeded in its demands being met. The pandemic provided the pressure necessary for AMPTP and studio leaders to cave to union demands for equality.

Putting it all together

As shown in this case study, below-the-line labor has a consistent history of exerting structural change on the American film and television industry. I demonstrated this precedent by briefly examining the labor strikes of 1945, 1980, and 2008. Each strike occurred during a different era of Hollywood's history, in three vastly different paradigms of production practice and industrial norms. Nonetheless, all three strikes had undeniable impact on the way Hollywood operates today: the fallout of Black Friday forced labor unions to operate within strict parameters; the SAG-AFTRA strike of 1980 succeeded in establishing residual compensation for below-the-line actors; and the WGA strike of 2008 led to reclassification of "new media" and the establishment of proper worker compensations when attached to such projects.

Finally, I turned to the most recent scene of labor conflict in Hollywood: the (almost) strike of IATSE's some 60,000 members. I argued that what made this conflict unique amongst

the annals of Hollywood labor disputes was its catalyzation by significant a social upheaval via the COVID-19 pandemic. COVID-19 served to highlight the unsustainable demands of the film and television industry and the total disregard given to the general well-being of below-the-line workers within Hollywood.

Much in the way that I ended my previous chapter on the above-the-line perspective and Scarlett Johansson's lawsuit against Disney, I must stress now that the contemporary nature of my analysis, indeed the ongoing nature of the COVID-19 pandemic, means that any prognostication is inherently flawed. Prediction is not my intention, rather I have sought in this chapter, and the rest of this thesis, to demonstrate that the global presence of a deadly pandemic have acted as a catalyst quickly driving structural change in a highly visible industry. It is far too early to speak confidently on the specific effects of the IATSE conflict and COVID-19. Instead, have clearly proven that such disruptions have historical precedent for altering the landscape of major industries and that IATSE's actions have laid the foundations for such significant change to occur again.

Conclusion

Wrapping Up

In this thesis I have presented the reader with a pair of qualitative case studies which demonstrate that the effects of a global pandemic, such as business closures and social isolation, have greatly accelerated change and era transition in the American film and television industry. For the past two years Hollywood has teetered on the edge, its struggles to adapt highly visible to an isolated audience desperate for entertainment. The industry has come to reside in what political economist Robert McChesney calls a *critical juncture*: a period in which previously held institutions, social rituals, and modes of practice are placed under extreme pressure. Critical junctures are useful tools for explanation of the industry progression. Where change is otherwise ignored, critical juncture theory serves to reveal industry changes, or more precisely, informs industry scholars when and where to look for such change.

The coronavirus pandemic fits neatly within McChesney's theory of critical junctures. Specifically, it fulfilled McChesney's third criteria for critical juncture formation: a major political crisis – severe social disequilibrium – in which the existing order is no longer working and there are major movements for social reform. One of the major goals for this thesis was to clearly demonstrate the pandemic's direct influence on industrial change within Hollywood. To provide a complete representation of the industry is far beyond my scope as a researcher and the scope of this Masters thesis. I instead chose to focus upon a narrower aspect of Hollywood: its labor. I further segmented my focus along traditional Hollywood labor lines: above and below-the-line labor. This was, in part, a result of coincidence. Scarlett Johansson's legal battle with Disney and IATSE's threats of strike fell neatly within these lines. Additionally, splitting my case studies in this manner allowed me to demonstrate that pandemic affected change for

industry members across economic and class lines. Analysis of these two examples fit nicely within my affordances and capabilities as a student researcher. Both Johansson's lawsuit and IATSE's strike were major public events with extended news coverage and analysis. This allowed me to primarily leverage discourse and historical analyses in my research, as I did not have the ability to conduct other interpersonal methods such as interviewing. The constraints of the pandemic, and of geographic distance, played not insignificant roles in structuring this thesis.

Discourse analyses like those offered up within this text are important tools for gleaming an understand of how specific industries perceive themselves and the practices operating therein. This methodology can be of particular use for film studies scholars. It provides the context necessary to properly understand the medium and how it is shaped by the social conventions of methods of practice within the American film and television industry as culture exists not only within specific individuals between them. The visible nature of Hollywood means it is highly influence by its discourse and the classifiers that arise therein. By narrowing in the discussions held amongst the industry, researchers such as myself can draw conclusions on how the industrial norms are constituted and popularized. For research such as this thesis, this ability is paramount to answering questions about changes in communication industries.

Historical analyses also provide useful insights to the cinema and industry scholar. Drawing comparisons between the different eras of Hollywood, starting with the Golden Age and ending with the contemporary paradigm of the Franchise Era, serves two functions. First, it allows researchers such as me to illustrate that widespread industrial change is a familiar phenomenon within Hollywood; it has happened before and will most assuredly happen again. Second, historical analyses serve to legitimize the focus of study. In the IATSE case this meant I was able to use historical analysis to demonstrate that below-the-line labor conflicts have

consistently and repeatedly instigated change changes to the modes of production within Hollywood. The comparisons afforded by historical analyses also illustrated the uniqueness of our contemporary moment. Previous labor conflicts in Hollywood's history were not precipitated by major social upheavals like the COVID-19 pandemic. It is the presence of this upheaval that pushes the current moment into the territory of the critical juncture. This current moment, and I describe it as current even though the pandemic seems to be finally waning, presents unique opportunities for radical and rapid industrial reorganization like which we have never seen.

For the scholarship: Next Steps

This was a thesis defined by its limitations. As a Masters thesis this text was my first foray into writing and research of this scale, bringing with it all of the small missteps and mistakes one might expect from a first attempt. More importantly, this thesis was limited by its scope. When I first determined this thesis' topic, I was struck by the vast scale of the project that lay before me. A full-on investigation of all the changes to Hollywood norms wrought by COVID demands research and text that far outstrip my abilities as a student researcher and the tolerance of reading for my advisor.

Further research into this topic can easily be expanded from this text. Discourse analysis is a terrific tool for making sweeping judgements about the state of an industry, but it lacks the intricacies and small details other methods might afford. I recommend further research on this subject to take a mixed methods approach. Combining discourse analysis with interpersonal interviews or surveys would provide for further valuable insight. These methods would allow researchers to illuminate the experience of working within that industry and how it has changed rapidly in the past two years. Giving Hollywood workers a voice outside of the industry's publications could serve to elevate the issues laborers, particularly below-the-line laborers, face

in an uncaring and exploitative business. Conversations about modes of production within the film and television industry would benefit greatly from the inclusion of workers' perspectives. Political economy is often critiqued for the overly broad perspectives and conclusions the theoretical framework brings to its research, and by including methods like interviews and surveys further research can easily avoid such pitfalls and provide incisive anecdotes about the structure of a major industry.

For the Industry: Next Steps

Prognostication on the landscape of a post pandemic Hollywood is wild conjecture at best, and never was the intent of this thesis or my research. Rather, this text is to serve as a foundational piece both for any further discussion or research on the topic of the COVID-19 pandemic and its effects on the film and television industry. At the time of writing the pandemic appeared to be in its waning stages, but it is still too early to make an educated guess on whether COVID-19 has truly pushed Hollywood out of its current era. This contemporary era is what film scholar Shawna Kidman calls the *franchise era*. The *franchise era* is defined by a:

“Shift in Hollywood’s balance of power away from people and towards brands; in the franchise era, value came from studio-owned intellectual property, not from the contributions of individual artists or workers” (Kidman, 2021).

Disney’s film practices are largely to blame for the construction of the *franchise era*. Marvel Studios and chief creative officer Kevin Feige is lauded as the golden child of the franchise era and is presented as the ideal for all modern film executives. The successful incorporation of the Marvel Cinematic Universe into popular cinematic culture has earned him the description of a “corporate auteur”, a new spin on classic auteur theory that prioritized not creative ingenuity and

storytelling skills but rather “prioritized managerial expertise over creative vision”. It was this idea of the corporate auteur that has allowed Disney and other major studios to set the conditions “that had already put workers in precarious position before the pandemic and recession began” (Kidman, 2021). COVID era disruptions did little to hoist Hollywood out of the franchise era, instead the discourse of the *franchise* has only been further entrenched by the pandemic.

This is a direct result of the accelerated expansion in the SVOD market, which itself was catalyzed by the gold rush to digital platforms in the early stages of the pandemic (Fortmueller, 2021). With the viability of the SVOD market still in questions, major studios leaned on sequels and established properties to mitigate any risks (Kidman, 2021). This reliance on brand recognition and nostalgia has led to further cultivation of corporate power. As explained by Kidman, “value came from studio-owned intellectual property, not from the contributions of individual artists or workers” (Kidman, 2021, p. 3). This is not just the value studios see in their products as profit earners, but the value audiences saw in those same products. By closely associating valuable products with studio names and established franchises, audiences reinforce the franchise era ideology of corporate auteurship which confers “not only ownership but also creative power” to studios instead of the creative workers who are responsible for the tone and construction of any given project.

If the industry wishes to undergo any progressive growth and escape the fetters of franchise era discourse, it is vital that it looks beyond the contributions of executives like Kevin Feige and studios like Disney. Instead, Hollywood would be well served to follow Kidman’s advice of “remembering the working practices and laborers” industry discourse all too often obscures. As Kidman notes, the battles that will define the next era of Hollywood will not occur between studios battling for streaming dominance but instead between the guilds, media

corporations, and front-line workers. If Hollywood wishes to improve and thrive in the next few years of its post-pandemic recovery, it must pay close heed to these battles. As demonstrated in this text and elsewhere, industry workers hold the key to Hollywood's success. Continue to disenfranchise them and the industry risks massive losses. The coronavirus pandemic has given workers a unique opportunity to demonstrate their worth to the film and television industry. Now is the time for workers to pursue their demands and expand their rights, seize upon this moment of critical juncture to establish norms that benefit the worker and not the studio.

Bibliography

Abreu, R. (2020, July 27). *What is a Best Boy in Film? Job Description and Duties Explained.*

Retrieved from Studiobinder: <https://www.studiobinder.com/blog/what-is-a-best-boy-in-film/>

Ahmed, S., & Sinha, A. (2016). When It Pays to Wait: Optimizing Release Timing Decisions for Secondary Channels in the Film Industry. *Journal of Marketing* , 20-38.

Alliance of Motion Picture and Television Producers. (n.d.). *Welcome.* Retrieved from AMPTP: <https://www.amptp.org/>

Bahr, L. (2021, October 7). *Explainer: What's behind the looming Hollywood strike?* Retrieved from AP News: <https://apnews.com/article/entertainment-business-strikes-hollywood-arts-and-entertainment-b22eb148f04b4403dd0c480d6a2a1b62>

Belloni, M. (2007, August 23). *De Havilland lawsuit resonates through Hollywood.* Retrieved from Reuters: <https://www.reuters.com/article/idUSN2329585820070824>

Bloom, D. (2019, May 27). *Hollywood's Changing As Fast As It Ever Has - Can Industry Lifers Chnage Too?* Retrieved from IndieWire: <https://www.indiewire.com/2019/05/hollywood-changing-fast-can-film-industry-lifers-change-too-1202145060/#!>

Bordwell, D., Staiger, J., & Thompson, K. (1985). *The Classical Hollywood Cinema: Film Style & Mode of Production to 1960.* London: Routledge.

Carmody, J. (1980, September 18). *Breakthrough On Key Issue In Actors' Strike.* Retrieved from The Washington Post: <https://www.washingtonpost.com/archive/lifestyle/1980/09/18/breakthrough-on-key-issue-in-actors-strike/0eb17019-9a96-4d4d-93c5-347d2abe94d9/>

- CBC. (2007, November 9). *Schwarzenegger pushes for end to Hollywood writers strike*. Retrieved from CBC: <https://www.cbc.ca/arts/tv/story/2007/11/09/hollywood-strike-gov.html>
- Cieply, M. (2011, November 27). *Hollywood Labor Fight Looms as Money for Benefits Wanes*. Retrieved from The New York Times: <https://www.nytimes.com/2011/11/28/business/media/hollywood-labor-fight-looms-as-money-for-benefits-wanes.html>
- CNN. (2008, February 13). *Strike over, Hollywood writers head back to work* . Retrieved from CNN: <http://www.cnn.com/2008/SHOWBIZ/TV/02/13/writers.strike/index.html>
- Contis, E. (2019, December 14). *Below the Line: Positions That Can Make or Break a Movie*. Retrieved from CareersinFilm: <https://www.careersinfilm.com/below-the-line-film/>
- Cornell Law School. (n.d.). *29 U.S. Code § 141 - Short title; Congressional declaration of purpose and policy*. Retrieved from Legal Information Institute: <https://www.law.cornell.edu/uscode/text/29/141>
- Corrigan, T. F. (2018). Making Implicit Methods Explicit: Trade Press Analysis in the Political Economy of Communication. *International Journal of Communication*, 2751-2772. Retrieved from University of Southern California, Annenberg: <https://ijoc.org/index.php/ijoc/article/view/6496>
- Cox, A. (1960, February). *Strikes and the Public Interest*. Retrieved from The Atlantic Online: <https://www.theatlantic.com/past/docs/issues/60feb/cox.htm>
- Currah, A. (2006). Hollywood versus the Internet: the Media and Entertainment Industries in a Digital and Networked Economy. *Journal of Economic Geography*, 439-468.

- D'Alessandro, A. (2020, February 24). *'Mission: Impossible 7' Venice, Italy Shoot to Halt Due to Coronavirus; Paramount Cites Abundance of Caution - Update*. Retrieved from Deadline: <https://deadline.com/2020/02/mission-impossible-7-venice-italy-production-to-halt-due-to-coronavirus-1202867109/>
- De Vany, A. S., & Walls, W. (1997). The Market for the Motion Picture: Rank, Reevnue, and Survival . *Western Economic Association International*, 783-797.
- Dellatto, M. (2021, October 21). *'Red Notice' is Netflix's Biggest - Ever Investment In A Film - Here's How Its Other Blockbusters Stack Up*. Retrieved from Forbes: <https://www.forbes.com/sites/marisadellatto/2021/10/21/red-notice-is-netflixs-biggest-ever-investment-in-a-film-heres-how-its-other-blockbusters-stack-up/?sh=54365e55c427>
- Doherty, T. (2021, September 28). *The Crew Strike That Shut Down Hollywood in 1945*. Retrieved from The Hollywood Reporter: <https://www.hollywoodreporter.com/business/business-news/black-friday-hollywood-in-1945-1235021178/>
- Donnelly, M. (2021). A World Gone Mad. *Variety* .
- Dwyer, P. (2015). Theorizing media production: the poverty of political economy . *Media, Culture, and Society*, 988-1004.
- Epstein, A. (2020, March 9). *Coronavirus is pushing an already vulnerable film industry closer to the edge* . Retrieved from Quartz: <https://qz.com/1813387/a-vulnerable-film-industry-feels-the-impact-from-coronavirus/>
- Fortmueller, K. (2021). *Below the Stars: How the Labor of Working Actors and Extras Shapes Media Production*. Austin: University of Texas Press.

- Fortmueller, K. (2021). *Hollywood Shutdown: Production, Distribution, and Exhibition in the time of COVID*. Austin: University of Texas Press.
- Gardner, E. (2021, August 25). *How the 'Black Widow Could Break the Mold on Hollywood Dealmaking*. Retrieved from The Hollywood Reporter:
<https://www.hollywoodreporter.com/business/business-news/how-black-widow-battle-could-change-long-standing-industry-customs-1235002215/>
- Goff, B., Wilson, D., & Zimmer, D. (2017). Movies, Mass Consumers, and Critics: Economics and Politics of a Two-sided Market. *Contemporary Economic Policy*, 269-277.
- Grein, P., & Kopp, G. (1980, October 4). Strike's Resolution Aids Home Video. *Billboard*, p. 118.
- Hardy, J. (2014). Critical Political Economy of Communication: A Mid-Term Review. *International Journal of Media & Cultural Politics*, 189-202.
- Hesse-Biber, S. N. (2017). *The Practice of Qualitative Research*. Thousand Oaks: SAGE Publications .
- Hoffman, J. (2021, July 30). *In Fight with Disney , Scarlett Johansson has Hollywood Agency's Muscle Behind Her*. Retrieved from Vanity Fair:
<https://www.vanityfair.com/hollywood/2021/07/in-fight-with-disney-scarlett-johansson-has-hollywood-agencys-muscle-behind-her>
- Horiuchi, V. (2007, November 5). *Writers strike to hit TV first - and hard*. Retrieved from The Salt Lake Tribune:
https://web.archive.org/web/20120313120036/http://www.sltrib.com/entertainment/ci_7372315

- IATSE. (2021, October 27). *IATSE and Producers Reach Tentative Theatrical and Television Motion Picture Area Standards Agreement*. Retrieved from IATSE - The Union Behind Entertainment : <https://iatse.net/iatse-and-producers-reach-tentative-theatrical-and-television-motion-picture-area-standards-agreement/>
- IATSE. (n.d.). *About Us*. Retrieved from IATSE: <https://iatse.net/about/>
- IndieWire. (2020, August 11). *Coronavirus Cancellations: Every Film, TV Show, and Event Affected by the Outbreak*. Retrieved from IndieWire: <https://www.indiewire.com/feature/coronavirus-cancellations-hollywood-entertainment-covid19-1202215596/#!>
- Johnson, M. N., & Mclean, E. (2020). Critical Discourse Analysis. *International Encyclopedia of Human Geography*, 377-383.
- Kaplan, D. (2007, November 8). *New York Post*. Retrieved from Writer Strike KOs '24': <https://nypost.com/2007/11/08/writer-strike-kos-24/>
- Kass, J. (1976). *Olivia de Havilland*. New York: Pyramid Publications.
- Kelley, A. (2021, September 9). *Entertainment union calls for strike authorization vote that could shutdown film, TV production*. Retrieved from The Hill: <https://thehill.com/blogs/in-the-know/in-the-know/573490-entertainment-union-calls-for-strike-authorization-vote-that>
- Kellner, D. (2016). *The Frankfurt School and British Cultural Studies: The Missed Articulation*. Retrieved from Illuminations: the Critical Theory Project: <https://pages.gseis.ucla.edu/faculty/kellner/Illumina%20Folder/kell16.htm>

- Kench, S. (2021, February 21). *Above the Line Film Positions & How They Work in a Budget*. Retrieved from StudioBinder: <https://www.studiobinder.com/blog/above-the-line-film-positions/>
- Kench, S. (2021, April 18). *What is Below the Line in Film & Which Crew Members Qualify?* Retrieved from Studiobinder: <https://www.studiobinder.com/blog/what-is-below-the-line-definition/>
- Kidman, S. (2021). The Disneyfication of Authorship: Above-the-Line Creative Labor in the Franchise Era. *Journal of Film and Video*, 3-22.
- Kilkenny, K. (2021, July 21). *Without "Clear Ladder" to Advance, Hollywood Support Staff Seeks Living Wage*. Retrieved from The Hollywood Reporter : <https://www.hollywoodreporter.com/business/business-news/hollywood-living-wage-1234985472/>
- Kopp, G. (1980, August 2). Handshake. *Billboard*, pp. 4,56.
- Kumb, F., Kunz, R., & Siegert, G. (2017). Research on the Motion Picture Industry: State of the Art and New Directions off the Beaten Track away from Theatrical Release. *Journal of Economic Surveys*, 577-601.
- Labuza, P. (2017). Putting Penn to Paper: Warner Bros.' Contract Governance and the Transition to New Hollywood. *The Velvet Light Trap*, pp. 4-18.
- Lang, B., & Maddaus, G. (2021, July 30). *'Black Widow' Legal Battle: Inside the Fallout After Scarlett Johansson Sues Disney* . Retrieved from Variety: <https://variety.com/2021/film/news/black-widow-scarlett-johansson-disney-fallout-1235031315/>
- Lang, B., Littleton, C., & Maddaus, G. (2021). Battle Royale. *Variety*, pp. 35-50.

- Lobato, R. (2019). *Netflix Nations: The Geography of Digital Distribution*. New York: New York University Press.
- Loeb, M. D. (2021, August 31). *IATSE 2021 Basic Agreement* . Retrieved from Basic Agreement 2021 Vote Yes: https://de6167c5-9f06-4e54-81fb-73ab5a07b817.filesusr.com/ugd/a37828_a5209b1ae6b04e6f94356ddf95f544d2.pdf
- Lotz, A. (2017). *Portals: A Treatise on Internet-Distributed Television*. Ann Arbor: Maize books.
- Lukinbeal, C. (2007). Teaching Historical Geographies of American Film Production. *Journal of Geography*, 250-260.
- Maddaus, G. (2021, September 21). *An IATSE Strike Would Shut Down Film and TV Production Coast to Coast*. Retrieved from Variety: <https://variety.com/2021/film/news/iatse-strike-shut-down-production-nationwide-1235070315/>
- Maddaus, G. (2021, October 26). *IATSE Reaches Deal on Area Standards Agreement, Setting Stage for National Ratification Vote*. Retrieved from Variety: <https://variety.com/2021/film/news/iatse-area-standards-agreement-national-vote-1235098083/>
- Mapes, K. (2008, February 22). *The 2008 Writer's Strike Explained*. Retrieved from The Harvard Law Record: <https://web.archive.org/web/20170407145630/http://hlrecord.org/2008/02/the-2008-writers-strike-explained/>
- Matzen, R. (2010). *Errol & Olivia: Ego & Obsession in Golden Era Hollywood*. Pittsburg: GoodKnight Books.

- McClintock, P. (2021, August 5). *Why Disney's 'Black widow' premium vod reveal rattled Hollywood*. Retrieved from The Hollywood Reporter:
<https://www.hollywoodreporter.com/business/business-news/black-widow-premium-vod-reveal-shocked-hollywood-1234983101/>
- McCoy, D. R. (1984). *The Presidency of Harry S. Truman*. Lawrence : University Press of Kansas .
- McCullough, J. (1980, August 9). Home Video Industry Awaits Strike. *Billboard*, p. 3.
- Menger, P.-M. (1999). Artistic Labor Markets and Careers. *Annual Review of Sociology*, 25, 541-574.
- Morley, E., & Silver, A. (1977, March). A Film Director's Approach to Managing Creativity. *Harvard Business Review*. Retrieved from Harvard Business Review:
<https://hbr.org/1977/03/a-film-directors-approach-to-managing-creativity>
- Nicholson, P. (2004). *Labor's Story in the United States*. Philadelphia: Temple University Press.
- Nielsen, M. C. (1988). Labor Power and Organization in the Early U.S. Motion Picture Industry. *Film History*, 121-131.
- Pateman, D., & Marshall, A. (2022, February). *What is Disney Plus Premier Access and what can I watch with it?* Retrieved from Techradar: <https://www.techradar.com/news/disney-plus-premier-access>
- Periwinkle Entertainment, INC., F/S/O Scarlett Johansson, A California Corporation vs The Walt Disney Company, A Delaware Corporation, 21STCV27831 (Los Angeles Superior Court July 29, 2021).

- Robb, D. (2021, September 20). *IATSE to Seek Strike Authorization From Members*. Retrieved from Deadline: <https://deadline.com/2021/09/iatse-strike-authorization-vote-film-tv-workers-1234841037/>
- Sakoui, A. (2021, September 10). *The last time it was 'Hollywood's Bloody Friday.' With no deal in sight, will crews strike again?* Retrieved from Los Angeles Times: <https://www.latimes.com/entertainment-arts/business/story/2021-09-10/the-last-time-it-involved-the-mob-and-warner-bros-could-iatse-strike-again>
- Sanger, D. E., & Greenhouse, S. (2002, October 9). *President Invokes Taft-Hartley Act To Open 29 Ports*. Retrieved from The New York Times: <https://www.nytimes.com/2002/10/09/us/president-invokes-taft-hartley-act-to-open-29-ports.html?pagewanted=all>
- Scott, A. J. (2002). A New Map of Hollywood: The Production and Distribution of American Motion Pictures. *Regional Studies*, 957-975.
- Seidelman, R. (2011, December 8). *The 2007-2008 Writers Guild Strike: The Effects and the Aftermath*. Retrieved from State of the Unions: <https://sotunions.wordpress.com/2011/12/08/the-2007-2008-writers-guild-strike-the-effects-and-the-aftermath/>
- Specter, E. (2021, September 28). *How Would a Major Crew Strike Affect Hollywood?* Retrieved from Vogue: <https://www.vogue.com/article/everything-you-need-to-know-iatse-strike>
- Squire, J. E. (2006). *The Movie Business Book*. Maidenhead, Berkshire, England: Open University Press.
- Stanhope, K. (2007, December 3). *Writers' strike impact analyzed*. Retrieved from Daily Bruin: <http://www.dailybruin.com/news/2007/dec/03/writers-strike-impact-analyzed/>

- The Walt Disney Company. (2021). *2021 Annual Report*. Washington DC: SEC.
- The Walt Disney Company. (2021). *2022 Investor Presentation*. Washington DC: SEC.
- The Walt Disney Company. (2021, July 21). *Marvel Studios' 'Black Widow' Surpasses \$215 Million Between Box Office and Disney+ Premier Access*. Retrieved from The Walt Disney Company: <https://thewaltdisneycompany.com/marvel-studios-black-widow-surpasses-215-million-between-box-office-and-disney-premier-access/>
- Thomas, T. (1986). *The Films of Olivia De Havilland*. Citadel.
- Townsend, E. (1980, July 24). *Actors Strike could delay fall TV season*. Retrieved from The Christian Science Monitor: <https://www.csmonitor.com/1980/0724/072454.html>
- University of California, Los Angeles. (2022). *Historical Analysis and Interpretation*. Retrieved from UCLA Public History Initiative : <https://phi.history.ucla.edu/nchs/historical-thinking-standards/3-historical-analysis-interpretation/>
- Variety. (1955, November 9 9). Willie Bioff . *Variety* , p. 18.
- Verrone, P. M., & Winship, M. (2009, February 26). *Letter from the Presidents*. Retrieved from Writers Guild of America, West: http://www.wga.org/subpage_member.aspx?id=2781
- Vlessing, E. (2021, July 30). *CAA Co-Chair: Disney "Shamelessly" Attacked Scarlett Johansson Over Lawsuit*. Retrieved from The Hollywood Reporter: <https://www.hollywoodreporter.com/business/business-news/caa-co-chair-backs-scarlett-johansson-says-disney-shamelessly-attacked-stars-character-1234990777/>
- Vourlias, C. (2021, October 14). *Joe Russo on Fallout from Scarlett Johansson's 'Black Widow' Lawsuit: 'People's Nerves are Fraying' (Exclusive)*. Retrieved from Variety: <https://variety.com/2021/film/global/joe-russo-scarlett-johansson-black-widow-disney-1235088864/>

Wagner, S. (2003). *How Did the Taft-Hartley Act Come About?* Retrieved from History News Network: <https://historynewsnetwork.org/article/1036>

Writers Guild of America. (2007, November 9). *2004 Writers Guild of America - Alliance of Motion Picture & Television Producers Theatrical and Television Basic Agreement*.

Retrieved from Wayback Machine:

https://web.archive.org/web/20071109215623/http://www.wga.org/uploadedFiles/writers_resources/contracts/MBA04.pdf

Writers Guild of America. (2008, January 2). *WGA Contract 2007 Proposals* . Retrieved from Writers Guild of America, West: http://www.wga.org/subpage_member.aspx?id=2485