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Entertainment lawyer  
Gail Migdal Title



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# WHO Wrote *Shakespeare?*

Gail Title knows, and she fights to protect the authors' rights

by ROSE NISKER photography by LARRY MARCUS

**G**ail Title, the managing partner in the Los Angeles office of Katten Muchin Rosenman, knows the power of a good love story. The renowned entertainment attorney represented Miramax when its Oscar-winning romance, *Shakespeare in Love*, came under attack by a series of writers who claimed their work contained ideas and expression used in the film. In her well-researched defense, the attorney pored through the writings of Tom Stoppard, *Shakespeare's* recognized author (along with Marc Norman), using her love and knowledge of literature to formulate a core argument. "If you look at all the other plays Tom Stoppard has written, you can see the common thread that extends to the *Shakespeare* screenplay." And just like the Stoppard screenplay, Title's legal story came to a feel-good close—two of the cases were dismissed and the others were settled before *Shakespeare in Love* won seven Oscars.

But the *Shakespeare* cases were not Title's first experience with the romantic comedy genre. In fact, she crafted her first legal defense around a real love story. As an undergraduate at Wellesley College in 1967, Title watched a good friend get in trouble for going on a date without signing the required dormitory paperwork. "The whole sign-out system at Wellesley was so paternalistic," Title says. "We had to do something to show how ridiculous it was. When my friend appeared in front of the dorm council, I acted as her legal representative. I argued an insanity defense," Title says, grinning impishly. "I said she was 'crazy in love.' It's one of my all-time favorite legal defenses."

Title has plenty to choose from. This year alone she helped DreamWorks fend off a claimant who alleged copyright infringement and idea theft in regard to the recently canceled television series *Las Vegas*. She obtained a dismissal in two separate actions against NBC Universal, all targeting the TV series *The Biggest Loser*. Title even took on Hercules—and won. Kevin Sorbo, the actor who played the Roman demigod in the *Hercules: The Legendary Journeys* series, brought claims against Title's client, Universal Studios, in a complex profit participation and fraud action involving more than \$100 million. Yet again, Title obtained a judgment in favor of her client. Hercules? Nolo contendere.

"If you're going to be engaged with litigation involving the major studios as part of your profession, you're going to get to know Gail Title very well," says plaintiff's lawyer Glen Kulik of Kulik, Gottesman, Mouton & Siegel. Kulik has been up against Title on numerous occasions, including one of the *Shakespeare in Love* cases. "Whenever I'm up against her, I know I'm in for a challenge," he says.

In fact, Title is such a formidable opponent that during the past several years, in nearly all of her cases, she's managed to obtain exactly what she aims for: dismissals. "Whenever possible I like to guide clients to resolve disputes without a trial. We figure out how to develop and position a case so that we can get rid of it on summary judgment."

While the attorney didn't set out to specialize in the entertainment or film world, she did start thinking about a law career early.

"Actually, my father always wanted to be a lawyer," she explains. Though he never fulfilled that wish, his interest in the field informed Title's own decision to go to law school. "How could I not do him proud?"

Also thanks to dad, Title started practicing her litigation skills early. "From the time I was young, I was arguing with him," she says with a laugh. The topic almost always centered on politics. "I have a distinct memory of driving with him down Wilshire Boulevard when I was a young teen, arguing over why we need Social Security," Title says.

Once in college at Wellesley, the budding young litigator with liberal tendencies majored in political science and double-minored in psychology and English literature. She thought seriously about working in government after two summer internships

## GAIL TITLE

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- ▶ Chair of firm's entertainment and media litigation practice
- ▶ Top 50 Women *Southern California Super Lawyers* 2008-2010
- ▶ Executive committee and board member of Public Counsel Law Center
- ▶ Clients include Universal Studios, DreamWorks LLC, NBC Universal, Miramax



Title took on Hercules ... and won.

## “If you’re going to be engaged with litigation involving the major studios ... you’re going to get to know Gail Title very well,” warns Glen Kulik of Kulik Gottesman.

on Capitol Hill, but decided on law after she enrolled in a senior legal philosophy course exploring the ethical questions behind legendary cases.

It was during the course that Title made her first visit to the Boston criminal court. “I remember we were all sitting on this long bench,” Title says. “All these little Wellesley girls with A-line skirts and liberty print blouses sitting in a row right next to the defendants.” Title adds, “If you advance five years, I was working at the federal public defender’s office. I’d be there in lock-up with bank robbers, and I would sometimes think back to being on that bench, and whispering with my classmates, ‘Wow, those are the defendants.’”

After graduation from Wellesley, Title decided to return to the West Coast to be closer to her family. Being in an environment with such a strong intellectual tradition solidified Title’s already well-developed tendencies toward engagement with ideas, politics and philosophy.

Title attended law school at UC Berkeley, and, after receiving her J.D. in 1970, she moved back to Los Angeles. Once there, she began a clerkship with Judge David W. Williams, the first African-American federal judge west of the Mississippi.

Working for Williams seemed familiar to Title. “In certain ways he was similar to my father,” Title says. “He had started with nothing, worked as a janitor to get himself through law school, and when he bought his house on Sunset Boulevard just west of UCLA, the broker couldn’t let anyone know he was black. They were out of the same mold—wonderful, decent, caring, generous with family, and because of their experiences, very conservative politically.” Title’s understanding of the two men comes from years of heated discussions, first with her father and later with Williams. But she clearly maintains the utmost affection for both, despite her deep disagreement with their political views.

Title’s clerkship slid seamlessly into a job. “I had no definite career plans but the federal public defender’s office was in the same building. ...They asked if I wanted to consider a job there.” Inspired by the caliber of attorneys Title met there, along

with the prospect of frequent courtroom appearances, she took the position.

At the time, she was the only female attorney at the office. “I was also the only one hired who didn’t have prior legal experience,” she says, shrugging. Undeterred, Title stayed on for four years serving as a deputy federal public defender, trial lawyer and appellate supervisor. Title reveled in the demands of her job. “It was a wonderful formal courthouse with very serious judges, the other attorneys were extremely talented, and I was 25 years old running around the office, trying cases, and making appearances,” she says. “What could be better?”

Soon the young attorney was ready for a new challenge—a job that could stretch her analytical abilities and exercise her intellectual skills. “A friend suggested entertainment litigation,” Title recalls. “I said, ‘What’s that?’”

At the time, the backstage workings of the industry were not common knowledge. “You didn’t hear box office statistics on the morning news, and the people in Peoria didn’t know what legs were on a movie.” Title was intrigued by this new world and interviewed at a couple of firms, ultimately choosing prominent entertainment firm Rosenfeld, Meyer & Susman. “I really liked the people at Rosenfeld—they seemed to be intellectual simpaticos. At the time, one of the partners was going to graduate school in history.”

When Title started at Rosenfeld, she already had ample trial experience from her public defender roots but limited knowledge of civil practice. “I had become proficient in trying cases without discovery.” The firm assigned her to labor guild arbitrations while she got up to speed on civil procedure.

“Doing labor arbitrations, I dealt with the electricians union, the set designers, the directors guild. You really learn how the studio functions, how the pieces fit, and how a movie gets put together,” she says. She learned the business inside out—from the economics to the creative. Soon, Title was handling complex contracts matters, trademark cases, and back-end profit participation, with millions of dollars at stake. “I didn’t think I’d like it, so I didn’t even take a full year of business law in school and here I was reading

all this complex accounting information, and finding it extremely interesting.”

Just a few years into her stint at Rosenfeld, Title worked on an enormous antitrust case brought by the Department of Justice against the networks (at the time there were only the Big Three). The case involved the way networks were licensing products from the studios during an era when the financial interest and syndication rules, or “fin-syn rules,” were in flux. The Department of Justice brought an action against the networks, and the various studios were the principal witnesses. “All of the studios were involved, plus all the network executives. A number of huge firms from all over the country were camped out in Los Angeles to work on the case,” Title says. Rosenfeld represented MCA, and Title set to work looking at license agreements from the very beginning of television, researching how the terms were negotiated. “It was my first major learning and entry into a large-scale entertainment business case,” Title recalls.

Title maintains a ferocious interest in the business, and remains engaged in some cases that have lasted years. She cites 13 years of legal wrangling with Lynn Redgrave as one of her lengthiest battles. Back when the actress was a series regular on *House Calls* in the early 1980s, Redgrave and her producers parted ways over a contract dispute. After many years of trying to get to trial, Title and her team, once in front of a judge, were able to persuade the court to rule for the producers.

“I really did find my niche,” she says. “I do any litigation that relates to the entertainment industry, so I get variety and new challenges all the time.” Most important, she never tires of the process. “I get a real kick out of taking this lump of stuff—facts, history, etc., and molding it into something that can advance my client’s position.

“When I was a kid, my mom used to let me stay up late to watch old movies with her—things like *Dial M for Murder* and *Gaslight*.”

Title smiles. Even though she’s analyzed dozens of profit participation contracts and slogged through studio budgets, it’s clear that the cinema, like her own life story, still has its magic. ◀