

# Tom J. Ferber

Senior Counsel

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Tom Ferber is a member of Pryor Cashman’s Litigation, Intellectual Property, and Media + Entertainment Groups.

Over the course of more than 30 years at the firm, he has successfully litigated industry-shaping intellectual property cases, complex commercial disputes and precedent-setting First Amendment matters on behalf of the entertainment industry’s most celebrated artists, authors, performers, producers, motion picture studios, and record labels.

## **The Attorney of Choice for Intellectual Property Disputes**

Recognized as one of the country’s preeminent IP litigators, Tom focuses his practice on copyright, trademark, and right of publicity and privacy actions on both the state and federal levels. His work has shaped the nature of copyright and trademark law in unprecedented ways, including expanding the “fair use” defense, an area on which he frequently lectures.

Tom’s extensive record of successful representations includes:

- A seminal victory in *Rogers v. Grimaldi*, where Tom defended MGM/UA and Alberto Grimaldi against actress Ginger Rogers’ claims that Federico Fellini’s film *Ginger & Fred* infringed her trademark rights and right of publicity. Tom’s work on this case led to a landmark Second Circuit decision concerning the conflict between the Lanham Act and the First Amendment in works of entertainment;
- Obtaining dismissal of copyright and trademark claims brought against The Weinstein Company, Millennium Films, and other defendants in connection with the motion picture “Lovelace”;
- Prevailing before the Seventh Circuit on behalf of Lions Gate Entertainment and Summit Entertainment in a trademark infringement matter concerning the critically-acclaimed motion picture “50/50”;
- Successfully defeating a copyright infringement suit brought against Tyler Perry Studios and Lions Gate Films involving the motion picture “Good Deeds”;
- Winning summary judgment at the trial and appellate levels on behalf of Sylvester Stallone, Lions Gate Films, and Nu Image/Millennium Films in a copyright infringement case concerning the all-star action film “The Expendables”;
- Obtaining dismissal of defamation claims against TMZ Productions, Inc. based on the fair report privilege.

## **Guiding Clients Toward Sound Business Opportunities**

Leveraging decades of experience in film and television, Tom is regularly retained by production entities, authors, and errors and omissions insurers seeking to evaluate risk and minimize exposure as they assess the insurability

of potential projects. He partners with his clients in this area to help develop effective strategies to identify and pursue viable opportunities.

## **An Authority on Developments in Entertainment + Media Law**

Tom has served on the faculty of PLI's Advanced Seminar on Copyright Law as well as numerous bar association and industry panels examining current legal issues impacting the entertainment and media spheres. He is the author of the chapter on "New York Law and Procedure" in the Oxford University Press USA treatise *Entertainment Law*.

Tom is consistently recognized as a top intellectual property litigator by *The Legal 500* and *Super Lawyers*.

## **Services**

- Copyright
- M+E Litigation
- Litigation
- Literature
- Music
- Privacy, Publicity + Defamation
- Trademark
- Film, TV + Podcast
- Media + Entertainment

## **Education**

- Georgetown University Law Center (J.D., 1982)
- Tufts University (B.A., *magna cum laude*, 1979)

## **Recognition**

- Named to the 2021 *Best Lawyers* list
- Named by *The Legal 500 US* as a leading lawyer in copyright (2013-20) and media + entertainment (2018)
- Named to the *Super Lawyers – New York Metro* list in Intellectual Property Litigation (2008-25)

## **Admissions**

- New York, 1983
- District of Columbia, 1987
- U.S. Supreme Court
- U.S. Court of Appeals for the First, Second, Third, Sixth, Seventh, Ninth, Eleventh and District of Columbia Circuits
- U.S. District Courts for the Southern, Eastern and Northern Districts of New York
- U.S. District Court for the District of Arizona
- U.S. District Court for the Northern District of Illinois

## **Professional Affiliations**

- New York State Bar Association, member, Intellectual Property Law and Entertainment, Arts and Sports Law Sections
- District of Columbia Bar

## **Academic Achievements**

- Tom is a Georgetown University Law Center graduate, where he was Topics Editor of the *American Criminal Law Review*

## **Publications**

June 25, 2012

**Idea Theft: Protecting All Sides**

August 16, 2011

**Ferber Contributes Entertainment Litigation Chapter**