



# Foreign Productions and Tours Add Risk for Filmmakers and Artists

*Careful planning, prudent risk management  
help to limit risks abroad*

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## Foreign Productions and Tours Add Risk for Filmmakers and Artists

Explosions and dramatic stunts in exotic locales keep movie audiences on the edge of their seats, but behind the scenes, filmmakers must strive to keep the actors, stunt performers and crew safe while providing only the illusion of danger on screen. The scenes may be fictional, but the risks remain all too real. Pyrotechnics can cause severe injuries and death; car chases and other auto scenes too often lead to injuries and significant losses; even the industrial nature of the equipment on a set presents risks that may be overlooked. All of these exposures are heightened when production takes place in another country with differing employment and insurance laws.

Whether the project involves a live-action feature, an independent or student film, the producers need to be aware of the local workplace and insurance regulations. There may be specific coverage differences and requirements in jurisdictions outside the United States, for example, in general liability, auto and employer liability. A thorough approach to risk management and the appropriate insurance should be key considerations for feature, documentary, commercial and educational projects.

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### On Location

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The world calls it Hollywood, but the film industry spreads its work far beyond southern California. Foreign locations have been a major theme since the film industry's birth, and many of today's top films are made abroad. Sometimes, the film requires a location that evokes the proper place and time, whether it is World War II England, Meiji-era Japan or Civil War America. For documentaries and nature projects, the subject may simply demand a specific location such as the South Pacific or African savanna.

Not only does the scenery draw film makers, but a variety of tax incentives and less expensive labor costs lure producers to countries such as Britain, Bulgaria, Canada and Malta. A study of 109 U.S. feature films released theatrically in 2015 showed that 19 were primarily produced in California and 12 each in Georgia and Louisiana, according to Film L.A. Other top locales for film production were the United Kingdom with 15 and Canada with 11. While none of the top 25 live-action films were produced primarily in California, the study showed U.S. productions did account for nearly two-thirds of the films.<sup>1</sup>

When producers choose a foreign location, they need to understand how local employment, workers' compensation and insurance regulations may affect their project and its risk management demands. Britain, for example, remains a favorite location, but employer liability can be a significant concern with minimum required coverage of £5 million and the potential for large claims. Canada, which hosts a large amount of film productions, is a fairly litigious country, and demand remains strong for higher limits. Malta is a very popular location due to its Mediterranean setting, tax incentives and "tank" studios that serve films that require a lot of scenes involving water. Currently, Bulgaria, the Czech Republic, Hungary and Poland also entice filmmakers with tax credits. Every country has its own insurance requirements, and the production may have to work with an insurer that is "admitted," or legally licensed to do business in that jurisdiction. Otherwise, producers may run into regulatory complications.



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## Film Industry Considerations

The complex nature of many film projects - often including layered and cascading contracts that govern the project itself and the artists' participation - can make obtaining the appropriate insurance more difficult. The industry's unique use of corporate structures can also present challenges. For instance, many successful actors and entertainers use so-called "shell" corporations for business and tax reasons. The foreign exposure of shell corporations is usually limited to incidental travel to scout locations or to make personal appearances, but an individual artist's exposure must be considered to ensure there is adequate coverage, particularly on foreign projects or engagements.

Whatever the project, film producers face a variety of exposures that need to be addressed to avoid unnecessary risks and to keep performers and artists safe. Here are some of the main risk management considerations that filmmakers and touring artists often face:



## When Artists Go On Tour, Risks Come Along

Whether it's a top-selling pop group, singer, comedian or other artists, international tours are often vital to their success. When they go on tour, however, musical groups and artists face a number of potentially unrecognized risks. Beyond injury to themselves, spectator liability is a prime concern. Generally, touring artists should seek to have the venues assume the responsibility for spectator liability in the event someone falls, is injured in the audience or as a result of the performance. Physical interaction with the audience can lead to injuries and should be discouraged.

Travel is often an integral part of an artist's or actor's career, whether to go on tour, make personal appearances, or scout film locations. The exposures they run into while traveling may exceed their incidental trip and travel coverage. Before going on the road, artists and their managers should evaluate their coverage with their broker and insurer to see if they need enhancements.

### Closed Sets Help to Mitigate Third-Party

When the filming begins, there should not be an audience on set. Like any industrial setting, a film set can present a variety of risks involving power tools, cranes and booms, cables, lights and even carts and dollies. A variety of weapons may be present on the set, depending on the film, and even a blunt sword can cause serious injury. Closed sets, where only people working on the project are present, help to mitigate third-party exposures. By strictly limiting access to those considered employees, producers substantially lessen potential third party general liability claims, leaving employer's liability claims as the main exposure. A properly secured and monitored set allows insurers to better analyze the probable maximum loss from a production, but a set that is open to visitors and passersby opens up the potential for severe third-party losses.

### Stunts and Explosions Add Danger as well as Drama

Whether it is a fight scene, car chase or explosion, stunts present the potential for severe losses generally involving employer's liability claims. Timing is critical. A split second is often the only difference between safety and a potential significant injury. Even the most thoroughly planned stunts can still go wrong if a driver in an intricate car chase scene turns at the wrong moment or an actor throws a punch a second too soon.

While movies are continually pushing the limits on action scenes, it is crucial to make sure that everyone involved has the requisite expertise. To assess the risk, insurers look to the scripts and the experience of those involved in action scenes.

### Pyrotechnics

Explosions are a mainstay of today's action films, but pyrotechnics present some of the biggest risks of injuries and severe financial losses. To limit the exposures, the personnel controlling the pyrotechnics must be experienced and each scene must be very carefully scripted. Naturally, the size of any explosion, as well as the target of the blast, plays a crucial role in the evaluation of the risks. Scenes combining explosions and motor vehicles present an even greater danger, not only injuries for the actors, but also for the potential damage to third-party property, such as a neighboring building, if a scene goes wrong.



### Auto Scenes

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Moviemakers have made an art of car chase and crash scenes. Accidents involving autos, however, account for some of the most frequent, large losses on film productions. Keeping auto scenes safe requires strict attention to choreography and timing, but accidents can still happen when speeding cars are involved. In intricate, fast-moving scenes - such as cars exploding, rolling or crashing - the action has to be timed perfectly to avoid accidents involving a person, another car or a building. Lapses can make auto scenes especially dangerous not only for the performers but also the film crew.

### Trains and Railroads

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Trains are featured in many movies and scenes involving moving trains present a heightened risk. Assessing railroad exposures involves understanding the details and mechanics of how the scene will play out in filming. For instance, a stunt actor running across the top of a moving train or a fight scene that takes place on board or outside a moving train can place the actors and camera crew at risk. Crews filming near working railroad tracks need to ensure that they have permission and that no trains will travel through the area during filming.



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### Watercraft and Water Scenes

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Some of the most memorable action scenes involve boats and other watercraft. The same considerations that apply on land are amplified when the action shifts to water. A scene that takes place on a sailboat on a calm sea may present little danger, but a race between power boats or a fight involving moving watercraft is a different story. Actors and crew risk not only physical injury but also drowning when they work on or near water.

While underwater scenes are usually filmed with experienced divers, the risk remains high. Major considerations are the experience and certifications of the divers as well as depth at which the action takes place and length of time that stunt actors and cinematography crew will spend underwater. Just filming near water increases risk. An accident that might not be severe on land can turn fatal if someone falls into the water. The hazards involved in filming near water should not be overlooked.

### Risks Rise With Height

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Falls remain a significant cause of workplace fatalities in all industries, and film is no exception. When crews are filming or actors are performing at heights above 50 feet, any slip-up can result in serious injury or death. Insurers closely scrutinize any scenes where personnel will be exposed to significant heights. Falls from lower heights can also result in significant injuries, but the risks increase with the elevation.

When the action takes to the air, the risks also rise. The exposures depend on how the equipment is being used, whether as a setting or for a stunt. For instance, a helicopter chasing a car or buzzing a crowd will present a risk profile similar to an auto chase scene, with the added exposures surrounding the potential for an aircraft crash.



### **Insuring Entertainment Risks**

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The entertainment industry often presents out-of-the-ordinary exposures, but with proper precautions many of those risks are insurable. The main insurance coverages available to the industry include general liability, contingent auto and employer responsibility. Foreign locations and production sites, along with the layered and cascading contracts frequently used in the industry, add to the complexity. Producers may want to consider a film production package that covers cast insurance, production media, props, sets and wardrobe, production equipment, extra expense, damage to property and other exposures. Working with an insurer and brokers that have specialized experience in the industry is a key part of making sure the project's overall risk management addresses the main exposures, that it helps to keep the cast and crew safe, and also provides the appropriate financial protection for the producers.

The most exciting action scenes can still be insured - and filmed safely - if the proper precautions and procedures are followed. An insurer that understands the industry, and has global experience and relationships is best placed to meet the demands that today's global film and entertainment productions involve - wherever the action takes place.

### **Underground Filming and Natural Disasters**

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Like mining, underground filming presents a variety of dangers, chiefly stemming from the potential for the collapse of the ground around the cast and crew or above them.

While computer-generated imagery has made it possible to recreate disasters on an epic scale, some scenes depicting natural disasters still rely on more old-fashioned means. That may involve pyrotechnics, moving ground or volumes of water. Missteps with stunts and pyrotechnics present some of the more significant risks.

### **Animals in Film**

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From cats to lions, animal roles in films can range from loveable companions to life-threatening predators. Whether it is a

bear, crocodile or lion, a scene involving any wild animal presents significant risks to the cast, crew and handlers. To evaluate the risks, insurers assess the animals along with their trainers' experience and that of the cast and crew on the set. The exposures depend on the scene itself and the interactions, if any, between the animals and cast or crew.

### **Expensive Antiques or Autos**

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For the sake of realism, period films may seek to borrow or lease expensive antiques or autos. An antique or rare car may be worth hundreds of thousands of dollars, if not more, making any damages a fairly significant risk. Insurers look at the value of the property, the planned scene as well as the coverage and limits being requested by the property owner.

### About the Authors

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### Endnote:

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1. FilmL.A. Issues Third Annual Feature Production Study, FilmL.A. Inc., press release, June 15, 2016. See: <http://www.filmla.com/2015-feature-film-production-study/>

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