

Rising Star: Gibson Dunn's Brian Ascher

By Nadia Dreid

Law360 (July 27, 2020, 4:25 PM EDT) -- Brian Ascher of Gibson Dunn & Crutcher LLP has a track record of helping reporters regain White House press credentials that were revoked by the Trump administration, earning him a spot among the media and entertainment attorneys honored as Law360 Rising Stars.

HIS BIGGEST CASE:

After the White House revoked the press pass of CNN's Jim Acosta in late 2018, the news network lawyered up with a team from Gibson Dunn — which included Ascher — and took the Trump administration to court.

It was a bit of a wild ride, Ascher told Law360.

"That was sort of a big moment because the tension had been building, and here was a concrete attack, where they'd taken a reporter's press pass," he said. "The whole thing happened in about 10 days, start to finish."


The White House pulled Acosta's pass after a testy exchange between the reporter and the president on Nov. 7, 2018. Less than a week later, CNN filed its suit in D.C. federal court, where it slammed the move as an "unabashed attempt to censor the press."

Just days later, Trump-appointed U.S. District Judge Timothy J. Kelly ordered the administration to reinstate Acosta's press pass, finding the revocation likely violated the journalist's rights to due process.

For Ascher, who helped craft the preliminary injunction motion among other filings, the judge's order marked one of his proudest moments.

"We weren't just vindicating the rights of our individual clients, but vindicating the rights of the press in general, and certainly the White House press in getting the sort of clear lines drawn for what the





Brian Ascher
Gibson Dunn

Age: 39
 Home base: New York
 Position: Partner
 Law school: New York University School of Law
 First job after law school: Associate at Gibson Dunn

government and White House can and can't do," he said.

The next time around, when the White House in 2019 revoked Playboy reporter Brian Karem's press pass after he clashed with former Trump aide Sebastian Gorka, Ascher said the administration "tried very, very carefully to avoid the issues they had in the Acosta case."

But the result was the same — a federal court ordered the press pass reinstated.

"Fortunately, they still got it wrong in a few meaningful ways," he said.

HIS MOST INTERESTING CASE:

Lately, Ascher has spent much of his time preoccupied with "The Walking Dead," and not just because it's a great series.

The attorney has been representing AMC in a contract battle between the entertainment giant and the executive producers of the hit show, who claim they have been shorted on the profits they are owed from the show's success.

The so-called profit participation case centers around how much various producers stand to make based on how well the show does, a complicated formula that Ascher said often later forms the basis for disputes when something becomes unexpectedly popular.

AMC was handed a resounding victory last week, when a California superior judge sided with the entertainment company on seven out of seven contract issues that served as the subject of a "mini-trial" before the case goes before a jury to decide the merits.

"It's an interesting case because it goes back to contracts that were written in 2010 for a show that at the time was just getting off the ground, then became one of the most successful shows in the history of cable TV," he said.

WHY HE CHOSE MEDIA AND ENTERTAINMENT LAW:

Ascher wasn't always sure he wanted to be an attorney, but he did know he wanted to work in show business.

After a stint as a paralegal and several post-college years as a production assistant, Ascher had developed contacts and a feel for both industries, and ultimately decided it was time to take on law school.

"It was the business I knew and liked, and I wanted to help companies and creators actually make money commercializing a show or a movie or an idea," he said. "I knew I wanted to try to find a way to stay in the field through my legal practice."

HOW HE EXPECTS MEDIA LAW TO CHANGE:

Expect more profit participation cases, the attorney said.

The distribution landscape for media is changing, and contracts that were originally drafted when the only widely used forms were video and cinema are going to be open to interpretation as the industry finds new ways to divvy up and lease out content, Ascher said.

Streaming has already thrown a wrench in that, he said, and as the number of distribution channels multiplies, contracts will shift accordingly and litigation will be filed over older content.

"Creative lawyers are always going to try to find a way to get more money out of these shows if they become successful," he said. "It will be interesting to see what comes of that."

— *As told to Nadia Dreid*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.