

Entertainment Law
Whittier College of the Law
Summer 2006

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COURSE GUIDELINES

GOALS: I intend for this class to provide meaningful training for the practice of law in the context of the entertainment industry, including both transactional and litigation practice. By the end of the course, you should have a meaningful grasp of industry vocabulary, a command of the principal legal doctrines that shape the industry, and some understanding of the practice of negotiating deals and conducting litigation for and against clients in the entertainment industry.

SYLLABUS: A syllabus will be distributed separately.

CLASS WEBSITE: Various materials and links are on the class website at:
http://www.eejlaw.com/courses/entertainment_law_summer_06/

MATERIALS: The two required texts for this course are:

Entertainment Law (Third Edition). Melvin Simensky, Thomas D. Selz, Robert C. Lund, Barbara Burnett, Charles A. Palmer, and F. Jay Dougherty. Published by LexisNexis, 2003.
ISBN: 0-8205-5725-0

Dealmaking in the Film & Television Industry (2nd Edition). Mark Litwak. Published by Silman-James Press, 2002.
ISBN: 1-879505-66-5

Please note: The "Document Supplement" for the Simensky text is not required or recommended.

In addition, you will receive assignments that will require you to explore materials freely available on the internet and to retrieve cases or other materials from the class website or from an online legal research service, such as Westlaw or LexisNexis.

Beyond the required materials, you are encouraged to use any other materials you find helpful or interesting, including, for instance, commercial outlines. The more you learn about entertainment law, the better.

Commercial outlines are a great way of gaining a basic understanding of the blackletter law in a subject. Unfortunately, I do not know of any commercial outlines for entertainment law, *per se*. There is, however, a "nutshell" published by West, which one student said was helpful. In addition, entertainment law comprises other areas of substantive law for which there are good outlines, and you may wish to consult the relevant portions of commercial outlines in intellectual property, torts, contracts, and

any other subject areas we go through. If you do use study aids, I would appreciate your letting me know your experience with them—whether good or bad.

ASSIGNED READING: I take care to craft reading assignments so that they are not unduly burdensome. Because of this, I expect all students to actually do the reading, as doing so will ensure healthy classroom discussion.

How should you tackle the reading? You could, of course, brief the cases, use a highlighter, make margin notes, or do any of a number of other things. And, of course, you should do what works for you. But the most important thing is to read the material with interest. If you do not have time to engage in your usual ritual of making the most of reading material, at least make sure that you read it with interest. “With interest” means you should be having thoughts going through your head such as, “Mmmm, interesting!” “Ah ha! That makes sense!” or “What is wrong with this judge?!?!?”

One way to approach the reading, suggested by Professor Scott Brewer of Harvard Law School, is to be aware of “the literary drama of the law,” that is, “be alert to the narratives of the hopes, aims, fears, aspirations and frustrations of the litigants ...” Behind every case there is a real story. The more you allow yourself to be absorbed into that story, the more you will get out of the case.

Moreover, put yourself in the position of the judge and force yourself to confront the challenge of trying to interpret the law in a way that is fair, unbiased, and beneficial for society. Using this kind of viewpoint, you are bound to get something extra out of every case you read.

GRADING: Your grades will primarily be based on your exam performance. The exam is discussed below. Each exam, of course, will be “blind graded,” so that I will not know the identity of the student as I am grading his or her exam.

In addition, the College permits professors to add or subtract a certain number of points from a student’s grade on a non-blind, discretionary basis. I will use these discretionary points to reward students who provide insightful answers to oral questions in class and who make a meaningful and appropriate contribution to class discussion. I will subtract points for students who are absent, tardy, who come to class unprepared, or who exhibit poor performance in classroom discussion.

Further, at this time, I am planning to have two in-class quizzes, one on copyright law and another on trademark law. The results of the quizzes will form a very small portion of your final grade. I will discuss these more in class.

IN THE CLASSROOM: Do not eat in class. Do not chew gum audibly or with your mouth open. Do nothing that might disrupt class or distract your fellow students.

Come to class each time, on time, and prepared. You will be periodically asked to answer questions based on the assignments or the ongoing classroom dialogue. Be prepared to participate,

Your participation in classroom discussion should be meaningful and appropriate. Raise your hand to have a say in discussion when you have a comment that will contribute to the experience of the class as a whole, or when you have a question, the clarification of which will benefit the entire class. Your classroom participation should be appropriate — not too little, not too much. Everybody knows there are students who raise their hand too often and take up too much of the class’s

time. All of us also know that there are people who sit passively and rarely, if ever, contribute to classroom discussion. Take care that you do not fall into either extreme.

If you cannot participate fully for a particular class, for whatever reason (and you don't have to tell me why), please tell me before class, in person, so that I can avoid calling on you. Reasonable requests of this sort will not adversely affect your grade.

If you will be late or absent, please make sure that you e-mail me at eej@eejlaw.com before class. An occasional absence or late arrival will not adversely affect your grade—just e-mail me beforehand. If you are concerned about your attendance record, please talk to me. If you are late and you did not e-mail me, make sure you come up to me after class so that I can note your attendance. Otherwise, you may be marked absent. Of course, none of the foregoing supercedes the College's attendance policy

Be aware that I will be making an audio recording of each class meeting. These recordings are for my use, and, unfortunately, I will not be making them available during the term for absent students.

EXAMINATION: My challenge as your professor is to write an exam that fairly tests your knowledge and mastery of all the material presented in the course. That is, the exam should reward those students who have done the reading with interest, participated actively and appropriately in class, and truly mastered all the subject matter presented. The exam should not reward those who, by chance, happened to study the "right" material or those who correctly guessed what material the professor found most interesting.

Be assured that I will not use any questions that have been used on any other prior exam. Also, to avoid "teaching to" particular questions, I will not write the exam until late in the course.

The exam will certainly contain at least one traditional issue-spotter hypothetical question. The exam may additionally contain one or more questions asking you to do any of the following: (1) mark up a contract draft, (2) suggest litigation tactics given a certain set of circumstances, (3) answer a "theme" or "theoretical" style question, in which you critique the law. In the case of a theoretical-style question, I will provide a fictional context for writing your answer and perhaps a stance for you to take, such as, "[A certain client] has asked you to write a letter to the editor of the New York Times arguing for [a certain change in the law]."

I plan for the exam to be "open book." However, you should prepare with the expectation that you will have little time to look things up during the exam. I may also include a multiple-choice section on the exam. If there is a multiple-choice section, that portion will be closed-book.

I may provide a more specific description of the examination at a later time. Old exams are posted on the class website.

FEEDBACK: If you have feedback for me— suggestions, ideas, commendations, or criticisms, please do not hesitate to tell me in person or by e-mail. If sending something to me anonymously would make you feel more comfortable, then I invite you to do just that.

Good luck with the Summer session. I hope you enjoy the course.