

WESTERN STATE COLLEGE OF LAW
Summer 2024

ENTERTAINMENT LAW
Syllabus

Professor: Kevin Khoa Nguyen, Esq.
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Class Meetings: Tuesday and Thursday, 6:40 PM - 9:50 PM, Room L833

Overview:

This course tracks the legal and business structure of the motion picture, television, music, electronic, and theatrical industries. It is designed to familiarize students with the intellectual property rights and contractual relationships among the media producers, distributors and authors, and to introduce the deal-making aspects of practice in the entertainment industry.

Course Objectives:

There are three primary and interrelated objectives for this course.

- 1) Students should develop good legal analytical skills, including the ability to recognize relevant facts and legal issues, analyze and utilize cases, rules of law, and public policy to come to reasonable legal conclusions based upon their analysis.
- 2) Students should master the fundamental rules of intellectual property rights, entertainment contracts, defamation, right to privacy, and remedies for copyright infringement, breach of contract, or other causes of action.
- 3) Students should be able to clearly express their understanding of the legal issues through oral and written means.

Prerequisite:

Legal Writing and Research II

Required Casebook:

Myers, Berry, and Weiler, *Entertainment, Media, and the Law: Text, Cases and Problems*, (6th ed., West Academic Publishing 2021).

Attendance:

You should attend every class session. Attendance will be taken. Western State policy requires you to attend at least 85% of the class sessions in order to sit for the examination. As such, failure to attend at least 85% of the classes may result in your withdrawal from the class. For this class that means that you can have no more than 2 absences. We all know that emergencies and significant unforeseen circumstances happen, preventing you from attending some class sessions. That is what the 15% missed class rate is intended to accommodate.

Expectations Regarding Preparation Time for the Course:

When preparing for class, you should expect to spend 2-3 hours for every hour of class time. Read the cases critically. You are free to disagree with the conclusion the court came to, but understand the reasoning even if you do not agree with it.

Classroom Participation:

You should be prepared to discuss class assignments each session and arrive on time.

Professionalism:

An important aspect of class participation is arriving to class on time and treating each other with professionalism and respect.

Grading and Examinations:

Your final grade in this course will be a combination of your Classroom Participation (10%) and the Final Exam (90%). The Final Exam will be a combination of multiple choice and essay questions. The exam will be nearly closed book. You will be allowed to bring into the exam one 8.5x11 inch sheet of paper (both sides) on which you may write anything you like, such as summary of issues, rules, cases, and other important concepts. Only use materials (i.e. rules and cases) assigned and discussed in this class on your exam.

Expectations for Students in Zoom Sessions:

- Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- Arrive to class early and dressed as you would to attend an in-person class.
- Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.
- Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.
- Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please notify your professor in advance so you are not marked absent.
- Unless your professor instructs you otherwise, mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.
- Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.
- If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you

will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.

- Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the professor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your professor will inform you about the ways in which you should use these tools in that particular class.
- Professors may use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms, as well as asking you to share your screen, type in the chat window. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, share your screen as requested, etc.

Western State College of Law – Programmatic Learning Outcomes:

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact

pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

Disability Services Statement:

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need

for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation.

If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Marisa Cianciarulo at mcianciarulo@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy Against Discrimination and Harassment."

Reading Assignments:

What follows below is the currently expected readings for the semester (“Notes and Questions” are optional). Any adjustments to this schedule will be announced.

Class Session	Date	Subjects	Pages
1	June 6	<ul style="list-style-type: none">• Introduction• <u>Part A: Intellectual Property (IP) in Entertainment Assets</u>• Chapter 4: Elements of Copyright Protection<ul style="list-style-type: none">○ Copyrightable Works○ Infringement	333 – 401
2	June 11	<ul style="list-style-type: none">• Chapter 4 (continued)<ul style="list-style-type: none">○ Unprotectable Story Parts○ Fair and Unfair Use of Entertainment Works• Chapter 5: Entertainment Innovations and IP<ul style="list-style-type: none">○ Fair Use	402 – 460
3	June 13	<ul style="list-style-type: none">• Chapter 5 (continued)<ul style="list-style-type: none">○ Performance Rights○ Digital Sampling and Imaging○ Copyright Ownership & Licensing○ Enforcing Copyright	461 – 520
4	June 18	<ul style="list-style-type: none">• <u>Part B: Contractual Relations in the Entertainment Industry</u>• Chapter 7: Contract Formation and Duration<ul style="list-style-type: none">○ Contract Formality○ Definiteness○ Consideration and Mutuality○ Contract Parties: Minors○ Duration	603 – 675
5	June 20	<ul style="list-style-type: none">• Chapter 8: Entertainment Contract Obligations<ul style="list-style-type: none">○ Performer/Author Obligations○ Studio/Publisher Obligations○ Royalties and Profits	687 – 778
6	July 2	<ul style="list-style-type: none">• Chapter 9: Entertainment Contract Remedies and Liabilities<ul style="list-style-type: none">○ Injunctive Enforcement of Personal Service Contracts○ Damages for Contract Breach○ Authors vs. Publishers	779 – 836

No Class	July 4	Happy Independence Day!	
7	July 9	<ul style="list-style-type: none"> • Chapter 10: Entertainer Representation and Regulation <ul style="list-style-type: none"> ○ State Regulation of Entertainer Representative (New York vs. California) Talent Agent vs. Manager ○ Conflict of Interest in Entertainer Representation (Attorney) ○ Union Regulation of Entertainer Representation 	837 – 904
8	July 11	<ul style="list-style-type: none"> • <u>Part C: Legal Restraints on Entertainment Stories</u> • Chapter 2: Entertaining the Public with Individual Lives <ul style="list-style-type: none"> ○ Defamation ○ Infliction of Emotional Distress ○ Intrusion on Solitude ○ Public Disclosure of Embarrassing Private Facts 	131 – 188
9	July 16	<ul style="list-style-type: none"> • Chapter 2 (continued) <ul style="list-style-type: none"> ○ False Light Portrayals ○ Public Figures Under Defamation and Privacy Law • Chapter 3: Celebrity Publicity Rights <ul style="list-style-type: none"> ○ Evolution and Nature of Publicity Rights ○ Publicity Rights and Entertainment Shows 	189 – 256
10	July 18	<ul style="list-style-type: none"> • Chapter 3 (continued) <ul style="list-style-type: none"> ○ Celebrity Publicity as a Marketing Vehicle ○ Who Owns Publicity and Its Value 	257 – 330
11	July 23	<ul style="list-style-type: none"> • Chapter 1: Sex and Violence in Entertainment and the Law <ul style="list-style-type: none"> ○ Entertainment and the First Amendment ○ Entertaining Sex ○ Entertaining Violence ○ Self-Regulation by the Entertainment Industry 	9 – 130
12	July 25	Review for Final Exam	

FINAL EXAM: August 1, 2024, 6:40pm-9:40pm, Room L833