

Spring 2020.
Boston University in Los Angeles
ENTERTAINMENT LAW – QST LA 430.
Thursdays 7.30 -10 pm. Classroom 4.
Professor Brian Walton.
310-600-3660 <> BrianWaltonLA@icloud.com.

COURSE DESCRIPTION AND SYLLABUS.

FIRST AND LATER ASSIGNMENTS.

The details of the reading and assignments, including those for the first three classes, are at the end of this document. See page 5, *infra*.

LEARNING OBJECTIVES.

The primary objectives of the class will be that students end the semester having gained:

- [1] Clear and elevated understandings of laws applicable to the entertainment business industries;
- [2] Useful and informed awareness of the original development and intent of these laws and how they have been applied in the past, how they are applied today and options and likelihoods for how they might be amended and applied in the future;
- [3] An improved ability to present, in writing and orally, clear analyses of legal and practical issues within the entertainment industries;
- [4] Practical insights into and an appreciation of how to deal with lawyers and the law in their entertainment or other business futures.
- [5] Confidence in their ability to work with and problem solve in the legal-business milieu of the entertainment industries and elsewhere.

PREREQUISITES.

For BU students, LA-245. For non-BU students, an equivalent Introduction to Business Law course will satisfy the prerequisite, subject to Questrom's approval.

DESCRIPTION.

This survey class will begin with an overview of procedural and substantive law. The first class session will include a refresher on the structure, process and substance of American law and how effectively to study it. Then it will cover **the basics of "entertainment law,"** selected from the following (the contents of the text):

- I. ENTERTAINMENT LAW -- WHAT IS IT?
 - A. WHAT IS "ENTERTAINMENT?"
 - B. WHAT IS "ENTERTAINMENT LAW?"
 - C. KEY CONCERNS OF ENTERTAINMENT LAW.
- II. CREATIVE EXPRESSION AND PROPERTY - HOW AND WHAT TO PROTECT -- COPYRIGHT AND COPYRIGHT INFRINGEMENT.
- IV. PROTECTING IDEAS: CONTRACT RIGHTS IN STORY IDEAS.
- IV. ENTERTAINING THE PUBLIC WITH INDIVIDUAL LIVES- DEFAMATION, PRIVACY, EMOTIONAL DISTRESS AND THE LIKE.
- V. CELEBRITY PUBLICITY RIGHTS.
- VI. FREE EXPRESSION, CONTENT REGULATION AND LEGAL ACCOUNTABILITIES.
 - A. SEX AND VIOLENCE IN ENTERTAINMENT
 - B. THE FIRST AMENDMENT AND ENTERTAINMENT.
- VII. ENTERTAINER "REPRESENTATIVES" (incl. agents and managers) AND REGULATIONS AND RULES APPLICABLE TO THEM.
- VIII. CONTRACT FORMATION AND DURATION.
- IX. ENTERTAINMENT CONTRACT OBLIGATIONS.
- X GUILDS, UNIONS AND OTHER ORGANIZATIONS IN THE ENTERTAINMENT INDUSTRY.
- XI. PERFORMING RIGHTS SOCIETIES.

For purposes of the class, the following definitions will apply.

Entertainment business – generally, the audio-visual and music industries (although we will recognize and discuss that “entertainment” in our culture includes more than those two things).

Audio-visual -- television (“free” or broadcast, basic cable, pay cable, satellite and the like), film (cinema and “ancillary” markets – DVD’s, etc.) and “new media,” including the Internet.

Music – all music (we will look briefly at the rights of composers, performers, financiers, producers and distributors through recording, performance and secondary use; compensation for all relevant parties).

Although the central thrust will be the study of the law, a great deal of attention will be given to the practical consequences and considerations of the law being studied.

GUESTS. We will invite guest speakers active in the field today, but they are NOT guaranteed. In the past, guests have included the manager of a successful recording group [Cold Play], a successful music producer, lawyers in private practice, the general counsel of a significant television production company, a recording studio executive, and a senior executive from the Writers Guild of America.

REQUIRED TEXT.

“Entertainment, Media and the Law: Text, Cases and Problems,” Paul C. Weiler, Gary Myers, William W. Berry, III (5th Ed. American Casebook Series, West Academic, 2015. ISBN 978-1-63459-883-5). **Note the Fifth Edition.** We will supplement the text with other materials which will be provided to you. The assigned text is a law school textbook. It is expensive. Copies may be purchased online from West or West-Thompson. The following link should take you there.

<http://store.westacademic.com/Store/?search=Weiler%2C++Entertainment%2C+Media&text=F>

This 5th edition was new as of December 2015. Thus, there are by now used versions available at a lesser cost. In prior classes, some students successfully shared a textbook. The office has at least one copy of the latest 5th edition in the BU in LA facility library. The text may be available at lesser prices on Amazon or some of the university and law textbook sites. Copies of earlier editions are also in the library. They will have much of the same material as the fifth edition, but not all and the pagination is different. It is better to have the fifth edition. [There

is a 2018 Supplement. You don't need to obtain it. I will present whatever is relevant from it.]

Other materials (e.g. Copyright Act sections, US Constitution, Universal Declaration of Human Rights, more recent cases, typical contracts used today for various aspects of the business, news articles) will be provided by reference to internet sites or via handouts or exhibits, which, for the most part, will be emailed to you before the relevant class).

SLIDE DECKS We will make extensive use of "PowerPoint-type" slides. I will email them to you as we go along in the course.

Reading assignments will average approximately 50-75 pages per class session.

RECOMMENDED READING

"Entertainment Law in A Nutshell," Sherri L. Burr, West, (4th Edition), 2017.

"Steal This Music: How Intellectual Property Law Affects Musical Creativity," Joanna Demers and Rosemary Coombe. [This book is old - 2006 - but still very pertinent to the "misuse" (or "aggressive use") of Intellectual Property Law in our litigious country.]

"All You Need to Know About the Music Business," Donald S. Passman, (9th Edition), 2015

The "Trades" --- Daily Variety (or Weekly Variety) and/or The Hollywood Reporter and/or The Wrap and/or Billboard and the like.

GRADING

- | | |
|--|------|
| ➤ Weekly in class discussion and presentations | 10% |
| ➤ Mid-term | 40 % |
| ➤ Final Exam | 50% |

Students will "present cases" and lead discussions of them (and other materials) in class. Active discussion and analysis are major parts of the learning in the class.

The mid-term will be an analytical, open-book "take-home" exam. The final will be a mixed in-class exam consisting of multiple choice, short answers and one or more essays. In both exams, students will address not only the law, but also practical business considerations arising from the law.

ACADEMIC INTEGRITY

Honesty in fact and intention are presumed and mandatory. There are no exceptions. Please be sure that you are familiar with the Academic Conduct Code. Violations of the Code generally result in a grade of "F" for the course, and a referral to the Academic Conduct Committee for additional sanctions. If you have any questions about what is right or wrong, ask the professor.

Plagiarism Policy

All students are responsible for having read the Boston University statement on plagiarism, which is available in the Academic Conduct Code. Students are advised that the penalty against students on a Boston University program for cheating on examinations or for plagiarism may be "...expulsion from the program or the University or such other penalty as may be recommended by the Committee on Student Academic Conduct, subject to approval by the dean."

EARLY CLASS SESSIONS and ASSIGNMENTS Spring 2020

CLASS	DATE	SUBJECT AND CONTENTS	READING
1	Jan 23	A. Introduction to class; Areas to be covered; Mechanics of class. Review of structure and study of American law B. Intro to the current major battle between the Writers Guild of America and the "Big Four" agencies. We will follow this throughout the semester.	Slide deck 1. To be emailed prior to class . Text, Prologue, pages 1-7 Text, Summary of Contents, pages vii-ix. Materials re WGA and agents fight to be sent via email before class
2	Jan 30	A. Overview of the laws of property, copyright, trademarks, employment, and remedies. B. Examination of "copyright" clause of US Constitution and Article 27 (2) of the Universal Declaration of Human Rights. Class discussion/debate of the nature of property and labor and social approaches and policies related to both – What is property? What is work? What is intellectual property? Why and how should we protect them?	US Constitution, Art. I, Clause 1, Sec. 8 ("Copyright Clause.") [find online or somewhere else]; Universal Declaration of Human Rights, Article 27. [Find online or somewhere else] Slides, to be emailed.
3	Feb 6	COPYRIGHT. History through to the internet, key concepts and protections, statutes, foreign equivalents (e.g. author's rights, neighboring rights), international protections, (Berne, TRIPS). Focus on what copyright protects and how.	Copyright Act, Secs. 102, 103, 106 and 106A. Slides, to be emailed. Text, Chap. 4, pages 363-398.
4	Feb 13	COPYRIGHT (continued).	Text, Chap. 4, pages 398-478
		THEREAFTER AS COMMUNICATED BY PROFESSOR.	

Summary Bio

BRIAN WALTON

Currently: Law Professor (Adjunct); Attorney-at-Law; Consultant.

2004-2020 **Professor of Law, Adjunct: Variously** at UCLA School of Law; Loyola Law School, Los Angeles; Chapman University School of Law; Boston University-Los Angeles (I.P. and entertainment related subjects, including *Law and Practice with the Hollywood Guilds*, *International Intellectual Property*, *Trade Secrets Law*, *Entertainment Law*, and *IP and the U.S. Entertainment Industry*).

2001 Chief Negotiator, Screen Actors Guild.

1998-2001 Consultant, Writers Guild of America

2000 Executive VP and then President, Hollywood Broadcasting.com.

1999 Strategic Consultant, Producers Guild of America.

1985-1998 **Executive Director, Writers Guild of America** [*de facto* chief executive, chief operating officer, chief negotiator and primary spokesperson for the WGA.] Also, member Policy Research Group of the International Affiliation of Writers Guilds, member Boards of WGA-Industry Pension and Health Plans, Vice-Chair, Franco-American Cultural Fund, Paris, France; Other.

1974- 1985 Attorney-at-Law, private practice. (Business litigation and transactions.)

1974 Law Clerk to Hon. J. Allan Crockett, Justice, Utah Supreme Court

Formal Education

J.D. University of Utah College of Law, Salt Lake City, UT.

M.A. Brigham Young University, Provo, UT.

B.A. (Hon) Brigham Young University, Provo, UT.

Preparatory education in London, England.

M.A. (Spiritual Psychology), University of Santa Monica, 2012]

Member of the California State Bar continuously for the last 45-plus years.