

ENTERTAINMENT LAW

SPRING 2025 WED 6:30 p.m. – 9:40 p.m.

Professor Jonathan Smith

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REQUIRED TEXT

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

COURSE DESCRIPTION

This course provides an in-depth exploration of the legal principles and issues pertinent to the entertainment industry. Students will examine a range of topics, including contract negotiation, corporate and agency law, and liability concerns. Through a combination of lectures, case studies, and practical exercises, students will gain a comprehensive understanding of how the law impacts entertainers, companies, and the entertainment industry.

The course emphasizes hands-on learning, with students participating in simulated client representation and negotiation exercises. Assignments will include drafting contracts, engaging in negotiation exercises, and resolving real-world legal scenarios. By the end of the course, students will have developed the skills necessary to effectively navigate the complex legal landscape of the entertainment industry and to provide sound legal advice and representation to clients. This course is essential for anyone interested in pursuing a career in entertainment law or enhancing their understanding of the legal challenges in the entertainment sector.

ATTENDANCE, GRADES, MIDTERM/FINAL & LATE POLICY

ATTENDANCE:

You should attend every class. WSCL written policy for students whose class regularly meets twice per week, is that upon your fifth absence, you will fail this course and receive a grade of 0.0 (on the 4.0 scale). See Student Handbook, § 5.13. For students whose class meets once per week, if you are absent for an entire, or substantially all, of a three hour class period, you will have accumulated two official absences. If, however, you are absent for only half of a three hour class period or a significant portion thereof, you will accumulate just one absence.

GRADES

PARTICIPATION & PROFESSIONALISM (P&P): (20%)

Success in law school involves an active learning environment. This class is most productive (and fun!) if you have thought about the material and are willing to discuss it. In order for this class to have its intended purpose, there must be active student participation. Quality is valued over quantity for volunteer participation, and all views are welcome. 20% of your final course

grade will be based on the quality and quantity of your contributions to class discussions, attendance, punctuality, conduct during class time, and overall professionalism.

You may not record this class without my prior approval. Students in violation of these policies may be referred to the Associate Dean for Academic Affairs.

MIDTERM – Multiple Choice Examination: (20%)

FINAL – Negotiations and Joint Final Contract: (60%)

The final exam will consist of two main components: a final negotiation exercise and the submission of a final joint contract.

1. Final Negotiation Exercise:

Students will engage in a final negotiation exercise with their opposing counsel. Students must collaborate with their opposing counsel to negotiate a final contract that meets both clients' objectives. The negotiation will be conducted during class time, and students are expected to come prepared with a strategy and an understanding of potential compromises. The final negotiation will be assessed on the students' ability to work collaboratively, negotiate effectively, and achieve a balanced contract that satisfies both clients. The negotiation process and effectiveness will be a significant part of the final exam grade.

2. Final Joint Contract Submission:

After the negotiation exercise, students must submit a final joint contract that represents the agreed-upon terms reached during the negotiation. The final contract should be detailed, legally sound, and reflect the successful integration of both clients' objectives. It should demonstrate the students' ability to draft a professional and enforceable agreement. The final joint contract must be submitted by the start of class on the due date. Late submissions will incur a grade penalty.

LATE POLICY

As a professional, you are responsible for submitting all assignments on time. A late assignment is one submitted any time after it is due. Your assignments must be emailed to me as a Microsoft Word attachment prior to the start of class on the date it is due. Your final must also be uploaded to TurnItIn.

Late assignments will receive point deductions. Do not plagiarize. Do not use generative AI in a manner that violates the Honor Code and constitutes plagiarism. Any violation of the Honor Code will result in the student receiving a "0" in the course as well as possible referral to the Honor Code Committee.

OUTSIDE PREPARATION:

You should anticipate that, on average, preparing for class will take you a minimum of two hours for every one hour of class time. To restate with specificity and at risk of redundancy: because Entertainment Law is a three-unit class, you should estimate your preparation for class to require six (6) or more hours outside of class to complete.

LEARNING GOALS

During this course, students should be able to:

Understand key legal principles and issues in entertainment law.
Draft comprehensive and legally sound entertainment-related contracts.
Employ effective negotiation strategies in entertainment law contexts.
Analyze and resolve legal issues in hypothetical entertainment scenarios.
Present legal arguments clearly and persuasively in written and oral forms.
Recognize and address ethical dilemmas in entertainment law practice.

OFFICE HOURS

By appointment - Please email me directly to schedule an office hour appointment.

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."

SYLLABUS:

1. The listed chapters and corresponding page numbers reference our course textbook, Myers, Berry, and Weiler, Entertainment, Media, and the Law: Text, Cases and Problems, (6th ed., West Academic Publishing 2021).

WEEK:	TOPICS:	READING/ASSIGNMENT:
<u>WEEK 1:</u> JANUARY 15	Introduction Part A: Intellectual Property (IP) in Entertainment Assets Chapter 4: Elements of Copyright Protection Copyrightable Works Infringement	Reading: Pages 333 – 401
<u>WEEK 2:</u> JANUARY 22	Chapter 4 (continued) Unprotectable Story Parts Fair and Unfair Use of Entertainment Works Chapter 5: Entertainment Innovations and IP Fair Use	Reading: Pages 402 – 460
<u>WEEK 3:</u> JANUARY 29	Chapter 5 (continued) Performance Rights Digital Sampling and Imaging Copyright Ownership & Licensing Enforcing Copyright	Reading: Pages 461 – 520
<u>WEEK 4:</u> FEBRUARY 5	Part B: Contractual Relations in the Entertainment Industry	Reading: Pages 603 – 675

	<p>Chapter 7: Contract Formation and Duration</p> <p>Contract Formality</p> <p>Definiteness</p> <p>Consideration and Mutuality</p> <p>Contract Parties: Minors</p> <p>Duration</p>	
<p><u>WEEK 5:</u> FEBRUARY 12</p>	<p>Chapter 8: Entertainment Contract Obligations</p> <p>Performer/Author Obligations</p> <p>Studio/Publisher Obligations</p> <p>Royalties and Profits</p>	<p>Reading:</p> <p>Pages 687 – 778</p>
<p><u>WEEK 6:</u> FEBRUARY 19</p>	<p>Chapter 9: Entertainment Contract Remedies and Liabilities</p> <p>Injunctive Enforcement of Personal Service Contracts</p> <p>Damages for Contract Breach</p> <p>Authors vs. Publishers</p>	<p>Reading:</p> <p>Pages 779 – 836</p>
<p><u>WEEK 7:</u> FEBRUARY 26</p>	<p>Chapter 10: Entertainer Representation and Regulation</p> <p>State Regulation of Entertainer Representative (New York vs. California) Talent Agent vs. Manager</p> <p>Conflict of Interest in Entertainer Representation (Attorney)</p> <p>Union Regulation of Entertainer Representation</p>	<p>Reading:</p> <p>Pages 837 – 904</p>
<p><u>WEEK 8:</u> MARCH 5</p>	<p>MIDTERM</p>	<p>MIDTERM</p>

<u>NO CLASS</u> MARCH 12	SEMESTER BREAK	SEMESTER BREAK
<u>WEEK 9:</u> MARCH 19	Chapter 2 (continued) False Light Portrayals Public Figures Under Defamation and Privacy Law Chapter 3: Celebrity Publicity Rights Evolution and Nature of Publicity Rights Publicity Rights and Entertainment Shows	<u>Reading:</u> Pages 189 – 256
<u>WEEK 10:</u> MARCH 26	Chapter 3 (continued) Celebrity Publicity as a Marketing Vehicle Who Owns Publicity and Its Value	<u>Reading:</u> Pages 257 – 330
<u>WEEK 11:</u> APRIL 2	Chapter 1: Sex and Violence in Entertainment and the Law Entertainment and the First Amendment Entertaining Sex Entertaining Violence Self-Regulation by the Entertainment Industry	<u>Reading:</u> Pages 9 – 130
<u>WEEK 12:</u> APRIL 9	FINAL REVIEW/ FINAL NEGOTIATIONS	In-Class Final Negotiations <u>Due:</u> Final Joint Contract due date will be discussed in class. Must be

		in Word Format and Uploaded to TurnItIn.
<u>WEEK 13:</u> APRIL 16	FINAL NEGOTIATIONS	In-Class Final Negotiations <u>Due:</u> Final Joint Contract due date will be discussed in class. Must be in Word Format and Uploaded to TurnItIn.
<u>WEEK 14:</u> APRIL 23	FINAL NEGOTIATIONS	In-Class Final Negotiations <u>Due:</u> Final Joint Contract due date will be discussed in class. Must be in Word Format and Uploaded to TurnItIn.

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.