

**JOHN MARSHALL LAW SCHOOL**  
**ENTERTAINMENT LAW**  
**COURSE D-340**  
**FALL 2013**  
**PROFESSOR MASON**  
[jmason@johnmarshall.edu](mailto:jmason@johnmarshall.edu)

**Monday/Wednesday 1:00-2:30 p.m., Room TBA**

**COURSE SYLLABUS** (7/24/13)

This syllabus is a living document that I may modify at any time, at my sole discretion, with or without notice.

**COURSE INTRODUCTION**

This course provides an overview of the law relating to the entertainment industries and the arts. It will expose you to basic legal principles inherent in television, motion pictures, fine arts, music publishing and recording, literary publishing, as well as federal regulation of copyrights and trademarks. This course will also examine the rights of privacy and publicity, and their impact on the entertainment industries. I intend for this class to provide practical training for the practice of entertainment law, including both transactional and litigation practice. By the end of the course, you should have a command of the primary legal doctrines that shape media and entertainment, a working knowledge of industry vocabulary, an understanding of the deal-making aspects of entertainment, and a solid understanding of contract drafting.

**TEXT/MATERIALS:**

*Law and Business of the Entertainment Industries*; 5<sup>th</sup> Edition (2007), Donald Biederman, et al., Praeger Publishers

[www.entlawdigest.com](http://www.entlawdigest.com), case highlights relating to entertainment and intellectual property practice topics, often with copies of the pleadings.

[www.variety.com](http://www.variety.com), trade publication with news and features about the business of entertainment (website and free email newsletters). Specific readings to be announced.

[www.hollywoodreporter.com](http://www.hollywoodreporter.com), trade publication with news and features about the business of entertainment (website and free email newsletters). Specific readings to be announced.

[www.findlaw.com](http://www.findlaw.com), cases, contracts from public filings, and weekly case highlights relating to entertainment and intellectual property practice topics (website and free professional email newsletters). Specific readings to be announced.

**TWEN**

The class TWEN (The West Education Network) site contains the course syllabus and will contain any updates/announcements, including the reading assignments for this class that will be posted at various times throughout the semester. I may post other items to TWEN, so it is incumbent upon you to register on the class TWEN site with a working e-mail address so that you will receive all of the necessary class materials and updates. You will be notified by email when new items are posted. You are responsible for all of the materials posted on TWEN, even if they are not listed on the syllabus.

## **ATTENDANCE AND PARTICIPATION**

In this course, the cases and materials will be analyzed and illustrated through students' participation and answers to questions during class. In order to facilitate effective classroom participation, you will be divided into "law firms" which will be "retained" to handle various projects during class. If you will not be present when your law firm is on call you must notify me and your law firm members at least 24 hours before the start of class.

Students will be expected to have completed all assigned reading for each class, ***regardless of where we are on the syllabus in the class lectures.*** Your participation in classroom discussions should be meaningful and appropriate. Credit for classroom participation will be based more on quality more than quantity. Course grades may be raised or lowered by one grade (e.g., from C to C+, or from A- to B+) on the basis of the student's class participation.

You are expected to arrive on time, and be prepared to discuss the readings in detail. Each person will be expected to be prepared for, and contribute to, the class discussion each and every session. Attendance will be taken at the start of class through distribution of an attendance sheet. It is your responsibility to ensure that you initial the sign-in sheet. Students may initial only their own names, not those of other students. If you do not personally initial the sign-in sheet within 20 minutes from the start of class (i.e. 1:20 p.m.), you are considered absent. If you initial the sign-in sheet but leave more than 20 minutes early you will be marked absent. You should not enter the classroom if you are more than 30 minutes late, unless specifically approved in advance.

## **EXAMINATIONS AND GRADING**

Each student will receive a grade based upon a three-hour final examination and classroom participation. The final examination will consist of essay and short answer and/or multiple choice questions. The examinations will require analysis of the law and policy issues covered in the reading materials and class lectures, as well as knowledge of black letter law. **Course grades may be raised or lowered by one grade (e.g., from C to C+, or from A- to B+) on the basis of the student's class participation.**

## **ELECTRONIC DEVICE POLICY**

Laptops, tablets, smartphones and similar electronic devices are permitted in class. However, I request that during class you refrain from using your electronic devices for purposes not directly related to the class, including without limitation surfing the Internet, sending emails, and playing computer games. In addition, all electronic devices must be used in silent mode. Electronic devices may not be used to record any class, or any portion thereof. Any student found to be in violation of this electronic device policy will be banned from bringing electronic devices to class for the remainder of the semester. In addition, I reserve the right to forbid the use of electronic devices for specific classes or assignments.

## **OFFICE HOURS & APPOINTMENTS**

I will generally be available for brief consultations one half hour before and one half hour following each class session. If you anticipate needing more than a few minutes, please contact me by email in advance to arrange for an appointment. E-mails can be sent to [jmason@johnmarshall.edu](mailto:jmason@johnmarshall.edu). I encourage questions via email and will consider out-of-office consultations, if necessary.

**ENTERTAINMENT LAW**  
**FALL 2013**  
**COURSE SYLLABUS**

**COURSE CONTENT AND ASSIGNED READING:**

<b>August 19-Representing Talent</b>	<b>August 21-Talent Contracts/Minors</b>
<p><b>Text:</b> pp. 7-28; 79-83</p> <p><b>Handouts:</b> (1) Entertainment Client Intake Form; (2) Sample Entertainment Engagement Letter; (3) Revised Engagement Letter; and Talent Agency Requirements by State (TWEN)</p>	<p><b>Text:</b> pp. 33-38; 45-61; 68-78; 83-93</p> <p><b>Contract:</b> Rick Ross/Respect Management Agreement (TWEN)</p> <p><b>Pleadings:</b> (1) Respect Management Complaint and (2) Rick Ross Answer and Counterclaim (TWEN)</p>

<b>August 26-Copyright Basics</b>	<b>August 28- Copyright Infringement</b>
<p><b>Pleading:</b> Happy Birthday Class Action Complaint (TWEN)</p> <p><b>Article:</b> Happy Birthday for All: Filmmaker Aims to Free Song from Copyright Grip (TWEN)</p> <p><b>Article:</b> 5 Things That Can't Be Copyrighted (TWEN)</p>	<p><b>Text:</b> pp. 298-314</p> <p><b>Order:</b> Tennenbaum Decision (TWEN)</p> <p><b>Pleading:</b> Donna West/Tyler Perry Complaint (TWEN)</p> <p><b>Case:</b> Bright Tunes Case (TWEN)</p> <p><b>Case:</b> "It's Your Birthday" (TWEN)</p> <p><b>Internet Resource:</b>  <a href="http://mcir.usc.edu/cases/19701979/Pages/brightharrisongs.html">http://mcir.usc.edu/cases/19701979/Pages/brightharrisongs.html</a>  listen to "My Sweet Lord" and "He's So Fine"</p>

<b>September 4 —Trademark Basics</b>	<b>September 9 - Lanham Act</b>
<p><b>Article:</b> "Trademark Basics" (Lloyd J. Jassin, Esq.) (TWEN)</p> <p><b>Pleadings:</b> (1) Mark Durante Complaint and (2) Kevin Durant Answer (TWEN)</p> <p><b>Pleading:</b> Sister Sledge, LLC v. Kathy Sledge et al. (TWEN)</p> <p><b>Articles:</b> (1) "What's in a Name? Former Drug Trafficker Sues Ricky Ross Sues Rapper Rick Ross; and (2) Can You Own Trademark Rights Without Use? You Can If You're the Yankees (TWEN)</p>	<p><b>Text:</b> pp. 269-298</p> <p><b>Pleadings:</b> Academy v. Monte Carlo Productions Lawsuit (TWEN)</p> <p><b>Correspondence:</b> (1) Cease &amp; Desist Letter; and (2) Response to Cease &amp; Desist; and (3) Declaration (TWEN)</p> <p><b>Article:</b> First Amendment Bars Many Lanham Act Claims Concerning Artistic Uses of Trademarks</p>

<b>September 11—Personal Rights: Privacy</b>	<b>September 16—Personal Rights: Publicity</b>
<b>Text:</b> pp.185-210	<b>Text:</b> pp. 210-240

<b>September 18— Additional Recognition of Publicity Rights</b>	<b>September 23 --- Privacy and Publicity Issues in Practice</b>
<b>Text:</b> pp. 240-269	<p><b>Cases:</b> (1) Rosa Parks v. LaFace Records, et al.; (2) Catsouras v. CHP; (3) Naked Cowboy Decision; (4) Nancy Benoit Decision; and (5) Lohan v. Pitbull Decision (TWEN)</p> <p><b>Pleading:</b> (1) Naked Cowboy Complaint; and (2) Lindsay Lohan v. Pitbull (TWEN)</p> <p><b>Article:</b> Kim Kardashian/Old Navy article (TWEN)</p>

<b>September 25 —Television Programming and Regulation</b>	<b>September 30 -Television Distribution Issue</b>
<p><b>Text:</b> pp. 849-867</p> <p><b>Article:</b> Arizona Daily Star Super Bowl Porn Article (TWEN)</p> <p><b>Articles:</b> (1) Adam Lambert AMA Article (2) Adam Lambert FCC Article; (3) Arizona Daily Star Super Bowl Porn Article; and (4) The New Reality: TV Execs Take A Piece of Stars' Side Jobs (TWEN)</p> <p><b>Handout:</b> FCC Complaint Process Flow Chart (TWEN)</p> <p><b>Video:</b> Adam Lambert Takes Us Frame by Frame Through AMA Performance (TWEN)</p>	<b>Text:</b> pp. 867-896

<b>October 2—Music Publishing</b>	<b>October 7-Mechanical Rights/Digital Rights/Performing Rights/Sampling</b>
<b>Text:</b> pp.635-657; Split Sheet (TWEN)	<p><b>Text:</b> pp. 667-703; 365-367</p> <p><b>Pleading:</b> Will-Burn Complaint (TWEN)</p>

<b>October 9—Recordings Contracts</b>	<b>October 14— Recording Contracts/Band &amp; Group Issues</b>
<b>Text:</b> 705-737  <b>Pleading:</b> Kandi Burress Complaint (TWEN)	<b>Contract:</b> Producer Agreement (TWEN)  <b>Handout:</b> Playing in the Band: A Primer on Legal Issues for Musical Groups (TWEN)

<b>October 16—Mock Negotiation</b>	<b>October 21---Touring and Performance/Ringtones</b>
<b>Audio Program:</b> Mock Negotiation Session (Art of the Deal: National Association of Recording Industry Professionals) (TWEN)	<b>Contracts:</b> (1) UCLA Performance Agreement and (2) “Draw The Line” Performance & Tech Rider  <b>Article:</b> “The History and Recurring Issues of Ringtones” (TWEN);  <b>Contract:</b> Ringtone Agreement (TWEN)

<b>October 23—Film Production; Acquisition of Rights</b>	<b>October 28—Contracts of Adhesion/Unconscionability/Independent Film Production</b>
<b>Text:</b> pp. 739-758; 761-765  <b>Article:</b> (1) From Book to Screen; and (2) USTA – Venus and Serena Article (TWEN);  <b>Pleading:</b> Tupac Shakur Life Story Rights Complaint and Cross-Complaint (TWEN)	<b>Text:</b> pp. 802-823; 840-846

<b>October 30—Protection of Ideas; Idea Submissions/Acquisitions</b>	<b>November 4---Remedies</b>
<b>Text:</b> pp. 313-363  <b>Contract:</b> Sample Submission Agreement (TWEN)  <b>Cases:</b> (1) Avatar and (2) Spinner	<b>Text:</b> pp. 461-533

<b>November 6- Introduction to the Internet and the Digital World</b>	<b>November 11—Internet and the Digital World; Digital Copyright Infringement</b>
<p><b>Text</b> pp. 897-935</p> <p><b>Pleadings:</b> (1) RIAA Digital Downloading Lawsuit; (2) Rodriguez Complaint; and (3) Amended Complaint (TWEN)</p> <p><b>Order:</b> Rodriguez Order (TWEN)</p>	<p><b>Text:</b> pp. 935-998</p> <p><b>Articles:</b> (1) Napster and the New Internet Police; and (2) The Home Video Prince Doesn't Want You to See (TWEN)</p> <p><b>Order:</b> Lenz v. Universal Order (TWEN)</p> <p><b>Handout:</b> Evolution of File Sharing (TWEN)</p>

<b>November 13-Internet and the Digital World; Unions, Guilds, Associations</b>	<b>November 18—Literary Publishing/Google Books</b>
<p><b>Pleadings:</b> (1) Viacom/YouTube Complaint; and (2) YouTube Answer;</p> <p><b>Article:</b> Our Case Against YouTube (TWEN)</p> <p><b>Case:</b> YouTube Decision (TWEN)</p> <p><b>Handout:</b> Entertainment Industry Associations, Guilds and Unions (TWEN)</p>	<p><b>Text:</b> pp. 557-581; 602-621</p> <p><b>Articles:</b> (1) Book Publishers Legal Checklist (Hoffman); and (2) Ten Key Points in Author-Publisher Agreement (Hoffman)(TWEN)</p>

<b>November 20—Photography and the Visual Arts</b>	<b>November 25—Review</b>
<p><b>Case:</b> ETW Corporation v. Jireh Publishing, Inc. (TWEN)</p> <p><b>Handouts:</b> Visual Artists Rights Act</p> <p><b>Articles:</b> (1) Waiver of Moral Rights in Visual Artworks; and (2) The Photographer's Right (TWEN)</p>	

**FINAL EXAM – (TIME TBA)**