

Entertainment Law
Whittier College of the Law
Summer 2006

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SYLLABUS

Revised as of July 3, 2006.

CLASS	DATE	TOPICS	ASSIGNMENT
1.	Wed., May 24	Contracts, Part 1: The Hollywood Climate Liability for Audience Actions	Read Litwak, Chapter 1 "Introduction," pp. 1-9. Read Simensky: <i>Donahue v. Artisan ("Blair Witch"),</i> 144-149 <i>Main Line Pictures v. Basinger,</i> 152-160 <i>McCollum v. CBS,</i> 1406-1418
	Mon., May 29	No class: Memorial Day	
2.	Wed., May 31	Labor, Guilds, and Pitfalls for Talent	Read Litwak, Chapter 5, "Literary Acquisition Agreements," pp. 59-92; Chapter 6, "Employment Contracts," pp. 93-151; and Chapter 7 "Advice for Writers, Directors & Actors" pp. 161-196. Merely skim the contracts in these chapters. Read Simensky: § 2.06 [A] and [B] explanatory text, 297-298 [C] explanatory text, 303 [D] explanatory text, 312 "New Dispute is Stirred ..." 313-314 <i>Muller v. Walt Disney Productions,</i> 314-318 "Union Soldiers ..." 105-110 "Cannes Heat on SAG Rule 1" 110-112 112 (only n. 7) <i>H.A. Artists v. Equity,</i> 118-126 <i>Marino v. WGA,</i> 1045-1052 Peruse the following guild websites: www.sag.org , www.dga.org , www.wga.org , and www.aftra.org . Explore one of these websites in a little more depth and find something interesting to contribute to class discussion.

3.	Mon., June 5	Agents, Managers, Attorneys, and Employment Regulation	<p>Read Litwak, Chapter 18 “Retaining Attorneys, Agents and Managers” pp. 347-372.</p> <p>Read Simensky:</p> <p>“Agents, Managers, and Lawyers ...” 48-56</p> <p>[A] and [1] explanatory text, 56</p> <p><i>Park v. Deftones</i>, 56-60</p> <p><i>Styne v. Stevens</i>, 61-73</p> <p>74-75 (only nn. 1, 2, 3, & 4)</p> <p>[3] explanatory text, 80</p> <p><i>Grammer v. Artists Agency</i>, 80-87</p> <p>87 (only n. 1)</p> <p>[B] explanatory text, 87-88</p> <p>91 (only nn. 3 & 4)</p> <p>[C] explanatory text, 92</p> <p><i>Day v. Rosenthal</i>, 92-99</p> <p>“Conflict of Interest in Ent.” 99-104</p>
4.	Wed., June 7	<p>Contracts, Part 2: When the Contract Comes to Court</p> <ul style="list-style-type: none"> • Litigating entertainment contracts in California • Contract torts • Interpretation of entertainment contracts • “Creative accounting” 	<p>Look at Variety, Hollywood Reporter, or Billboard, either online or in print, and find something interesting to share with the class.</p> <p>Read Litwak, Chapter 10, “Negotiating Tactics & Strategies,” pp. 251-256, and Chapter 11, “Creative Accounting,” pp. 257-268.</p> <p>Retrieve¹ and read:</p> <p><i>April Enterprises, Inc. v. KTTV</i>, 147 Cal. App. 3d 805 (1983)</p> <p><i>Waverly Productions, Inc. v. RKO General, Inc.</i>, 217 Cal. App. 2d 721 (1963)</p> <p><i>De Guere v. Universal City Studios, Inc.</i>, 56 Cal. App. 4th 482 (1997)</p> <p>Simensky:</p> <p><i>Buchwald v. Paramount Pictures</i>, 1203-1215.</p>
5.	Mon., June 12	<p>Contracts, Part 3: “I’ve Changed My Mind”</p> <ul style="list-style-type: none"> • Limitations on duration • Bankruptcy • Distribution and acquisition agreements 	<p>Read Litwak, Chapter 9, “The Acquisition/Distribution Agreement,” pp. 215-250. Prepare two well-thought-out comments on the agreement on pp. 222-250.</p> <p>Read Simensky:</p> <p><i>De Haviland v. Warner Bros.</i>, 243-250</p> <p><i>Radioactive Records v. Manson</i>, 250-257</p> <p>257-258 (only n. 6)</p> <p>“Bankruptcy and Personal ...” 276-283</p> <p>283-284 (only nn. 1 & 2)</p>

¹ These cases are available for free through FindLaw at <http://www.findlaw.com/cacases/index.html>. Edited versions will be posted on the class website.

6.	Wed., June 14	Copyright, Part 1 <ul style="list-style-type: none"> • Subject Matter • Ownership • Acquisition • Rights • Infringement <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p style="margin: 0;">IN-CLASS QUIZ: Copyright</p> </div>	<p>Very briefly peruse www.copyright.gov.</p> <p>Read Litwak, Chapter 12 “Copyright,” pp. 269-300.</p> <p>Read Simensky:</p> <p style="padding-left: 20px;"><i>Maljack Productions v. UAV</i>, 533-538 539-542 (all notes)</p> <p style="padding-left: 20px;"><i>Lone Wolf McQuade v. CBS</i>, 542-547 <i>MGM v. American Honda Motor</i>, 547-553 553-554 (all notes and text)</p> <p style="padding-left: 20px;">567-569 (only nn. 8, 9, 10, 11, 12, 13, 14) 607 (only n. 6)</p> <p style="padding-left: 20px;"><i>Motola v. EMI</i>, 610-612</p> <p style="padding-left: 20px;"><i>Bright Tunes v. Harrisongs</i>, 661-664</p> <p><i>Flexible</i>²: Read 17 U.S.C. §§102, 103, 106, 107, 201, 412, 502, 503, 504, 505, 507.³ Read the portion of 17 U.S.C. §101 regarding “work made for hire” (it’s toward the end).</p>
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7.	Mon., June 19	Copyright, Part 2 <ul style="list-style-type: none"> • Infringement (cont’d) • Fair use <p>Protections for Persons as Subjects, Part 1</p> <ul style="list-style-type: none"> • Privacy rights • Defamation 	<p>Read <i>Bound By Law? (Tales from the Public Domain)</i> by Keith Aoki; James Boyle; Jennifer Jenkins⁴</p> <p>Read Simensky:</p> <p style="padding-left: 20px;"><i>Beal v. Paramount</i> 665-675 675-676 (nn 1-4)</p> <p style="padding-left: 20px;"><i>Campbell v. Acuff-Rose</i>, 713-727</p> <p style="padding-left: 20px;"><i>Bindrim v. Mitchell</i>, 345-360</p> <p style="padding-left: 20px;"><i>Clark v. ABC</i>, 361-371 371-375 (only nn. 2, 3, 4, 6, 13, 14, 15, 16) 395-397 (only nn. 1-7)</p> <p style="padding-left: 20px;"><i>Schulman v. Group W Prods.</i>, 397-416 416-419 (nn. 1-12) 432-435 (only nn. 2-8)</p> <p style="padding-left: 20px;">“Lawyer’s Role ... Life Story,” 336-342</p> <p>Read Litwak, Chapter 3, “Permission to Portray People and Places,” pp. 29-47 (skip contracts except for the first one on pp. 35-38).</p> <p>Mark-up contract in Litwak pp. 35-38.</p> <p><i>Flexible</i>: Litwak, Chapter 14 “Defamation of Persons Depicted in Literary Works,” Chapter 15 “The Right of Privacy,” pp. 301-325.</p> <p>Read Cal. Civ. Code § 48.5.</p>
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² “Flexible” means that although the reading is required, it is not necessary to do it prior to the class meeting indicated.

³ The U.S. Code is available in a convenient form at <http://www.findlaw.com/cascode/uscodes/>

8.	Wed., June 21	Protections for Persons as Subjects, Part 1	<p>Read "In Advertising, Governor Accepts No Imitations," <i>Los Angeles Times</i>, March 30, 2004, p. A1⁵</p> <p>Read Simensky:</p> <p><i>Dora v. Frontline</i>, 435–438 438–439 (only n. 1) 449–450 (nn. 1–8)</p> <p><i>Polydoros v. 20th Century Fox</i>, 451–456</p> <p><i>White v. Samsung</i>, 456–465 465 (only nn 2–3)</p> <p><i>Wendt v. Host International</i>, 465–470 470–471 (nn. 1 –2)</p> <p><i>Flexible: Litwak</i>, Chapter 13 "The First Amendment and the Right to Publicity,"</p>
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9.	Mon., June 26	<p>Building and Protecting Identities and Persona, Part 2</p> <ul style="list-style-type: none"> • Trademark • Title registration • Moral rights • Credit rights 	<p>Read Chapter 4 "Clearance of Rights," pp. 49–58, and Chapter 16 "Trademarks and Unfair Competition" pp. 327–332.</p> <p>Mark-up the photo release in Litwak pp. 56–58 on behalf of the model/subject.</p> <p>Read Simensky:</p> <p><i>In Re Elvis Presley Enterprises</i>, 828–830 831 (nn. 1& 2) 845 (n.) 864–865 (only nn. 1 & 2) 868 (only n. 1),</p> <p><i>Morgan Creek v. Capital Cities /ABC</i>, 874–878 878 (nn. 1–3)</p> <p><i>GAF Broadcasting v. Caswell-Massey</i>, 879–881</p> <p><i>Robi v. Reed</i>, 882–885 885–886 (nn. 1–3)</p> <p><i>Estate of Elvis Presley v. Russen</i>, 938–966</p>

<p>IN-CLASS QUIZ: Trademark</p>
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⁴ Available for free download at <http://www.law.duke.edu/cspd/comics/digital.html> – link also available on the class website.

⁵ You may retrieve this using Lexis/Nexis.

10.	Wed., June 28	Building and Protecting Identities and Persona, Part 2 Broadcast Regulation, Obscenity, Telecom Regulation, Antitrust, and Industry Consolidation	<p>Read Simensky:</p> <p>976 (nn. 1 & 2)</p> <p><i>New Kids v. News America</i>, 983-990</p> <p>990 (n.)</p> <p><i>Mattel v. MCA Records</i>, 990-1000</p> <p><i>Bell, Bivens, Brown, DaVoe & Tresvant v. Streetwise Records</i>, 1074-1079</p> <p><i>Luke Records v. Navarro</i>, 1352-1356</p> <p>1356-1358 (n.)</p> <p><i>FCC v. Pacifica</i>, 1374-1388</p> <p>Read 15 U.S.C. § 1125(c) and 47 U.S.C. §§ 317, 508.⁶</p> <p>Read FCC consumer facts sheets:⁷</p> <p style="padding-left: 20px;">Station Identification and Call Signs</p> <p style="padding-left: 20px;">Obscene, Profane & Indecent Broadcasts</p> <p style="padding-left: 20px;">Broadcasting Contests, Lotteries, and Solicitation of Funds</p> <p style="padding-left: 20px;">The FCC's Payola Rules</p> <p style="padding-left: 20px;">Broadcasting False Information</p> <p style="padding-left: 20px;">Closed Captioning</p> <p style="padding-left: 20px;">Children's Educational Television</p> <p style="padding-left: 20px;">Interception and Divulgence of Radio Communications</p>
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11.	Mon., July 3	Protections for Inchoate Entertainment <ul style="list-style-type: none"> • Theft of ideas • Breach of confidence • Development deals • Submissions 	<p>Read Litwak, Chapter 2, "Dealmaking," pp. 11-28.</p> <p>Read Simensky:</p> <p><i>Buchwald v. Paramount Pictures</i>, 751-758</p> <p><i>Desny v. Wilder</i>, 758-768</p> <p><i>Farris v. Enberg</i>, 790-793</p> <p><i>Land v. Jerry Lewis Productions</i>, 794-796</p> <p>796 (only n.)</p> <p><i>Selby v. New Line Cinema</i>, 796-804</p> <p>Retrieve⁸ and read:</p> <p><i>Laws v. Sony Music Entertainment, Inc.</i>, 448 F. 3d 1134 (9th Cir. 2006)</p>

⁶ The U.S. Code is available in a convenient form at <http://www.findlaw.com/cascode/uscodes/>

⁷ Links to these fact sheets are available on the class website, accessible from <http://www.eejlaw.com/>

⁸ This case is available on the class website.

12.	Wed., July 5	Litigation and Transactional Practice: Strategies and Techniques Remedies	<p>Read Litwak Chapter 17, "Remedies," pp. 333-346.</p> <p>Read contracts available on class website and markup on behalf of talent:</p> <p style="padding-left: 40px;">James Adam Blair Boon -w- Queer Eye LLC / Talent Agreement</p> <p style="padding-left: 40px;">Trista Rehn -w- Syndicated Productions, Inc. / Bachelorette Agreement</p> <p>Read 17 U.S.C. §§ 502, 503, 504, and 505.⁹</p> <p>Read these California statutes:¹⁰</p> <p style="padding-left: 40px;">Cal. Code Civ. Proc. §§ 425.16 & 425.17</p> <p style="padding-left: 40px;">Cal. Civ. Code §§ 44, 45, 45a, 46, 47, 48, 48a</p>
13.	Mon., July 10	Music Copyright, Part 2 <ul style="list-style-type: none"> • Transfers 	<p>Read Litwak, Chapter 8 "Music" pp. 199-214.</p> <p>Simensky 581-583, 642-643</p> <p>Read:¹¹</p> <p style="padding-left: 40px;"><i>Newton v. Diamond</i>, 204 F.Supp.2d 1244</p> <p style="padding-left: 40px;"><i>Morill v. Smashing Pumpkins</i>, 157 F.Supp.2d 1120</p> <p>Read Simensky:</p> <p style="padding-left: 40px;"><i>Fred Alhert Music v. Warner/Chappell Music</i>, 649-657</p> <p style="padding-left: 40px;">658-661 (only nn. 2-4)</p> <p>Read 17 U.S.C. §§ 114, 115, 202, 203, 204, and 205. Read the portions of 17 U.S.C. §101 defining "Phonorecords" and "sound recordings."</p>
14.	Wed., July 12	<i>Pending</i>	<i>Pending</i>

⁹ The U.S. Code is available in a convenient form at <http://www.findlaw.com/cascode/uscodes/>

¹⁰ Free and convenient access to these statutes can be found at <http://www.leginfo.ca.gov/calaw.html>

¹¹ These may be available from the class website in abridged form.