

SYLLABUS

Subject to Change

LAW 209

FALL 2025

CREDITS: 3

Course Title:	ENTERTAINMENT LAW
Professor:	MARK TRAPHAGEN
Class Day and Time:	Tuesdays and Thursdays, 9:50 a.m. – 11:15 a.m.
Final Examination Date:	December 4, 2025 from 12:00 noon to 3:00 p.m. on campus. See "Grading, Participation, and Attendance" below for more information.
Prerequisites:	Law 102 – Contracts I, Law 103 – Contracts II, and Law 104 – Property
Office Hours:	Tuesdays and Thursdays, 11:15 a.m. – 12:30 p.m. or by appointment.
Contact Information:	E-Mail: mtraphag@gmu.edu
Messages Outside Office Hours:	Outside of Office Hours, the best way to reach me is by messages sent to my e-mail account. I will try to respond to messages by e-mail on the next business day. I may share my answers to your questions about the course with your classmates in course or by the online portal.
Course Announcements:	Announcements will be sent to enrolled students via the Law School portal hosted by the Canvas learning management service.

COURSE MATERIALS

- Required Materials:**
- Course materials posted on Canvas course management service
 - [Circular 92 Copyright Law of the United States](#), U.S. Copyright Office, December 2024

COURSE DESCRIPTION

Introduction to selected legal issues in the field of entertainment, defined for purposes of this course as the production and presentation of performing arts (music, dance, drama, motion pictures, television and video programs, and sound recordings) in the United States and the creative and commercial activities of authors, performers, and entertainers here. The course will survey federal and state laws relevant to authorship, ownership, registration, licensing, and enforcement of the following: copyrighted works of performing arts, performers' rights in their performances, trademark rights for entertainment services and merchandise, and publicity rights for associating entertainers with their sponsors. The course will also survey the principal rights and obligations of personal services agreements, copyright and trademark licenses, and sponsorship agreements, and the roles and legal and ethical responsibilities of agents, managers, and attorneys. Topics will be presented from the perspective of individual authors and performers, and take into account the interests of other parties.

COURSE OBJECTIVES

After completing this course, students should be familiar with the following legal issues that arise in the field of entertainment, know the sources of federal and state relevant to these issues, and be able to resolve them by applying relevant law to the facts presented:

- Ownership of intellectual property rights and personal rights that arise from creative and commercial activities, the nature and scope of these rights, and the licensing and enforcement of these rights;
- Activities and expression that infringe another party's intellectual property rights, violate another person's personal rights, or violate contractual obligations to other parties;
- Operation of the principal provisions of sponsorship and endorsement agreements, personal services agreements, copyright and trademark licenses, and releases, and modification thereof by labor agreements and applicable law;
- Operation of contractual rights to compensation for personal services rendered and legal rights granted, types of and methods for calculating compensation, and the role of collective management organizations in some licenses; and
- Regulation of agents and managers and their duties in representing authors and performers, and the role and professional responsibilities of attorneys to clients and other parties

GRADING, PARTICIPATION, AND ATTENDANCE

Requirement(s): --

Class Preparation and Attendance: Regular and punctual attendance and class preparation are required to successfully complete and earn academic credit for this course. Students will not be eligible for academic credit for this course if they are absent for any reason for more than 20 percent of the class sessions. See Academic Regulation AR 3.4 and AR 4.1.

If you expect to be absent from three or more class sessions because of illness or other circumstances, immediately notify the Assistant Dean of Student Academic Affairs and me.

Attendance in person is required unless accommodations are requested from and approved by the University Disability Services office. See Academic Regulation AR 3.-1.6.

Grading Method: A student's final grade for the course will be determined by a single anonymously graded single final examination, subject to possible adjustment for class participation as explained below. Grading will be on an A+* through F scale, and subject to the Law School's mandatory grading curves and grade distribution. See Academic Regulations AR 4-4.1, AR 4-6, AR 4-6.7, and AR 4-6.8.

Class Participation: In my sole discretion, a student's grade on the final examination may in my sole discretion be adjusted upward by a single increment, e.g., from B to B+, if that student participates substantively in class discussions throughout the course. Academic Regulation AR 4-4.2.

Final Examination Schedule and Format: The final examination for the course will be administered in person and proctored on December 4, 2025 at 12:00 noon at a location yet to be determined by the Registrar.

The final examination will be administered the following format:

- **Open**, i.e., open book (printed and e-book) and open notes (including computer files on one laptop computer) but no Internet or mobile access.

Students will be permitted to bring one laptop computer, but no telephones or other electronic data storage devices, into the examination room.

Word Limit: 3,000 words. Only the first 3,000 words appearing in the student's answer sheet will be graded.

Written

Assignment(s):

Comments:

To be determined.

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COURSE SCHEDULE AND READING ASSIGNMENTS

<u>Class No.</u>	<u>Date</u>	<u>Class Topic</u>	<u>Reading Assignment</u>
I. INTRODUCTION			
1	August 19	Introduction to Entertainment Law, Sources of Law, Contractual Protection of Ideas	<ul style="list-style-type: none"> - Circular 33, Works Not Protected by Copyright, U.S. Copyright Office, March 2021 (5 pages) - <i>Forest Park Pictures v. Universal Television Network</i>, 683 F.3d 424 (2d Cir. 2012) (23 Pages) ("Royal Pains") - Sample Motion Picture / Television Submission Agreement
II. INTELLECTUAL PROPERTY			
A. COPYRIGHT			
2	August 21	Copyright Subject Matter and Registration	<ul style="list-style-type: none"> - Hickey, "Copyright Law- An Introduction and Issues for Congress," No. IF12339.1-1, Congressional Research Service, March 7, 2023 (2 pages) - Circular 1, Copyright Basics, U.S. Copyright Office, Rev. Sept. 2021 (9 pages) - U.S. Copyright Act Sections 102 and 103, 17 U.S.C. §§ 102 and 103 - <i>Thaler v. Perlmutter</i>, No. 23-5233 (D.C. Cir. March 18, 2025) (23 pages) ("Another Entrance to Paradise")
3	August 26	Types of Copyrighted Works and Exclusive Rights	<ul style="list-style-type: none"> - U.S. Copyright Act Section 106, 17 U.S.C. 106 - Circular 14, Copyright in Derivative Works and Compilations, U.S. Copyright Office, July 2020 - <i>Klinger v. Conan Doyle Estate, Ltd.</i>, 755 F.3d 496 (7th Cir. 2014) (15 pages) ("Sherlock Holmes")

4	August 28	Copyright Infringement and Remedies	<ul style="list-style-type: none"> – <i>DC Comics v Towle</i>, 802 F.3d 1012 (9th Cir. 2015) [Parts I, II A, and II B , pp. 3 - 25] (23 pages) ("Batmobile") – Circular 57 Pre-1972 Sound Recordings, U.S. Copyright Office, March 2021.
			<ul style="list-style-type: none"> – <i>Williams v. Crichton</i>, 84 F.3d 581 (2d Cir. 1996) ("Jurassic Park") – <i>Funky Films v. Time Warner Entertainment Company</i>, 462 F.3d 1072 (9th Cir. 2006) (15 pages) – <i>Warner Chappell Music, Inc. v. Nealy ... Warner Chappell Music, Inc. v. Nealy</i>, No. 22-1078, 601 U.S. ____ (May 9, 2024) (10 pages) – <i>Kirtsaeng v. John Wiley & Sons, Inc.</i>, 579 U.S. 179 (2016) (12 pages)
5	September 2	Fair Use, Sovereign Immunity, and Other Copyright Defenses	<ul style="list-style-type: none"> – Hickey, "Copyright and Use of Music in Political Campaigns," No. IF12775.1, Congressional Research Service, October 2, 2024 (2 pages) – <i>Campbell v. Acuff-Rose Music, Inc.</i>, 510 U.S. 569 (1994) ("Pretty Woman" Parody") – <i>Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith</i>, 598 U.S. 508 (2023) ("Prince Portrait") – Hickey, "Copyright and Sovereign Immunity - The <i>Allen v. Cooper</i> Decision," No. LSB10465.1-1, Congressional Research Service, May 15, 2020 (4 pages)
6	September 4	Authorship and Copyright Ownership	<ul style="list-style-type: none"> – <i>Thomson v. Larson</i>, 147 F.3d 195 (2d Cir. 1998) ("Rent") – Circular 30, Works Made for Hire, U.S. Copyright Office, Rev. Aug 2024 (5 pages) – <i>Horror, Inc. v. Miller</i>, 15 F.4th 232 (2d Cir 2021) ("Friday the 13th") (39 Pages)
7	September 9	Copyright Assignments, Exclusive Licenses, and Termination	<ul style="list-style-type: none"> – U.S. Copyright Act of 1976, Sections 203 and 304, 17 U.S.C. §§203 and 304 – <i>Stewart v. Abend</i>, 495 U.S. 207 (1990) ("Rear Window") – <i>Penguin Group (USA), Inc. v. Steinbeck</i>, 537 F.3d 193 (2d Cir. 2008) (20 pages) ("The Grapes of Wrath" and "Of Mice and Men") – Music Catalog Sales
8	September 11	Copyright Licenses – Direct Licenses	<ul style="list-style-type: none"> – Overview of Operative Provisions of Publishing Agreements, Music Synchronization Licenses, and Adaptation Rights

- *Halicki Films, LLC v. Sanderson Sales & Mktg.*, 547 F.3d 1213, 1224 (9th Cir. 2008) [Part 3A, pp. 15316 - 15324] (8 pages) ("Eleanor")

9	September 16	Copyright Licenses – Collective Management Organizations and Statutory Licenses	<ul style="list-style-type: none"> – Circular 75 The Licensing Section of the U.S. Copyright Office, U.S. Copyright Office, November 2024 – Scherer, "Money for Something - Music Licensing in the 21st Century," No. R43984.25, Congressional Research Service, February 23, 2021 (30 pages) – Notice of Inquiry, Issues Related to Performing Rights Organizations, No. 2025-02418, U.S. Copyright Office, 90 Federal Register 9253, February 10, 2025 (4 pages)
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B. PERFORMERS RIGHTS

10	September 18	Rights of Performers in Performances	<ul style="list-style-type: none"> – <i>Garcia v. Google Inc.</i>, 786 F.3d 733 (9th Cir. 2015) – 18 U.S.C. 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances
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C. TRADEMARKS

11	September 23	Trademark Subject Matter, Acquisition and Priority of Rights, Ownership, and Formalities	<ul style="list-style-type: none"> – Zirpoli, "An Introduction to Trademark Law in the United States," Report No. IF12456.1, Congressional Research Service, July 24, 2023 (2 pages) – <i>Halicki Films, LLC v. Sanderson Sales & Mktg.</i>, 547 F.3d 1213, 1224 (9th Cir. 2008) [Parts III B and III C - Halicki's Copyright and Trademark Claims, pp. 15326 - 15334] (11 pages)
12	September 25	Trademark Exclusive Rights – Infringement, Dilution, and Remedies	<ul style="list-style-type: none"> – <i>Brother Records, Inc. v. Jardine</i>, 318 F.3d 900 (9th Cir. 2003) ("The Beach Boys")
13	September 25	Trademark Defenses	<ul style="list-style-type: none"> – <i>New Kids on the Block v. News America Publishing, Inc.</i>, 971 F.2d 302 (9th Cir. 1992). – <i>Jack Daniels Properties, Inc. v VIP Products LLC</i>, 599 U.S. 140 (2023)
14	September 30	Trademark Licenses	Sample trademark license agreement

III. PERSONAL RIGHTS

A. RIGHT OF PRIVACY

15	October 2	Right of Privacy – Overview	<ul style="list-style-type: none"> – Common law doctrines
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		Unwarranted Intrusion and Public Disclosure of Private Facts, and Releases	<ul style="list-style-type: none"> – New York Civil Rights Law (CVR) Article 5 Right of Privacy §50-B, §50-G, §52-A, §50-B, §50-C, and §50-D – Sample release
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B. RIGHT OF PUBLICITY

16	October 7	False Light and Defamation; First Amendment Defense and State Anti-SLAAP Laws	<ul style="list-style-type: none"> – <i>Cayuga Nation v. Showtime Networks, Inc.</i>, 191 AD3d 573 (NY App 2021) (1 page) – <i>Greene v. Paramount Pictures Corp.</i>, No. 19-135-cv (2d Cir. June 11, 2020) ("Wolf of Wall Street") (9 pages) – New York Civil Rights Law (CVR) Article 7 Miscellaneous Rights and Immunities - Unlawful Interference with Protected Rights, Libel and Defamation §70, §70-A, §70-B, §71, and §74 - §78 – California Code of Civil Procedure (CCP) §425.16 – <i>Sarver v. Chartier</i>, 813 F.3d 891 (9th Cir 2016) [Part I, pp. 6 - 9, Part III, pp. 16 - 26, and Part IV, pp. 27 - 30] (18 pages) ("The Hurt Locker")
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– – October 9 **Fall Break – No Class**

17	October 14	State Right of Publicity – Misappropriation of Identity for Commercial Purposes; Post-Mortem Rights	<ul style="list-style-type: none"> – New York Civil Rights Law (CVR) Article 5 Right of Privacy §50, §50C, §50F, and §51 – <i>Lohan v. Take-Two Interactive Software, Inc.</i>, 31 NY3d 111, 2018 N.Y. LEXIS 721 (Mar. 29, 2018) (1 page) ("Grand Theft Auto V") – <i>Gravano v Take-Two Interactive Software, Inc.</i>, 142 AD3d 776 (NY App. 2016) (1 page) (Grand Theft Auto V") – California Civil Code (CIV) §3344 and §3344.1n (2 pages) – <i>Comedy III Productions, Inc. v. Gary Saderup, Inc.</i> (2001) 25 Cal. 4th 387, 21 P.3d 797 (Cal. 2001) ("The Three Stooges") – <i>Kirby v. Sega of America</i>, 144 Cal.App.4th 47 (Cal. App. 2006) ("Lady Keir" and "Deelite") – COPYRIGHT AND ARTIFICIAL INTELLIGENCE – PART 1: DIGITAL REPLICAS, U.S. COPYRIGHT OFFICE (JULY 2024) [Section II. Protection Against Unauthorized Digital Replicas A. Existing Legal Frameworks and B. The Need for Federal Legislation. 1. Shortcomings of Existing Laws], pp. 8 – 24 (16 pages)
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| 18 | October 16 | Right of Publicity – False Representation of Connection with Another Person or Approval of Goods or Services by Another Person | <ul style="list-style-type: none"> – Lanham Act Section 43(a)(1), 15 U.S.C. §1025(a)(1) – New York General Business Law Section 349 – California Business & Professions Code Section Business and Professions Code Section 17200 – <i>Waits v. Frito-Lay, Inc.</i>, 978 F.2d 1093 (9th Cir. 1992), cert. denied, 506 U.S. 1080 (1993) [Section B – Lanham Act Claims] – <i>Rogers v. Grimaldi</i>, 875 F.2d 994 (2d Cir. 1989) – <i>Dastar Corp. v. Twentieth Century Fox Film Corp.</i>, 539 U.S. 23 (2003) |
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| 19 | October 21 | Endorsements and Testimonials in Advertising | <ul style="list-style-type: none"> – Federal Trade Commission Act, 15 U.S.C. §§5 – Federal Trade Commission, Guides Concerning Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255 – <i>1Up Sports Marketing (Advertising by Skims Body, Inc.)</i>, Report #7364, NAD/CARU Case Reports (April 2025) |
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IV. LABOR IN THE ENTERTAINMENT INDUSTRY

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| 20 | October 28 | Unions and Guilds | <ul style="list-style-type: none"> – <i>Home Box Office v. Directors Guild of America</i>, 531 F.Supp. 578 (SDNY 1982) – California Film Commission - Entertainment Industry Associations, Guilds, and Unions – NYC MOME - Guilds, Unions, and Organizations - MOME |
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V. REPRESENTATION OF AUTHORS, PERFORMERS, AND CELEBRITIES

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| 21 | October 30 | Agents and Managers – Role and Regulation | <ul style="list-style-type: none"> – <i>Park v. Deftones</i>, 71 Cal. App. 4th 1465, 84 Cal. Rptr. 2d 616 (1999) – California Talent Agencies Act, California Labor Code Section 1700 et seq (Jan 2025) – Cho, "A Blurry Line Between Managers and Agents Is at the Center of CAA's Legal War," The Hollywood Reporter, Oct. 2, 2024, – New York General Business Law (GBS) §171 - Employment Agencies - License Required, § 185 – – Fees, §187(8) - Additional Prohibitions, §189(5) – Enforcement; New York Arts and Cultural Affairs §37.01, 37.03, and 37.05 |
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| – – | November 4 | Election Day – No Class |
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22	November 6	Lawyers – Role, Ethics, and Regulation – Conflicts of Interest, Competence, and Fee Arrangements	<ul style="list-style-type: none"> – <i>Solis v. Blancarte</i> (Cal.Lab.Com., Sept. 30, 2013) TAC No. 27089 – New York Judiciary Law §487 – <i>King v. Fox</i>, 851 N.E.2d 1184, 7 N.Y.3d 181, 818 N.Y.S.2d 833 (N.Y. 2006) ("Lynyrd Skynyrd")
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VI. PERSONAL SERVICE CONTRACTS IN THE ENTERTAINMENT INDUSTRY

23	November 11	Personal Services Contracts – Principal Operative Provisions	<ul style="list-style-type: none"> – Live Appearances and Touring – Recording Agreements – "Above the Line" Motion Picture Agreements
24	November 13	Duration of Personal Service Contracts and Specific Performance	<ul style="list-style-type: none"> – California Labor Code §2855 – <i>Twentieth Century Fox Film Corp. v Netflix, Inc.</i>, No. SC126423 Sup. Ct. Los Angeles, June 5, 2029 [Third Cause of Action - Unfair Competition, pp. 24 - 33]
25	November 18	Personal Services Contract Issues – Formation, Statute of Frauds, Capacity of Minors,	<ul style="list-style-type: none"> – New York General Obligations Law § 5-701 – California Civil Code (CIV) §1624 - Manner of Creating Contracts (Statute of Fraud) – <i>Zakk v. Diesel</i>, 33 Cal.App.5th 431, 245 Cal.Rptr.3d 215 (Cal. App. 2019) [Introduction, Background - A. Original Complaint, pp. 1 - 9; D. Third Amended Complaint, pp. 17 - 23; Discussion, p. 24; C. Statute of Frauds, pp. 29 - 38 – Shannon & Hunter, "Principles of Contract Law Applied to Entertainment and Sports Contracts: A Model for Balancing the Rights of the Industry with Protecting the Interests of Minors," 48 LOYOLA LOS ANGELES LAW REVIEW 1171 (2015) (20 pages) – Johnson & Johnson, "Entertainment Contracts with Minors: Clarification Needed," NEW YORK STATE BAR ASSOCIATION ENTERTAINMENT, ARTS AND SPORTS LAW JOURNAL (Spring 2019), pp. 75 - 76 – California Labor Code §1700.37 – California Family Code §6750 et seq. – New York General Business Law §3-101 – New York Estates, Powers, and Trusts Law (EPTL) §7.71(b) – New York Arts & Cultural Affairs law §35.03

			– <i>Twentieth Century Fox Film Corp. v Netflix, Inc.</i> , No. SC126423 Sup. Ct. Los Angeles, June 5, 2029) (Pages 33, 3rd paragraph - 41)
26	November 20	Methods of Compensation – Fees, Participation, Pay or Play, Royalties – and Remedies	<ul style="list-style-type: none"> – Active Income – Passive Income – Contingent Income – Audit Provisions
--	November 22 – 30	Thanksgiving Recess	
--	December 1	Reading Day	
--	December 4	Final Examination	

ACADEMIC STANDARDS AND COURSE POLICIES

Academic Integrity

Each student at Antonin Scalia Law School (“Scalia Law”) is expected to behave honorably and with the highest personal integrity toward other law students, toward the law school and university, and toward other members of the legal profession.

[Academic Regulations](#) prohibits a student from lying, cheating, or stealing, to include plagiarism and the use of any prohibited resource in an exam, coursework, or course paper.

Recording Class Sessions Prohibited

As provided by Academic Regulation AR 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device (such as an audio recording device or a camera), unless University Disability Services provides written permission for a student to record class sessions as a disability accommodation.

Using University E-Mail Required

Students must use their Mason email account to receive university or law school information, including communications related to this course.

Use of Generative Artificial Intelligence in Course Work and Examinations Prohibited

As provided by Academic Regulation AR 4-3, this course prohibits the use of generative artificial intelligence (GAI) in drafting or writing course work or in writing or preparing to write examination answers, and any such use will be considered academic dishonesty involving cheating in violation of the University’s Academic Standards. Academic Rule AR 4 -3 defines GAI as:

[A] type of artificial intelligence that uses algorithms to generate new content, such as text or images, based on the data it has been trained on. For purposes of this regulation, GAI is not intended to encompass legal research databases and word processing applications that, while incorporating AI-based elements or enhancements, do not generate novel text.

Accommodations for Students with Disabilities

Disability Services at George Mason University is committed to upholding the letter and spirit of the laws that ensure equal treatment of people with disabilities. Disability Services implements and coordinates reasonable accommodations and disability-related services that afford equal access to

university programs and activities. For further information and to register for services, please refer to <https://ds.gmu.edu/law-school/>, or call (703) 993-2474.

Student's Name and Pronoun Use

Students are encouraged to share their name and gender pronouns with me and indicate how best to address them in class and via email. Further information can be obtained at GMU's Chosen Name and Pronoun Policy, <https://universitypolicy.gmu.edu/policies/chosen-name-pronouns-policy/>

COVID Protocols

Please refer to GMU's *Safe Return to Campus* web site for information regarding GMU's safety protocols. The site can be accessed at: <https://shs.gmu.edu/services/covidservices/>.

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking

As a faculty member, I am designated as a "Non-Confidential Employee," and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason's Title IX Coordinator per University Policy 1202.

If a student wishes to speak with someone confidentially, please contact one of Mason's confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at (703)993-2380. Students may also seek assistance or support measures from Mason's Title IX Coordinator by calling (703) 993-8730, or emailing titleix@gmu.edu.

University Resources for Students

- [Mason Square information](#)
- [Disability Services](#) (703) 993- 2474
- [Counseling and Psychological Services](#)
- [Student Health Services](#)
- Mason Square Campus Clinic: Visit Van Metre Hall, Room B102 or after hours call (703) 991-2831
- [Student Support and Advocacy Center](#)
- Police: Van Metre Hall, Room 110; Emergency call 911; Non-Emergency call (703) 993-8070
- Police escort services: Call (703) 993-8370
- Sexual Assault Services: Visit Van Metre Hall, Room 222D, or call (703) 993-8186