WHAT IS "ENTERTAINMENT LAW"?

LOYOLA LAW SCHOOL
ENTERTAINMENT & SPORTS SOCIETY
PROF. JAY DOUGHERTY
2009 SPRING
WHAT IS “ENTERTAINMENT LAW”?  
- REPRESENTING CLIENTS IN THE VARIOUS ENTERTAINMENT INDUSTRIES  
- ENTERTAINMENT INDUSTRY STRUCTURE  
  • KNOW YOUR CLIENTS’ BUSINESS  
- WHAT DO ENTERTAINMENT LAWYERS DO?  
  • “TRANSACTIONAL” vs. “LITIGATION” (DISPUTE RESOLUTION)  
  • CHARM, SCHMOOZE & RELATIONSHIPS  
  • NEGOTIATING, DRAFTING, INTERPRETING CONTRACTS  
  • KNOWLEDGE OF THE LAW AND LEGAL METHODS  
- WHAT SUBSTANTIVE LAW IS APPLICABLE?  
- LEGAL: LARGE & MEDIUM FIRMS, BOUTIQUES, SOLO PRACTICE  
  - LITIGATION AS TRAINING FOR TRANSACTIONS
ENTERTAINMENT LAW PRACTICE: WHAT DO ENTERTAINMENT LAWYERS DO?

• COUNSELING CLIENTS
  – TRANSACTIONAL: BUSINESS DEAL STRUCTURE
  – ADVICE RE: POTENTIAL CLAIMS
  – AVOIDING POTENTIAL CLAIMS
    • OBTAINING RIGHTS
    • RECOMMENDING CHANGES TO REDUCE RISK

• CONTRACTS: RIGHTS, SERVICES & FINANCING
  – DRAFTING
  – NEGOTIATION
  – INTERPRETATION (COUNSELING)

• ADVOCATING--HANDLING DISPUTES, INCLUDING LITIGATION—INCREASING USE OF ADR

• LAW SCHOOL: STUDY CASES, STATUTES, ANALYZE HYPOTHETICALS
SUBSTANTIVE ENTERTAINMENT LAW

- POTENTIALLY, VERY BROAD
- SPECIFIC REGULATIONS
  - E.G. REGULATION OF AGENTS [e.g., Deftones]
- CONTRACT LAW [e.g. Marx Bros]: FORMATION, INTERPRETATION, PERFORMANCE/BREACH; LIMITATIONS ON REMEDIES
- PERSONAL RIGHTS, e.g.:
  - DEFAMATION [e.g. “Missing”]
  - PRIVACY [e.g. “Panther”]
  - RIGHT OF PUBLICITY? [e.g. “Perfect Storm”, Marilyn, Bobblehead, “Rosa Parks”]
- INTELLECTUAL PROPERTY/BUSINESS TORTS:
  - COPYRIGHT [e.g., “12 Monkeys”, Bolton, “Pretty Woman”]
  - TRADEMARKS, UNFAIR COMPETITION [e.g., “The Animal”]
  - IDEAS?
SUBSTANTIVE ENTERTAINMENT LAW-2

- COLLECTIVE BARGAINING AGREEMENTS/LABOR LAW
- CREDIT ISSUES (INVOLVE COMBINATION OF THE ABOVE) [e.g. “Last Samurai”]
- EMPLOYMENT LAW [e.g. Jetta Goudal]
- FIRST AMENDMENT--LIMITATIONS ON REGULATION OF SPEECH
  - LIMITS ON PERSONAL RTS./RT. OF PUBLICITY
  - INCITEMENT: MEDIA LIABILITY FOR AUDIENCE VIOLENCE [e.g. “Natural Born Killers”]
  - OBSCENITY [e.g., 2 Live Crew, “As Nasty as They Wanna Be”]
- ANTITRUST LAW, CORPORATE LAW, TAXATION, ETC…
TWO MARI LYN—WHICH ONE IS "SPEECH"?
SADERUP’S 3 STOOGES
IDEA PROTECTION?
EMPLOYMENT LAW--J ETTA GOUDAL: WRONGFUL TERMINATION?
ENTERTAINMENT LAW—CAREER PATHS

• MOST EMPLOYERS DO NOT HIRE NEW LAW GRADS FOR ENTERTAINMENT LAW POSITIONS
  – E.G. IN-HOUSE, BOUTIQUE FIRMS
• SO MOST LIKELY—YOU WILL NEED TO PRACTICE IN ANOTHER FIELD FIRST, THEN MAKE A LATERAL MOVE
  – NETWORK, CONTINUE TO DEVELOP KNOWLEDGE OF RELATED FIELDS, DEVELOP SKILLS THAT WILL TRANSFER (e.g., NEGOTIATION, DRAFTING, ETC.)
  – BE CAREFUL ABOUT ONLY GETTING EXPERIENCE IN ENTERTAINMENT! DEVELOP OTHER RESUME-WORTHY MATERIAL, SINCE YOUR MORE LIKELY FIRST JOB WILL BE DOING SOMETHING ELSE—A “TWO-PRONG” CAREER STRATEGY IS BEST.
• LITIGATION IS CONSIDERED BY MANY TO BE A GOOD TRAINING FOR LATER TRANSACTIONAL LAW PRACTICE, PARTICULARLY IN-HOUSE
ENTERTAINMENT LAW AT LOYOLA LAW SCHOOL

• CORE COURSES:
  - ENTERTAINMENT LAW
  - COPYRIGHT LAW (INCL. INTERNATIONAL—2008 LONDON)
  - TRADEMARK LAW
  - INTERNET LAW & TECHNOLOGY

• ADVANCED & SPECIALIZED CLASSES, e.g.:
  - MOTION PICTURE PRODUCTION & FINANCE
  - TELEVISION PROGRAMMING & FINANCE
    • REALITY TELEVISION SEMINAR
  - MUSIC LAW
  - ART LAW
  - SPORTS LAW
  - VIDEOGAME LAW
  - ENTERTAINMENT VENTURE FINANCING
  - WORKING WITH ENTERTAINMENT GUILDS
ENTERTAINMENT LAW AT LOYOLA LAW SCHOOL

• MANY ADDITIONAL COURSES, BOTH SUBSTANTIVE & SKILLS (eg LEGAL NEGOTIATIONS)
• INTERNSHIPS
  – ENTERTAINMENT LAW PRACTICUM
  – NON-PROFITS: GUILDS, TRADE ASSOCIATIONS
• ENTERTAINMENT LAW REVIEW; ENTERTAINMENT & SPORTS LAW SOCIETY
• ANNUAL ENTERTAINMENT LAW SYMPOSIUM, ANNUAL SPORTS LAW SYMPOSIUM & OTHER ALUMNI/EDUCATIONAL PROGRAMS
ENTERTAINMENT LAW PRACTICUM

- Allows 2 units of credit for up to 112 hours of legal work for “profit” companies/firms in entertainment and related areas
  - Nonprofits in Entertainment: The Regular Externship Program
- Must complete hours, take course, compete its requirements (class attendance, 15 page paper, time sheets)
- Can work prior to semester when you take the course
- See LLS website/courses & programs
- Watch for internship opportunities
ENTERTAINMENT INDUSTRY STRUCTURE—
SOME RESOURCES

- READ THE “TRADES,” e.g.:
  - VARIETY.COM
  - HOLLYWOODREPORTER.COM (HOLLYWOODREPORTERERSQ.)
  - BILLBOARD.COM
  - FINDLAW.COM (go to “for professionals”—practice areas—entertainment)

- NUMEROUS INDUSTRY WEBSITES
  - MPAA.ORG; RIAA.COM
  - WGA.ORG; SAG.ORG; DGA.ORG
  - ASSOCIATION OF TALENT AGENTS; NAT’L CONF. OF PERSONAL MGRS.

- ENTERTAINMENT LAW REPORTER
- Vogel, ENTERTAINMENT INDUSTRY ECONOMICS
- Passman, ALL YOU NEED TO KNOW ABOUT THE MUSIC INDUSTRY;
  Brabec & Brabec, MUSIC, MONEY & SUCCESS
- Squire, THE MOVIE BUSINESS BOOK;
  Appleton & Yankelovitz, HOLLYWOOD DEALMAKING;
  Moore, THE BIZ
- Blumenthal & Goodenough, THIS BUSINESS OF TELEVISION