

TABLE OF CONTENTS

	Page
Dedications	iii
Preface	v
Acknowledgments	vii
Permissions	ix

Part I ENTERTAINMENT INDUSTRY CONCEPTS

CHAPTER 1 STRUCTURE OF THE ENTERTAINMENT INDUSTRY*

§ 1.01	Entertainment Law	3
§ 1.02	Components of the Entertainment Industry	3
§ 1.03	The Economic Functions of the Entertainment Industry	3
	<i>Schurz Communications, Inc. v. F.C.C.</i> (7th Cir. 1992)	4
	Notes and Questions	13
	<i>National Cable Television Ass'n v. Broadcast Music, Inc.</i> (D.D.C. 1991)	15
	Questions	27
§ 1.04	Foreign Distribution	28
	Klady, Earth to Hollywood: You Win (Variety, 2/13/95)	28
	Notes and Questions	31
§ 1.05	The High Risk of the Entertainment Industry	32
	Klady, Hollywood Suffers Severe Sell Shock (Variety, 3/11-17/96)	33
	Questions and Comment	36
	Peers, Risk Ridden Hollywood (Variety, 1/9/95)	36
	Questions	40
	<i>Allied Artists Pictures Corp. v. Rhodes</i> (S.D. Ohio 1980)	40
	Notes and Questions	54
§ 1.06	Future Media Technology	55

* Internal citations have been omitted from many of the cases.

ENTERTAINMENT LAW

	Page
Harmon, For Multimedia's Emerging Superstars, Are Hollywood Talent Agents . . . the 10% Solution? (L.A. Times, 6/12/94)	56
Notes and Questions	61
Clark, Slipped Disks: Multimedia's Hype Hides Virtual Reality: An Industry Shakeout (Wall Street Journal, 3/1/95)	62
Notes and Questions	66
Johnson, On-Line: Courts Struggle with Definition of Cyberspace (Wall Street Journal, 7/27/95)	67
Epilogue	69
Questions	71
Concern to Set New Policy for Internet Addresses (Wall Street Journal, 7/27/95)	72
Question	72
Johnson, Sheet Music's Greatest Hit? Big Changes in Store as High-Tech Kiosks Rewrite the Standards (L.A. Times, 4/7/93)	73
Questions	76
§ 1.07 Representing Entertainers	94
<i>Ring v. Spina</i> (2d Cir. 1945)	95
Notes and Questions	99
Cox & Weiner, Union Soldiers Wage Uncivil War (Variety, 4/17/95)	100
Questions	105
<i>H.A. Artists & Associates v. Actors' Equity Association</i> (U.S. 1981)	106
Notes and Questions	116
Brodie, Agents Struggle to Fit Studio Mold (Variety, 7/17/95)	117
Brodie & O'Steen, Antsy Agents Make Mutant Managers (Variety, 3/20/95)	119
Questions	123
Conflict of Interest	123
Attorneys Practicing Entertainment Law	123
<i>Croce v. Kurnit</i> (S.D.N.Y. 1982)	124
Questions	129
Shapiro, Small Firms Help a Lawyer Make It Big (Wall Street Journal, 3/31/95)	130
Questions	132
Hypothetical Problem	132

TABLE OF CONTENTS

	Page
Supplemental Reading	133
Suggested Films to View	137

CHAPTER 2

ARTISTIC CONTROL

§ 2.01	Introduction	139
§ 2.02	The Nature of Artistic Control	139
	Grimes, Behind the Scenes after "It's a Wrap!" (N.Y. Times, 10/15/95)	139
	Questions	145
	Walter Hill Disowns "Warriors", Goldman Defends Necessary Cuts (Variety, 10/1/80)	146
	Questions	147
	First Film Editor Ever as Speaker Deplores All That "Autuer Palaver" (Variety, 3/5/80)	147
	Questions	148
	Wolf, High Noon for Directors (N.Y. Magazine, 12/29/80)	148
	Questions	151
	Brodie, Autuerism a Growth Industry, But . . . Hapless Helmers Torn by Tensions (Variety, 2/6-12/95)	151
	Questions	157
	Philips, Time Warner to Abandon Gangsta Rap (L.A. Times, 9/28/95)	158
	Questions	161
§ 2.03	Industry Practice	161
	<i>Preminger v. Columbia Pictures Corp.</i> , (N.Y. Sup. Ct. 1966)	161
	Questions	168
	<i>Turner Entertainment Co. v. Huston</i> (Ct. App. Versailles [France] 1994)	169
	Questions	178
	Lippman, Dying Hard: How a Red-Hot Script That Made a Fortune Never Became a Movie (Wall Street Journal, 6/13/95)	178
	Questions	185
	<i>Seroff v. Simon & Schuster, Inc.</i> (N.Y. Sup. Ct. 1957)	186

ENTERTAINMENT LAW

		Page
	Questions	192
	Fleming, Oscars: Producing is as Producing Does: Who's Really Responsible for the Success of Forrest Gump? (Vanity Fair, 4/95)	193
	Questions	198
	Alexander, The Auterurist Trap (Variety, 2/12/95)	199
	Questions	201
§ 2.04	Legal Remedies	201
	<i>Gilliam v. American Broadcasting Co.</i> (2d Cir. 1976)	201
	Questions	213
	Reuben, Protecting Celebrities' Estates from Merchandising Ripoffs Big Business (ABA Journal, 5/95)	214
	Questions	216
	Kaufman & Cantwell, Right of Publicity Gets Support from Restatement (Nat'l Law Journal, 2/20/95)	217
	Questions	222
	<i>Chesler v. Avon Book Division</i> (N.Y. Sup. Ct. 1973)	223
	Questions	225
	Free For All (Washington Post, 10/28/95)	225
	Questions	227
	Visual Arts Rights Act	227
	Questions	231
	Hypothetical Problem	231
	Supplemental Reading	233

CHAPTER 3

CREDIT

§ 3.01	Introduction to Credit	237
	Whellems, Gaffers, Grips, Moth Wranglers and Other Mysteries from the Odd World of Film Credits (Ottawa Citizen, 7/8/94)	237
	Questions	241
	<i>Smithers v. MGM Studios, Inc.</i> (Cal. App. 1983)	242
	Notes and Questions	246
	<i>Follett v. New American Library, Inc.</i> (S.D.N.Y. 1980)	247
	Notes and Questions	258

TABLE OF CONTENTS

	Page
Shapiro, Movies: Despite Disdain, A Legendary Director Endures (Wall Street Journal, 4/19/96)	259
Notes and Questions	261
§ 3.02 Legal Theories of Credit	261
<i>Cleary v. News Corp.</i> (9th Cir. 1994)	261
Notes and Questions	270
§ 3.03 Credit Vehicles	271
Walsted, Go Ahead! Ruin Our Credits (L.A. Times, 5/30/94)	271
Arbitrators Find That the Directors of "Jaws 2" and "King of the Gypsies" Were Entitled to Credit in Certain Advertisements (Entertainment Law Reporter, 10/15/79)	272
Questions	274
<i>King v. Innovation Books</i> (2d Cir. 1992)	275
Questions	283
§ 3.04 Labor Unions and Credit Disputes	284
Producers Draw Battle Lines over Credit Order (Variety, 2/20/95)	284
Questions	286
§ 3.05 Unions, Arbitration, and Credit Disputes	286
<i>Marino v. Writers Guild of America</i> (9th Cir. 1993)	286
Questions	295
§ 3.06 Multiple Contributors and Project Names	296
<i>Bell v. Streetwise Records, Ltd.</i> (D. Mass. 1986)	296
Questions	302
§ 3.07 Remedies in Credit Disputes	303
<i>Tamarind Lithography Workshop, Inc. v. Sanders</i> (Cal. App. 1983)	304
Notes and Questions	309
<i>Redgrave v. Boston Symphony Orchestra, Inc.</i> (1st Cir. 1988)	310
Questions	319
<i>National Bank of Commerce v. Shaklee Corp.</i> (W.D. Tex. 1980)	320
Questions	330
Injunctions	331

ENTERTAINMENT LAW

	Page
<i>Loren v. Samuel Bronston Productions, Inc.</i> (N.Y. Sup. Ct. 1962)	332
Questions	334
§ 3.08 Credit in a Digital World	334
<i>McCartney, Hollywood, Silicone Valley Team Up - and Clash</i> <i>(Wall Street Journal, 3/14/95)</i>	335
Questions	337
Hypothetical Problem	338
Supplemental Readings	342

CHAPTER 4 COMPENSATION

§ 4.01 Introduction	345
§ 4.02 Industry Practice	346
<i>Weinraub, Stars' Salaries Skyrocketing</i> (N.Y. Times, 9/18/95)	346
Questions	350
<i>Batfilm Productions, Inc. v. Warner Bros., Inc.</i> (Cal. Super. Ct. 1994)	350
Questions	356
<i>Klady, Hollywood Lays an Egg</i> (Variety, 12/11-17/95)	356
Questions	360
<i>Klady, Cents & "Sensibility"</i> (Variety, 12/18-31/95)	361
Questions	364
<i>Dramatic Recovery on Broadway</i> (The Economist, 2/18/95)	364
Questions	366
<i>McNeil, New Show is First Not to Have to Pay Musical</i> <i>"Walkers"</i> (N.Y. Times, 2/8/95)	367
Questions	369
§ 4.03 Compensation Forms	369

TABLE OF CONTENTS

	Page
<i>Sigmon v. Goldstone</i> (N.Y. App. Div. 1906)	369
Questions	371
<i>Parker v. Twentieth-Century Fox Film Corp.</i> (Cal. 1970) . . .	371
Questions	379
Arbitrator Gives Peter Hunt 134G in Merrick Case (Variety, 4/16/80)	379
Questions	380
<i>Wood v. Lucy, Lady Duff-Gordon</i> (N.Y. 1917)	381
Questions	382
<i>Zilg v. Prentice-Hall, Inc.</i> (2d Cir. 1983)	382
Questions	392
<i>Pinnacle Books, Inc. v. Harlequin Enterprises, Ltd.</i> (S.D.N.Y. 1981)	392
Questions	397
Thompson, The \$100 Million Question (Entertainment Weekly, 9/23/94)	398
Questions	400
Sandler, New Recipes Cooking for Net Profit Pie (Variety, 6/5-11/95)	401
Questions	403
Wiederhorn, The Royalty Scam (Rolling Stone, 3/9/95)	404
Question	405
Philips, Artists Often Find There's No Way Out of Their Contracts (L.A. Times, 1/30/96)	406
Notes and Questions	408
Walker, Don't Feel Too Sorry for Poor Hugh — His Payday Will Come (Evening Standard, 9/30/94)	410
Questions	411
Lippman, Talent Agents Now Often Share Billing (Wall Street Journal, 8/17/95)	411
Questions	414
Haithman, The Bucks Start Here (L.A. Times, 11/5/95)	414
Notes and Questions	423
Green, et al, Rights Squabble Begins Over New Media Explosion (Variety, 1/2-8/95)	423
Notes and Questions	425
§ 4.04 Pay or Play	425

ENTERTAINMENT LAW

	Page
Lauderstein, Pay or Play or Pay and Pay (Entertainment & Sports Lawyer, Spring 1990)	425
Questions	431
Simensky, Determining Damages for Breach of Entertainment Agreements (Entertainment & Sports Lawyer, Spring 1990)	431
Notes and Questions	443
§ 4.05 Net Profits	443
Home Box Office's Suits Say Directors Guild Impedes Progress (Variety, 7/26/78)	443
Harmetz, Film Figures Decry Profit-Sharing Evils (N.Y. Times, 2/3/78)	444
Questions	448
Unconscionable Contracts: <i>Buchwald</i> and <i>Batfilm</i>	448
<i>Buchwald v. Paramount Pictures Corp.</i> (Cal. 1990)	448
Questions	462
Puzo, Hollywood's Raid on Israel, or Idi Amin's Revenge (N.Y. Magazine, 10/4/76)	463
Notes and Questions	470
Sandler, JFK Suit Alleges Studio Conspiracy (Variety, 11/27/95)	471
Questions	474
Margolis, Novelists: Sell That Book to Hollywood (N.Y. Times, 4/2/95)	474
Notes and Questions	477
Hypothetical Problem	477
Supplemental Reading	482

CHAPTER 5

GRANT OF RIGHTS

§ 5.01 Protection of Entertainment Ideas	485
<i>Desny v. Wilder</i> (Cal. 1956)	485
Questions	493
<i>Murray v. National Broadcasting Company</i> (2d Cir. 1988)	494
Questions	503
§ 5.02 Copyright and Its Transfer	503

TABLE OF CONTENTS

		Page
	<i>Effects Associates, Inc. v. Cohen</i> (9th Cir. 1990)	505
	Questions	510
§ 5.03	Copyright: Works Made for Hire	510
	<i>Playboy Enterprises, Inc. v. Dumas</i> (2d Cir. 1995)	511
	Questions	529
	Glaberson, Writers' Groups Criticize Times on Freelance Policy (New York Times, 8/9/95)	530
	Questions	532
§ 5.04	Copyright: Joint Authorship	533
	<i>Childress v. Taylor</i> (2d Cir. 1991)	533
	Notes and Questions	542
	Reuben, New Clout for Stage Directors: Copyright Protection Available for Creative Work (ABA Journal, 10/95)	544
	Questions	545
§ 5.05	Reversion of Copyright Ownership	545
	Questions	547
§ 5.06	Grants of Rights in New Technology	548
	<i>Rey v. Lafferty</i> (1st Cir. 1993)	549
	Questions	564
§ 5.07	Music Copyright	565
	Mehta, ASCAP to Sam: Play it Again, but Pay for It (Wall Street Journal, 9/27/94)	568
	Questions	571
§ 5.08	Grant of Rights to a Life Story	572
	<i>People for the Ethical Treatment of Animals v. Bobby Berosini, Ltd.</i> (Nev. 1995)	572
	Questions	587
	Williams & Frascotti, Lawyer's Role in the Acquisition and Exploitation of Life Story Rights (Boston B.J., 7-8/87)	588
	Questions	596
	Hypothetical Problem	596
	Supplemental Reading	600

CHAPTER 6

REPRESENTATIONS, WARRANTIES AND INDEMNITIES

§ 6.01	Introduction	605
--------	------------------------	-----

ENTERTAINMENT LAW

	Page
§ 6.02 Purposes	605
<i>Menzel v. List</i> (N.Y. 1969)	606
Questions	610
<i>Kerby v. Hal Roach Studios, Inc.</i> (Cal. App. 1942)	611
Questions	616
<i>Harcourt Brace Jovanovich, Inc. v. Goldwater</i> (S.D.N.Y. 1982)	618
Colford, They Just Couldn't Make This Stuff Up; Publishing; Joan Collins' Battle with Random House (L.A. Times, 2/14/96)	626
Note	627
Questions	627
§ 6.03 Ownership	629
Sandler, Let the Oscar Race Begin (Variety, 2/19-25/96)	629
Sandler, "Dumb" Case Settles But Impact Unclear (Variety, 4/22-28/96)	632
Questions	635
<i>Bright Tunes Music Corp. v. Harrisongs Music, Ltd.</i> (S.D.N.Y. 1976)	636
Questions	640
<i>Loew's Inc. v. Wolff</i> (S.D. Cal. 1951)	641
Questions	650
<i>Richcar Music Co. v. Towns</i> (N.Y. App. Div. 1976)	651
Questions	655
Wharton, Copyright Extension on the House Table (Variety, 2/6-12/95)	656
Questions	657
§ 6.04 Errors and Omissions Insurance	657
<i>McGinnis v. Employers Reinsurance Corp.</i> (S.D.N.Y. 1986)	657
Questions	666
<i>Boston Symphony Orchestra, Inc. v. Commercial Union Insurance Co.</i> (Mass. 1989)	667
Questions	673
§ 6.05 Defamation	674

TABLE OF CONTENTS

	Page
<i>Kelly v. William Morrow & Co.</i> (Cal. App. 1986)	674
Questions	682
Mitgang, Publisher Rejects "Offensive Books" (N.Y. Times, 9/1/83)	683
Questions	684
ABC Paid Ali for Interview, But Denies He Was "Employee" (Variety, 3/5/80)	685
Questions	686
New Dispute is Stirred by Doubleday-Davis Suit (N.Y. Times, 2/26/80)	686
Questions	688
Jones, Libel Threat is Increasing Even for Small Publications (N.Y. Times, 2/3/92)	689
Questions	691
Hypothetical Problem	691
Supplemental Reading	694

Part II

APPLICATION OF ENTERTAINMENT INDUSTRY CONCEPTS

First Writing Assignment: Drafting Counterproposal	699
Second Writing Assignment: Hypotheticals	701
Contract Hypothetical: Book Publishing Branch	703
Book Publishing Agreement	703
Contract Hypothetical: Music Branch	705
Agreement A: Recording Agreement	705
Agreement B: Merchandising License Agreement	707
Contract Hypothetical: Live Theatrical Branch	709
Agreement A: Production Contract	709
Agreement B: Theatrical Investment Agreement/Pre- Sale Motion Picture Rights	711
Contract Hypothetical: Television Branch	715
Agreement A: Rights Aquisition Agreement	715
Agreement B: Television Network Agreement	716
Litigation Hypothetical: Film Industry	719
Litigation Hypothetical: Music Industry	720
Litigation Hypothetical: Book Publishing and Live Theatrical Industries	720

Part III

GLOSSARY OF ENTERTAINMENT INDUSTRY TERMS

Glossary	725
Table of Cases	TC-1
Index	I-1