

AMGT 599: Legal Aspects in Arts Management

Fall 2011/ 1 Credit

Brian Taylor Goldstein

(703) 385-9500

bgoldste@gmu.edu

Course Description

This course is an overview of practical legal issues which will be encountered by arts managers of both for-profit and not-for-profit arts organizations, including contracts, copyrights, licensing, and for-profit and non-profit organization.

Overview

Successful arts-based businesses and organizations, whether they are not-for-profit or for-profit, must face the same legal and business issues as any other business, while at the same time addressing challenges unique to the arts. Such organizations require leaders who are familiar with basic legal concepts and terminology, who are able to recognize the legal consequences and implications of their actions, who are able to avoid potential problems and pitfalls, and who can navigate the distinctions, limitations, and opportunities between not-for-profit and for-profit artistic enterprises. Understanding these issues and challenges improves a manager's overall effectiveness and maximizes their organization's ability to survive and succeed in an ever-changing environment.

Goals

Upon successful completion of this course, students will have a greater understanding of:

- How to draft and recognize the basic elements of an enforceable contract
- Specific contractual issues unique to the arts and entertainment field
- Basic legal terminology and concepts
- The role of a contract in preserving artistic relationships and avoiding conflict
- The differences between copyright, trademarks, and other rights
- How to license music, artwork, and other rights
- Fair use
- The differences between for-profit and not-for-profit entities
- How to form for-profit and not-for-profit entities
- Legal issues involved in raising money and capital
- How to recognize and avoid some of the legal pitfalls common in arts management
- How and when to seek additional legal resources
- How to balance legal concerns and requirements with practical demands and realities
- Real life legal challenges, problems, and stories from the arts and entertainment world, and how they were resolved
- How to integrate the skills and concepts acquired from this course into other core courses and classes.

Assignments and Grades

The Professor will assign readings and provide handouts, sample contracts, and case studies that will be reviewed and discussed during class. In addition, in preparation for each class, students will be asked to select and review newspapers, trade journals, tabloids, blogs, websites, and any other sources they choose to find examples of current, real-life arts-related disputes, lawsuits, problems, legal issues, scandals, and challenges to discuss in class.

The grade for this course will be determined by the following:

- Class attendance and participation (absences will affect final grade): (4 points per class/ 20 total points)
- A final project which will involve two parts: (1) The student will be asked to review a case study, identify the legal issues and problems, and propose suggestions for resolving them; and (2) the student will be given the elements of a typical transaction or agreement they may encounter as an arts manager (such as obtaining a license or engaging an artist) and be asked to draft a contract proposing all the necessary terms. (80 points)

TOTAL = 100 points.

Grading Criteria

For each class, students will receive 2 points for attendance and 2 points for asking questions, participating in discussions, and showing evidence of engagement in the subject matter.

For the final project, the grade will be based on the student's ability to demonstrate that he/she has understood the basic concepts discussed in the course. Rest assured, as this course is a basic overview of complex legal topics and issues, students will not be expected to display a mastery of the legal concepts discussed and will not be penalized for failing to understand all the elements or nuances of a legal issue or failing to draft a legally perfect contract. You're not expected to be lawyers after 5 lectures! Rather, I'm more interested in seeing whether a student is able to identify and analyze the issues presented in the case study, whether he/she can articulate appropriate suggestions for avoiding or resolving the problems, and whether he/she understands the basic elements of a contract. (In other words, I'm more interested that you can identify when an issue may require obtaining a license rather than being able to provide a dissertation on copyright law.) Nevertheless, "As" are not given. They must be earned by demonstrating thoughtfulness, creativity, resourcefulness, and critical thinking, as well as "pride of authorship." The expectation is that the final project should reflect a graduate level course and be well-organized, well-presented, and well-written, and without grammatical or spelling mistakes.

The final project will be graded as follows:

Identification of legal issues:	20 points
Depth of analysis and explanation	20 points
Drafted the basic elements of a contract	20 points
Presentation (grammar and composition)	20 <u>points</u>
	80 total points

GRADING SCALE

A+ 100-97 (still only provides for 4.0 quality points)

A 96-94 (4.0 quality points)

A- 93-90 (3.67 quality points)

B+ 89-87 (3.33 quality points)

B 86-84 (3.0 quality points)

B- 83-80 (2.67 quality points)

C 79-70 (2.0 quality points)

F 69- (0 quality points)

Policies and Practices

GMU Honor Code: <http://www.gmu.edu/catalog/apolicies/index.html#Anchor12>

Honor Code: To promote a stronger sense of mutual responsibility, respect, trust, and fairness among all members of the George Mason University community and with the desire for greater academic and personal achievement, we, the student members of the university community, have set forth this honor code: *Student members of the George Mason University community pledge not to cheat, plagiarize, steal, or lie in matters related to academic work.*

GMU student information and resources: <http://www.gmu.edu/mlstudents/>

No grade is important enough to justify cheating, for which there are serious consequences that will follow you for the rest of your life. If you feel unusual pressure about your grade in this or any other course, please talk to me or to a member of the GMU Counseling Center staff.

Using someone else's words or ideas without giving them credit is *plagiarism*, a very serious Honor Code offense. It is very important to understand how to prevent committing plagiarism when using material from a source. If you wish to quote verbatim, you must use the exact words and punctuation just as the passage appears in the original and must use quotation marks and page numbers in your citation. If you want to paraphrase or summarize ideas from a source, you must put the ideas into your own words, and you must cite the source, using the APA or MLA format. (For assistance with documentation, I recommend Diana Hacker, *A Writer's Reference*.) The exception to this rule is information termed *general knowledge*—information that is widely known and stated in a number of sources. Determining what is general knowledge can be complicated, so the wise course is, "When in doubt, cite."

Be especially careful when using the Internet for research. Not all Internet sources are equally reliable; some are just plain wrong. Also, since you can download text, it becomes very easy to inadvertently plagiarize. If you use an Internet source, you must cite the exact URL in your paper and include with it the last date that you successfully accessed the site.

Writing Improvement and Writing Center

CVPA 505 – Academic Writing in the Arts (a one credit course for 5 weeks). In the Fall of 2010 – offered on Wednesdays from 4:30-7:10PM in Fairfax.

Or

Students who are in need of intensive help with grammar, structure or mechanics in their writing should make use of the services of Writing Center, located in Robinson A116 (703-993-1200). The services of the Writing Center are available by appointment, online and, occasionally, on a walk-in basis.

If you are a student with a disability and you need academic accommodations, please see me and contact the Office of Disability Services at 703.993.2474. All academic accommodations must be arranged through that office.

Students must inform the instructor at the beginning of the semester, and the specific accommodation will be arranged through ODS.

Sign up for the Mason Alert System by visiting the website <https://alert.gmu.edu>, and an emergency poster exists in each classroom explaining what to do in the event of crises and that further information about emergency procedures exists on <http://www.gmu.edu/service/cert> . We will distribute a CVPA emergency card (yellow) to each student.

An incomplete grade (IN) is used only if the student requests it in writing. An IN counts as a failing grade until completed, and it automatically turns into an F if a grade is not turned in by the deadline in the Schedule of Classes.

Course Schedule

The topics of discussion, their order, and length of time spent on each may vary depending on the interests and the needs of the students, the complexity of the topic, and whims of the professor; the following schedule is therefore offered as a tentative outline:

Class 1 September 28

Introduction/Contracts I

- Course Overview: law and the arts
- Contract basics
- Written v. Oral contracts
- Contract myths and misunderstandings
- Contract Enforcement
- Forms and boilerplate
- Contract Negotiations

Class 2 October 12

Contracts II

- Contractual parties and relationships: agents v. producers; employees v. Independent contractors; individuals v. corporations
- Specific contract topics and provisions: fees and payment; technical requirements; artistic control; insurance and liability; exclusivity; visas; cancellation; dispute resolution;

Class 3: October 26

Intellectual property I

- Copyright basics
- Trademark basics
- Music rights
- Performance rights
- Artwork and visual design rights
- The Internet

Class 4: November 16

Intellectual Property II

- Rights of publicity and privacy
- Defamation
- Licensing and obtaining rights
- Fair use

Corporate Structures I

- For-profit corporate entities (Sole Proprietors, LLCs and C-Corps)
- Formation and management issues

Class 5 December 14

Corporate Structures II/Wrap-Up

- Capitalization and fund raising
- Non-profit corporate entities
- Formation and management issues

Final Project Assigned

Final Project due – electronically – Wednesday, December 21