

LEGAL ISSUES IN ARTS MANAGEMENT
AMGT 620
Fall 2017 / 3 credits
Wednesday 4:30 — 7:10 p.m.
Ann M. Garfinkle
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office hours - by appointment

COURSE DESCRIPTION: This course is an overview of practical legal issues that are encountered by arts managers, including contracts and licenses, intellectual property (trademarks, copyrights and the DMCA), rights of publicity and privacy, risk management, non-profit and for-profit formation and governance, and dispute resolution.

COURSE MATERIALS:

Required Texts:

Management and the Arts, 5th Edition, available on-line, do not buy.

Library Reserve:

Art Law (4th Edition), Ralph E. Lerner & Judith Bresler, PLI

Kohn on Music Licensing (4th edition), Al Kohn & Bob Kohn, Aspen

Law, Ethics, & the Visual Arts, John Henry Merryman & Albert Edward Elsen, Kluwer Law International, 2002

Lindey on Entertainment, Publishing, and the Arts, Alexander Lindey & Michael Landau, Clark Boardman Co.

Blackboard / Course Content:

DC Practice Manual, Art Law, Chapter 6, Janet Fries & Ann M. Garfinkle

DC Practice Manual, Zoning & Historic Preservation, Chapter 33

Copyright Basics, U.S. Copyright Office Circular #1, May 2012

Protecting Your Trademark.. Basic Facts About Trademarks, USPTO 2012

Judging Andy, Michael Shnayerson, Vanity Fair, November 2003

IRS instructions for form 1023 and form 1023 itself, IRS 990-PF and IRS 990

Rights of Publicity Statutes from CA, NY and VA

Immigration & Entertainment, NYSBA article

Facebook, LinkedIn and Twitter Terms of Use

Entity Selection article

Entity Comparison Chart

Obscenity material

Actors Equity material

Music license agreements

Theatrical agreements

Spiderman play - Amended Complaint

ASCAP Resource Guide

BMI Royalty Information

Agreement to Mediate

Additional reading material will be added as the course progresses.

GRADING:

The final grade will be determined as follows:

- 20% of the grade will be based on a short paper, topic to be determined by the student with approval of instructor; short paper will be a minimum of 2 pages and a maximum of 4 pages. This percent includes any additional required re-submissions.
- 35% of the grade will be based on class preparedness and class participation.
- 45% will be based on the final paper, an expansion of the short paper which as been approved by instructor; final paper will be a minimum of 12 pages and a maximum of 15 pages. 35% (of the total 45%) will be based on the paper itself and the remaining 10% (of the 45%) will be based on a formal presentation to the class; this presentation may include PowerPoint or other audio/visual material and/or distribution of hard copies of printed materials and/or other supplementary material. This is to be in the style of a professional presentation, including demeanor and attire.

CLASS SCHEDULE
(SUBJECT TO CHANGE WITH NOTICE TO STUDENTS)

Class 1: August 30 - INTRODUCTION TO COURSE AND TO CONTRACTS

Introduction / Course Overview & Requirements / Discussion of Short Paper Requirements / Contracts.

Open discussion with students about their individual goals and interests, so that the course can address relevant issues appropriately.

Discussion with students regarding the basics of contracts, including Basic Contracts, Oral Contracts, Negotiating Contracts.

Reading for this class: Management and the Arts (Profile of the Art Manager).

Class 2: September 6 - NEGOTIATING CONTRACTS

Guest Speaker: Susan Borke, Esq. Former Senior Vice President, Deputy General Counsel and Managing Attorney at National Geographic Society.

Reading materials to be provided during class.

Class 3: September 13 - CLASS PAPERS AND TORT LAW

Short paper due and 5 minute discussion by each student about his/her paper topic.

Discussion led by Ann Garfinkle on Tort Law.

Reading material to be provided in class

NO CLASS ON SEPTEMBER 20, ROSH HASHANAH

Field Trip to be substituted, probably The Phillips Collection on a Saturday morning.

Class 4: September 27 – NON-PROFIT ORGANIZATIONS

Guest speaker: Dorothy Deng, Esq. Partner, Whiteford, Taylor & Preston, LLP

Reading: IRS instructions for form 1023 and form 1023 itself, IRS 990-PF and IRS 990

Class 5: October 4 - INSURANCE

Liabilities of valuable personal property in art and possibly D&O Insurance.

Guest Speaker: Joseph C. Dunn, President & CEO, Huntington T. Block Insurance Agency, Inc.

Reading: TBA

Class 6: October 11 - GIFTS AND COLLECTORS

Deeds of Gift / Related Use / Appraisals

Reading: Art Law: pp 1233-1240; DC Practice Manual

Art Law Chapter: Section VI, pp17-20

Judging Andy, Michael Shnayerson, Vanity Fair, November 2003

IRS code § 561.

Class 7: October 18 - INTELLECTUAL PROPERTY

Copyright / Moral Rights / Trademarks / Rights of Privacy / Rights of Publicity.

Reading: Copyright Basics, U.S. Copyright Office Circular #1, May 2012

Protecting Your Trademark: Basic Facts about Trademarks, USPTO 2012

Rights of Publicity statutes, CA, NY and VA.

Class 8: October 25 - EMPLOYMENT AND DISPUTE RESOLUTION

Employment from employer point of view.

What is an independent contractor.

Guest Speaker: Jennifer Jackman, Esq. Partner, Whiteford Taylor & Preston, LLP.

Reading: TBA

Class 9: November 1 - ISSUES IN THE PERFORMING ARTS

Music / Dance / Theatre / Performance Art.

First Amendment Obscenity Considerations.

Reading: Merryman & Elsen, Chapter 5

Immigration & Entertainment article

Lindey on Entertainment.

Class 10: November 8 - LEGAL ISSUES IN FUNDRAISING

Panel of professionals in Development/Advancement in dialogue with Ann Garfinkle.

Class 11: November 15 - THE ART GALLERY – HOW IT WORKS AND LEGAL ISSUES

Art Galleries and how they really work.

Guest Speakers TBA in dialogue with Ann Garfinkle.

Reading: Lindey on Entertainment, etc.

NO CLASS ON NOVEMBER 22 HAPPY THANKSGIVING

12. Class 12: November 29 - DISABILITY LAW

Disability rights and reaching out to older/disabled population.

Guest Speaker TBA

Presentations of some student final papers.

13. Class 13: December 6

Presentation of some student final papers and discussion of legal issues of attracting new audiences.

14. Class 14: December 13

Balance of student papers and open discussion.

CLASS AND UNIVERSITY POLICIES

Electronic devices: Please turn your cell phone ringer off at the beginning of class. As a matter of courtesy to your professor and classmates, cell phones, text and email may only be used during formal breaks in the class session. Class lectures and discussions may be recorded. However, these recordings are to be played only for your own personal use and may not under any circumstances be reproduced without the express written permission. Reproduction or distribution of these materials without permission will be acted upon as a violation of the honor code.

Absence: Please inform us of the reason for any absence. One absence will be excused. Each additional absence may result in a drop in your grade.

UNIVERSITY POLICIES

Grades and Incompletes: Once final grades have been recorded, faculty are not to accept any work to change a grade. Grade changes can only be approved when they are due to a calculation or recording error on the part of the faculty. An incomplete grade (IN) should be 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. In addition, faculty may assign an IN only if the student has a very limited amount of work to complete and there is a non academic reason they can't do so within the semester and if, in their best judgment, the student actually stands a good chance of passing the course by finishing the work satisfactorily. Typical situations for giving incompletes involve a final exam (missed due to illness) or a final paper (not completed because of a family emergency). Faculty are not to assign incompletes if the student has missed a substantial portion of the work of the semester and wants extra time to do it; Faculty are not to assign incompletes to give a student time to improve on work already completed.

Privacy: Federal law (a law known as FERPA) requires us to protect the privacy of student information. Faculty should not speak about a student's record with anyone other than the student. The record includes how a student is doing in a course, whether a student has attended class, information about performance or grades, whether a paper has been turned in, etc. This prohibition includes parents, siblings, spouses, anyone. According to the University catalog, all students and faculty are to use their GMU.EDU email address. Some commercial email addresses may be filtered out of the GMU.EDU system. No official information can be sent to students unless on the Mason email system.

Disability: If you are a student with a disability and you need academic accommodations, please see me and contact the Office of Disability Resources at 703.993.2474. All academic accommodations must be arranged through that office. The need for accommodations should be identified at the beginning of the semester and that the specific accommodation has to be arranged through the Office of Disability Resources. Faculty may not to provide accommodations to students on their own (e.g. allowing a student extra time to complete an exam because the student reports having a disability).

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

Academic Integrity and Conduct: It should go without saying that in this course, as with all others, you should conduct yourself and your research with the highest level of integrity and ethics. Cite others when appropriate in written work and oral presentations, listen to the opinions of classmates with an open mind, and generally treat others (and the work of others) as you

would like to be treated. To review the Honor Code of George Mason university, please visit:
<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/mIstudents/>

Please sign up for the Mason Alert System by visiting the website <https://alert.gmu.edu>, An emergency poster exists in each classroom explaining what to do in the event of crises and further information about emergency procedures exists on <http://www.gmu.edu/service/center>.