What does it mean as an attorney to work in entertainment and sports law

What are Entertainment and Sports Law?

The field of entertainment and sports law covers a remarkably broad and varied practice area. The practice involves such substantive areas of the law as contracts, labor, corporate finance, intellectual property, and antitrust. Lawyers in the sports and entertainment fields are specialists because of their knowledge of their clients’ worlds (entertainers, athletes, and organizations related to the entertainment and sports industries) and how the relevant legal issues intersect with their clients’ interests.
Contract Negotiations and Labor Issues

Entertainment and sports law includes negotiation of performance contracts on behalf of an entertainer or athlete or management. These contracts often involve terms of employment. An athlete, for example, might want to renegotiate her contract in light of a record-setting season, or a news anchor, reporter, or disc
jockey, courted by a rival network, might seek to alter his current contract. Because these contracts involve the entertainer’s or sports figure’s compensation, attorneys must be familiar with the standard performance contract requirements in the relevant field or sport, as well as the details of any collective bargaining agreement or union requirements. Attorneys working on these special employment contracts need to understand estate planning, employee benefits (such as retirement plans), and tax law.

Many athletes and performers are union members, which requires attorneys to be familiar with labor law. Union members may file grievances (complaints) claiming that an employer has violated an agreement with the union relating to any number of issues, such as the dates and numbers of performances; disciplinary procedures; medical care and rehabilitation of sports injuries; or the right to demote a musician or trade an athlete. Unfortunately, lawyers specializing in sports and entertainment law must also sometimes be knowledgeable about criminal law and procedure and the effect of arrest or indictment on the contractual obligations of management (for example, the issues raised by a professional athlete’s gambling or a musician’s drug use).

Attorneys are also involved in negotiating complex marketing and endorsement contracts. When Michael Jordan appears in a cartoon film, a motivational video, a book, or a magazine photographic piece, attorneys were involved in negotiating contracts with the producers or publishers. Entertainment and sports law thus may require knowledge of right to publicity issues (use of an athlete’s photograph or likeness); right of privacy issues (paparazzi photographs of entertainers in compromising situations); defamation and media law; and First Amendment rights of free speech and a free press. Attorneys must have a working knowledge of industry standards and the client’s marketability as they assist their clients in making difficult judgment calls. Athletes and entertainers must decide whether association with certain products or even political causes will enhance their opportunities to market other products such as athletic shoes or breakfast cereal or could result in “overexposure” that lessens the value of their endorsements.

Corporate Finance, Distribution, and Marketing

Sporting events, including tournaments, and entertainment projects, such as Broadway musicals and films, require financing and marketing. Some events may be financed by major studios (think of the immense capital investment required for Disney’s Broadway production of The Lion King) or corporations. Independent filmmakers and event producers must seek their own financial support. Attorneys practicing in this area work with event planners, studios, filmmakers, producers, banks, and other financial organizations to put together complex financial deals to support the development of the project. If the project is a film or an album, negotiations for distribution, both nationally and internationally, become very important. Attorneys working on distribution issues need to understand commercial law, secured financial transactions, intellectual property (copyright and trademark) rights, and tax issues.

Marketing includes substantial revenues related to the licensing of products, such as clothing with team logos and colors. Attorneys for rock musicians and country music stars, as well as ballet companies and symphonies (e.g., the Chicago Symphony, which has its own gift shop) may need to be familiar with law and procedures for seizing counterfeit t-shirts and merchandise at concert events or performances. Marketing of sports events, such as the Winston Cup racing circuit or “official” sponsorship of stadiums and college bowl games; also requires contractual negotiations and an understanding of these relevant substantive law areas.

Life as an Entertainment and Sports Lawyer

Where do entertainment and sports lawyers work?

Attorneys who practice entertainment and sports law work in a wide range of environments. A number of them work in private law firms, where they represent individual performers and athletes, athletic teams, filmmakers and producers, studios, opera companies, dance companies, bands, and symphonies. Some large firms, particularly those in entertainment and sports capitals such as New York City, Los Angeles, Nashville, Chicago, and Miami, have entertainment and sports law departments. Smaller “boutique” firms may specialize in sports and/or entertainment law. A number of athletic teams, music companies, film companies, and other organizations have in-house lawyers. These lawyers may work with outside law firms on matters that necessitate teams of attorneys, such as litigation.

Who are their clients and what types of issues do they work on?

Attorneys practicing entertainment or sports law may work with a wide range of clients. John Bollinger, a sports lawyer at Shook, Hardy & Bacon L.L.P. in Kansas City, Missouri, explains, "A sports lawyer may represent a professional league or a collegiate conference, an individual team or school, a professional
athlete or amateur sports star, or a television syndicator or sports merchandiser. The clients that I have worked for include a professional sports team, a major collegiate sports conference, several horse and dog race tracks, and a golf course operator." He adds, "I also have been involved in structuring the financing for new stadiums and arenas and in negotiating stadium leases." Kevin's firm generally represents institutions rather than individual athletes. A typical matter for Kevin? "I might negotiate a master rights agreement between an amateur sports client and a merchandiser, who would seek to commercialize the client's product through television syndication, radio syndication, pay-for-view telecast, on-line and computerized distribution, and sponsorships."

"My clients," says Lawrence (Larry) Stein of Gibson, Dunn & Crutcher LLP in Los Angeles, "are primarily film studios. I represent the studios with regard to financing and distributing a film." He also represents a number of international film companies. Larry works on business transactions, many of which have an international component. "A lot of countries offer tax benefits and subsidies if you film in their location. Canada, for example, has taken a lot of film and television production from the U.S. Vancouver can look like any city in the U.S." Larry explains that his work involves a great deal of negotiation. He negotiates film distribution agreements with foreign buyers who are buying the right to distribute a film in their country. "Foreign film companies are always looking for product. And the biggest source of product is still the U.S.—American movies, American film stars."

In-house attorney Cheryl Urquhart is Vice President of Unapix/Miramar in Seattle, Washington. Miramar, a 15-year-old video and audio production and distribution company, was bought by Unapix, a larger entertainment company, in 1997. The range of the company's activities is huge, Cheryl explains. "We have a nonfiction entertainment product division involving videos, TV broadcasts, and distribution of those works; we have a footage division, which licenses out footage—such as nature footage—that may be used in a TV show or movie; we license musical artists' scores that may be used in the production of animation or in commercials; we have a direct response division that's involved in sales via TV and the Internet; we're involved in emerging technologies such as DVD; and we have a record label and a publishing department."

As one of two in-house attorneys, Nancy's client is her company. She gets hands-on experience in every department, including the human resources department. She's involved in business operations, distribution, new product acquisitions, and strategic business partnering. She handles copyright and trademark issues, as well.

Dick Frankel, an entertainment and intellectual property lawyer at Thompson & Knight L.L.P. in Dallas, Texas, explains that his clients cover a broad spectrum. "Most of them have in common the fact that they are involved in one type of creative enterprise or another, which may involve creating a Web page or an Internet game, painting a picture, taking a photograph, illustrating a magazine, designing a t-shirt, writing a song, performing on television or radio, or running a professional sports team." His firm has over 300 attorneys and represents both institutions and individuals. "Most of our clients are located in Texas or the southwest, but some are in Silicon Valley, Washington, D.C., New York City, Europe, and the Pacific Rim. Most of them come to us to develop, protect, or evaluate their creative ideas, in one form or another."

What daily activities are involved in an entertainment and sports law practice?

John Bollinger explains that his sports law practice involves many of the same activities as any commercial lawyer. "My day is much like that of any corporate finance lawyer—except that I read the morning sports page as a part of my job and not as just an avocation. I also watch ESPN and read Sports Illustrated, not just for the scores, but to determine the business practices of and future trends for the industry," He adds that he also spends a great deal of time in negotiations with "sponsors, television syndicators, and the representatives of businesses that interact with the sports industry, as well as the professional teams and universities that provide the 'product' that fuels the economics of both professional and amateur team sports." He typically does not go to court. "I rely on my litigator partners for those skills," he says. Though he doesn't litigate, Kevin emphasizes that he acts as a forceful advocate for his clients. "On any given day I might serve as an advocate for my clients' interest in the cutting-edge areas of bowl alliances, next-century telecast agreements, intellectual property license agreements, corporate sponsorships, and Internet agreements."

Cheryl Urquhart of Miramar explains that she spends most of her time discussing and negotiating new audio-visual projects. She is also involved in risk management. "When you work in-house, preventative medicine is important as far as the company's risk management is concerned. You need to keep an open ear as to what is going on around you. I'm working with non-lawyers. They're wonderful, very creative people, but they are people who tend to go at 500 miles per hour. I sometimes have to slow them down and remind them to get things in writing." Cheryl adds that in the entertainment industry, lawyers are often seen as the people who slow deals down. "You don't want to be seen as the person who drives the nail in the coffin. You don't want to hear that you don't understand 'the vision.' You want to be the facilitator."
Larry reports that his transactional work is communication intensive. "I spend my time talking with people, meeting people, reading trade papers. I have a heavy phone practice; I probably spend five hours a day on the phone. I'll often have 30 or 40 phone messages a day. It's very important to return all the calls for client relationship purposes and to keep up with what's going on." His laptop and cell phone ensure that he's available to clients even when he's on one of his frequent international trips. Larry says that it's the international side of his practice that is growing, and this requires many international trips per year. "In developing the international side of the practice (film distribution) you have to get out there. I go to the Cannes Film Festival, the Berlin Film Festival, and other festivals. During my travels I work to establish contacts with other lawyers in other countries. My time at Cannes is spent talking and meeting with people, not putting on a tuxedo."

Other entertainment lawyers are involved in intellectual property issues. Dick Frankel says, "The theme in my cases is generally how to protect ideas that have reduced to a tangible form of expression in one way or another. One of our typical goals would be to try to identify the best way to create value for those ideas and to develop a plan to maximize the impact of those ideas as successfully as possible. Sometimes we seek patents, sometimes we counsel clients as to trade secrets, other times we file for a copyright or engage in extensive licensing and royalty negotiations. Each case is different, but they all stem from some type of creative spark."

What do entertainment and sports lawyers find rewarding about their practice?

Lawyers who practice entertainment law said they enjoy the role they play in making artists' ideas come to life. Cheryl Urquhart explains, "It's really rewarding to be involved in the process—from the time the idea is a spark to seeing the concept come to fruition and then evolve into something tangible." Larry Stein and Dick Frankel echo her sentiments. Says Larry Stein, "The work I do with the film industry is project-oriented. Although I'm not making the movie, the work I am doing enables the producer to make the film. When it's all done, there's a movie that was made. Though you, as the attorney, aren't behind the camera, you are involved, integrally involved, in the making of the film." Dick Frankel puts it this way: "I get a great deal of satisfaction from starting out with an individual who has both a great idea and the unshakeable belief that it will work. Watching an idea develop from its original conception into something tangible is very rewarding—as is seeing the resulting product grow and obtain wide scale acceptance and approval."

Dick adds that he enjoys working on projects that go beyond the familiar notion of entertainment—projects that share practical information with a wide audience. "Because some of the work I do involves access to a large audience, through radio and television broadcasting, books, movies, and the Internet, I have had a number of experiences that were rewarding because of the opportunity to get information out to a much broader segment of the population. For example, I negotiated a television movie deal for the author of a book whose main objective was not to get rich, but rather to inform as wide a segment of society as possible about the advances that are being made toward finding a cure for paralysis. Negotiating the deal with lawyers and Hollywood producers was interesting and challenging, but knowing the author's ultimate goal and working toward that objective made the experience much more satisfying."

The lawyers we talked to also mentioned that they enjoy putting together deals which enhance their clients' interests. Says John Bollinger, "I find it most rewarding when I can take an active and positive role in helping my clients achieve their business and financial goals. Most times, this requires a 'win-win' scenario where both my clients and I understand the other parties' goals and help structure a solution where both sets of primary goals can be achieved. I am most satisfied when I can help 'add value' to achieving a mutually beneficial solution to a challenging business situation." Larry Stein states simply, "I like negotiating. It's fun to work with other people and put together a deal that's good for your client."

These attorneys enjoy the challenge of working within the extremely complex realm of the sports and entertainment industries. Cheryl Urquhart says her favorite part of the job is working on music rights issues. "The issues are so complicated, and they involve so many people—musicians, songwriters, record labels, music publishers, bands. I like getting to know these people and learning what everybody wants to do, where everyone sees the direction of the music going." John Bollinger talks about the inside knowledge he's acquired about the sports industry. "Over the last two years," he says, "I've had the privilege of assisting in structuring and forming one of (if not the) major amateur sports conferences in the U.S. In this process, I have had direct discussions with the CEOs of 12 of the major sports universities in the nation, the heads of three major sports conferences and the legal counsel for several more, all of the major football bowl games, most of the major television broadcasters and syndicators, the major sports representation agencies, and the major sports merchandisers. This once-in-a-lifetime opportunity to build a conference from the ground up has allowed me to gain a much greater understanding of the business dynamics of the amateur sports industry." He adds, "It's fun to get to meet and work on a professional basis directly with the CEOs of
Attorneys in this field also enjoy the "cutting edge" nature of their work. Explains Larry Stein, "The fun thing about the film industry is that the business changes every year or so. There are always new marketing schemes, new ways of financing films. Technology has a dramatic impact on the film business; my practice evolves with the changes in technology. One of the films I worked on recently, What Dreams May Come, starring Robin Williams, used many new technologies for special effects (in the movie, Williams' character visits heaven and hell in search of his deceased wife). An enormous part of the budget was devoted to special effects. In movies like Twister and the asteroid movies Deep Impact and Armageddon, the story often seems secondary to the special effects. The software game industry has become much more sophisticated, too. New video games involve characters with personalities and behavioral traits. The characters may be derived from films." Larry explains that as a result of the changes in game software, he's becoming more involved in intellectual property issues such as copyright and licensing.

Cheryl Urquhart says, "I learn so many new things every day. Everyone I work with is trying to think of new ways to do things. I have to push copyright law to keep up with Internet uses and emerging technologies. There are no form agreements for most of the projects I work on. It's fun to work with existing terms in new contexts." She adds, "I can't imagine being any other kind of attorney. I like really helping to shape the new direction of the entertainment industry."

The Training and Skills Important to Entertainment and Sports Law

How do people enter the fields of entertainment and sports law?

Most attorneys grow into the field of sports and entertainment law through their commercial and corporate law practice experience. John Bollinger offers sound advice: "Become an excellent substantive attorney, develop contacts in the sports industry, and look for opportunities to become involved in and add value to their activities. Beyond this, luck and persistence can't hurt." He adds, "I did not become a sports lawyer by design, but only because I became a good corporate attorney and some of my clients happened to be involved in the sports industry. Without being a good substantive attorney, you cannot be a good sports attorney."

Larry Stein grew up in Los Angeles and always enjoyed film as an art form. Larry says two areas have always fascinated him—finance and entertainment. Entertainment law is a field that allowed him to marry his two interests. He began his legal career working for Bank of America. He assisted the bank's media and entertainment group on some projects, and entertainment law issues became a big part of his day-to-day practice. He then left to join a private law firm. "Finance and banking provide a good background for a lawyer to have," he says. "Finance is a good, marketable skill." Larry makes sure that summer associates at his firm who are interested in entertainment law get broad, business-related experience. "I insist that they do traditional corporate work a good part of the time," he says. "This is a narrow area. I want someone who understands the basics of the U.C.C. [the Uniform Commercial Code], the basics of corporate practice, the basics of mergers and acquisitions. New associates have to spend time doing bread and butter corporate and commercial work."

Dick Frankel didn't start out in entertainment and intellectual property law; he developed his practice in that area. "I took one or two intellectual property courses in law school and enjoyed that subject matter more than anything else I studied. When it came to choosing a law firm, Thompson & Knight didn't have a formal intellectual property practice, but I chose the firm anyway, based upon its people rather than its practice areas. While an associate I actively sought out intellectual property cases being handled by many different lawyers at the firm and volunteered to work on those cases in addition to my own docket. After four or five years of this type of practice, I went to the firm's management with a proposal to create an intellectual property practice group. This proposal was accepted and approved, and we now have 20 full-time and several part-time intellectual property lawyers in the group and are continuing to expand."

In-house attorney Cheryl Urquhart took a more unconventional route—she set up a solo practice in Portland, Oregon, immediately after law school. She had a long-standing interest in the arts, having played the guitar since she was 11, and says she never considered a career other than entertainment law. "I knew I wanted to do this. Starting a practice is a personal sacrifice in terms of start-up costs and time. You have to really want to do it. I found everyone in Portland who was involved in music and the arts. I learned everything I could about the industry. I did lots of reading. I attended seminars. I called people. I conducted informational interviews with experienced attorneys—picking their brains, asking them how they got started in entertainment law. As a result of my informational interviews, I hooked up with a mentor. He was a great teacher who taught me everything he could." Nancy's commitment and persistence paid off. Her clients
What skills are most important to entertainment and sports lawyers?

- An understanding of corporate and financial issues is critical to the sports and entertainment lawyer. "When hiring an experienced attorney to work on entertainment matters, I would really prefer a lawyer who has spent several years in a corporate or commercial practice. The entertainment part of this field can be picked up—it's a matter of understanding how things work in the industry, picking up jargon, and establishing contacts," says Larry Stein. John Bollinger, who specializes in sports law, agrees. He sees himself as a "corporate finance lawyer whose clients are involved in the sports industry."
- An interest in and understanding of the entertainment and/or sports industry is key to success in this area of practice. John Bollinger says, "The most important skill for any business lawyer is to understand your client’s business and their business and financial goals. It is crucial that an attorney read about his clients’ business and spend time talking with his clients about the risks involved with their business and their business strategies, their competitors, and the future of their industry to be able to help them reach their goals." Cheryl Urquhart says that her training as a guitarist and her experience making videos when she was younger helps her relate to her clients. "You want your clients to feel comfortable with you. My background in guitar helps me talk with my clients. When an artist is turning over their project to you, it helps to have similar interests. You have to believe that the integration of art and commerce can work. And you have to project that confidence to your client."
- Excellent communication skills are important to those in the field. "The skills I use day to day are reading and writing," says Cheryl Rinehart, noting that whether you’re writing to lawyers or non-lawyers, you have to communicate in plain English. "Legal writing skills are necessary to drafting linguistically balanced contracts—in other words, if you’re getting a right, you need to be giving a right." Finally, she notes the key role that reading plays in her practice. "Reading with attention to detail is critical," she says, whether she is reviewing a business plan or a distribution contract. All of the attorneys we talked to mentioned that they spend a significant amount of time reading trade papers and journals to keep up with developments in the entertainment and sports industries.
- Attorneys practicing sports and entertainment law need outstanding relationship-building skills. "Interpersonal skills are the foundation of a transactional practice," says Larry Stein. "In entertainment law you are building on a network of relationships. It’s a small bar. There’s a very limited number of film studios. You can’t alienate anyone—you need to get along with everyone. Of course, you must still vigorously represent your client, but you must be very professional and never burn bridges. In this area of practice, you run into the same people over and over again." "True appreciation for people is an invaluable asset," adds Dick Frankel. "People are what my practice is all about. Courtesy and kindness to others will redound to your benefit, even if it’s not obvious how that might happen. If you work at trying to understand and appreciate other people and their perspectives, that effort will enhance your ability to evaluate situations, clients, witnesses, lawyers, and judges."
- Attorneys working in the sports and entertainment law fields must possess strong negotiation skills. Cheryl Urquhart cites listening as the number one negotiation skill. Larry Stein agrees, commenting, "When you’re talking with a group of lawyers, it’s difficult not to want to make the first point and the last point. Sometimes it’s beneficial to let the other person get their two cents in."
- A flexible and creative approach to problem-solving is necessary to succeed in the rapidly evolving field of entertainment law. Says Cheryl Rinehart, "You have to find creative solutions to an ever-changing array of problems. This means you have to be open-minded and willing to change your approach." Dick Frankel adds, "I regard flexibility as essential. As John Lennon once wrote, 'Life is what happens to you while you're busy making other plans.' This is a very apt description of legal practice in this field. You never really have control over where you will be or when, and, lately, with the incredibly dynamic changes in technology and their impact on intellectual property rights, you can't even be sure what the legal landscape will look like from month to month, or even daily. Maintaining a flexible attitude toward these rapid changes (and a sense of humor to go with it) will help to avoid unnecessary wear and tear on your psyche."

What classes and law school experiences do entertainment and sports lawyers recommend?

- Take a core curriculum of business-oriented classes in law school. Consider classes in secured transactions, international business transactions, antitrust, corporations and partnerships, corporate finance, negotiations and telecommunications. Also consider taking intellectual property, computer law, labor law, and estate planning. Tax classes—including corporate tax, international tax, and personal income tax—are also helpful, notes Larry Stein. "A lot of the business practice is tax-oriented, and even though you're not a tax
lawyer, you have to be able to identify the tax issues.”

- Gather information about and make contacts in the industry.
- Cheryl Urquhart recommends reading as much as you can about the music industry. Two books that she has found particularly helpful (she still keeps them next to her desk) are M. William Krasilovsky, Sidney Shein of, This Business of Music (Billboard 1990) and The Musician’s Business and Legal Guide (Mark Halloran, ed., Prentice Hall 1996). Cheryl also suggests making contacts with lawyers and non-lawyers through involvement in the arts community. “The best way to develop contacts,” says Dick Frankel, “is by doing. Attend performances, volunteer for arts societies, create your own home page, watch athletes in competition, go to shows where artists exhibit. In general, get your hands dirty in the business of those you want to get to know and represent. The most important thing is to work with people who are the source of creative new ideas,” he says.

- Consider learning a foreign language. Several years ago, Larry Stein observed that the U.S. film market was mature and that the big growth market for American films was in foreign countries, so he began to establish international contacts. Currently, he says, Germany is a big growth market. When we talked to Larry, he was preparing to speak at the Berlin Film Festival. Larry advises that those students interested in entertainment law could find the knowledge of German, French, or Spanish helpful in developing business contacts. Larry notes that knowledge of a foreign language, and the ability to talk with a contact in their native tongue, makes the non-business part of the relationship flow more smoothly. “Foreign language study also helps you identify the ways in which different cultures respond to law-related problems,” says Larry.

- Liberal arts classes can be helpful in preparing for the practice of entertainment law. Dick Frankel comments, “Oddly enough, the classes that have helped me the most in my practice include philosophy, psychology, and sociology—not what you would expect, perhaps, but they are classes that trained me to examine the motivations, needs, and drives of people, and to appreciate the subjective nature of the world around us and the value and power of commonly shared symbols. For a lawyer dealing with trademarks and copyrights, this has proved to be very valuable information.” Cheryl Urquhart recommends English, political science, and sociology classes. “My English classes were helpful because they required extensive reading, detailed analysis, and careful writing. The best class I took was a poetry writing class. It challenged me to write concisely.” Political science and sociology classes “get you to think about how other cultures think and express themselves. They also help you acquire a familiarity with the legal systems of other countries,” says Nancy.

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