

LSBA and SULC Entertainment Law CLE Conference

# MUSIC AND THE LAW

April 13-14, 2023

Virgin Hotels New Orleans

550 Baronne Street, New Orleans, LA

*Presented by*

**SOUTHERN UNIVERSITY**

L A W C E N T E R

*and*

**Louisiana State Bar Association Diversity Committee**



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## Questions?

Contact the Member Outreach and Diversity  
team members by email at

[diversity@lsba.org](mailto:diversity@lsba.org)

# MUSIC AND THE LAW

APRIL 13-14, 2023 8 A.M. TO 12:30 P.M.  
VIRGIN HOTELS NEW ORLEANS 550 BARONNE ST.

## Thursday, April 13, 2023 – Program Agenda

- 7:40 a.m. Registrant Check-in, Thursday, April 13, 2023  
*The Manor Foyer, 2<sup>nd</sup> Floor*
- 8:00 a.m. – 9:00 a.m. **Plenary Session One** (General)  
1.00 CLE credit hour *The Manor, 2nd Floor*  
**Let's Back that Up and Listen to that Again...when your song isn't your song anymore**  
An evaluation of copyright litigation in the Eastern District of Louisiana. Positive Black Talk v. Universal.  
♦ Michael P. Arata, Jones Swanson Huddell LLC, New Orleans, LA
- 9:00 a.m. – 9:10 a.m. **Transition Break**
- 9:10 a.m. – 10:10 a.m. **Plenary Session Two** (General)  
1.00 CLE credit hour *The Manor, 2nd Floor*  
**Music Copyright Infringement Claims**  
This session will explore music copyright infringement disputes in federal court litigation and before the new Copyright Claims Board.  
  
The speaker will discuss the requirements of bringing such claims, the pros and cons of each forum, potential damages and other remedies, legal fees and litigation costs, expert witness testimony, and related matters.  
♦ Mary Ellen Roy, Phelps Dunbar LLP, Partner, New Orleans, LA
- 10:10 a.m. – 10:20 a.m. **Transition Break**
- 10:20 a.m. – 11:20 a.m. **Plenary Session Three** (Ethics)  
1.00 CLE credit hour *The Manor, 2nd Floor*  
**Legal Ethics in the Practice of Music Law**  
This one-hour session is designed to review the ethical obligations inherent in a music law practice. Topics of discussion include Rule 1.1 (competence), Rule 1.5 (fees), Rules 1.7,1.8,1.9, and 1.18 (conflicts of interest), and more. Any attorney with a music industry practice (whether transactional or litigation) will benefit from a presentation designed uniquely for them.  
♦ Tim Kappel, Wells & Kappel, LLP, New Orleans, LA
- 11:20 a.m. – 11:30 a.m. **Transition Break**
- 11:30 a.m. – 12:30 p.m. **Plenary Session Four** (General)  
1.00 CLE credit hour *The Manor, 2nd Floor*  
**Basics of Music Copyright Law**  
This course is meant to give attendees an overview of music copyright law concepts, the sources of revenue songs can generate and other pertinent areas. The Essentials of Music Copyright Law covers the basics of music copyright law, the two copyrights in every song, explore and the exclusive rights you get when you have a copyright.  
• Jim Jesse, Rock n' Roll Law, Founder, Lawrence, KS

# MUSIC AND THE LAW

**APRIL 13-14, 2023** 8 A.M. TO 12:30 P.M.  
**VIRGIN HOTELS NEW ORLEANS** 550 BARONNE ST.

## Friday, April 14, 2023 – Program Agenda

- 7:40 a.m. **Registrant Check-in, Friday, April 14, 2023**  
*The Manor Foyer, 2nd Floor*
- 8:00 a.m. – 9:15 a.m. **Plenary Session One (Ethics)**  
1.25 CLE credit hours  
*The Manor, 2nd Floor*  
**Representing an Organization as a Client with the Beatles as a Case Study**  
The purpose of the ethics hour is for attendees to learn the unique issues faced when representing an organization as a client, particularly one as unique as a musical group, and, in this case, The Beatles. Picture yourself as General Counsel for the biggest band in the world during their last years.  
  
The presenter has first-hand experience in this area as a former General Counsel to a company. The one-hour ethics portion focuses even more particularly on representing a band or artist and uses the final few years, and demise, of The Beatles career as a case study. Specific emphasis is placed on the Model Rules of Professional Conduct 1.7 (conflict of interest-current client); 1.13 (Organization as a client); 1.14 (Client with Diminished Capacity); and 2.1 (Role as Advocate).
  - Jim Jesse, Rock n' Roll Law, Founder, Lawrence, KS
- 9:15 a.m. – 9:25 a.m. **Transition Break**
- 9:25 a.m. – 10:40 a.m. **Plenary Session Two (General)**  
1.25 CLE credit hours  
*The Manor, 2nd Floor*  
**Copyright & IP Law Developments in the Entertainment Industry**  
This session will provide an update on the Implementation of the Music Modernization Act and address Sections 203 and 304 of the Copyright Act. The session will also focus on NFT'S and recent case law involving recording contracts, master rights, and music publishing rights.
  - Lita Rosario-Richardson, Shulman Rogers, Shareholder, Potomac, MD
- 10:40 a.m. – 10:50 a.m. **Transition Break**
- 10:50 a.m. – 12:20 p.m. **Plenary Session Three (General)**  
1.50 CLE credit hours  
*The Manor, 2nd Floor*  
**Music, Activism, and the Law: The Intersection of Entertainment Law and Purpose-Driven Organizations**  
At its core, this session is a hands-on practicum that will provide attendees with a road map for navigating many of the legal and business affairs considerations called upon for developing and executing a major entertainment-based project. The session will introduce attendees to numerous frameworks at the intersection of activism and entertainment-based law practice. With a focus on the development, production, and distribution of live and recorded global entertainment properties, we will explore various areas of law including contracts, copyright, music licensing and clearances, trademark practice, production agreements, and concepts related to risk allocation, mitigation, and insurance. Throughout, the session will weave in concepts related to the activities of purpose-driven organizations, and the role that music and activism play in making a positive impact in the world.
  - Brian Mencher, Global Citizen, General Counsel, New York, NY

# About the Speakers



# MUSIC AND THE LAW

APRIL 13-14, 2023 VIRGIN HOTELS NEW ORLEANS



## Speaker Biography

### Michael P. Arata

Jones Swanson Huddell LLC  
New Orleans, LA

Michael Arata has spent his life in the New Orleans legal community, the arts community, and local sports community. He has represented clients in federal and state courts around the country and in some of the nation's largest environmental mass tort class action cases, tax refund class actions, large-scale maritime losses and complex commercial and construction litigation. Michael also was instrumental in the creation and passage of Louisiana's successful film tax credit program and has represented film producers, studios, financiers and other entertainment and sports industry clients for over 25 years. He was elected as Chairman of the State Bar Association Section on Arts, Entertainment and Sports Law and has been a frequent lecturer and guest speaker at countless seminars, law school classes, trade group meetings, church groups and other community and professional gatherings, including the Louisiana Bar Association, New Orleans Bar Association, the Society of Louisiana CPAs, the Rotary Club, the New Orleans Film Commission, the Louisiana Department of Economic Development Office of Entertainment Development, Tulane Law School, Loyola Law School, University of New Orleans, Delgado University, De La Salle High School, Metairie Park Country Day School, the JAG School, and many others.

Michael's lifetime of work in the arts community and charitable/non-profit community has been recognized by the Archdiocese of New Orleans, the City of New Orleans, the New Orleans Family Justice Center, Project H.O.P.E, Tulane University and the NFL, among many others. He has led and served on the boards of numerous non-profit and charitable organizations and continues to do so.

Michael is a graduate of De La Salle High School and Tulane University, where he was a starting member of the Tulane Football Team. He is a graduate of Tulane University School of Law, where he was a founding member of the Tulane Sports Law Society and a member of the Environmental Law Clinic. Known as "Coach Arata", Michael Arata has coached countless New Orleans-area kids in football, baseball, soccer and track over the past 35 years. He currently serves on the Board of Directors of the Tulane T-Club, the former letter-winners association at Tulane, and FTW Collective, Tulane's Name, Image and Likeness collective. He is Chairman of the USATF Masters Combined Events Subcommittee, which hosts the annual national indoor and outdoor masters track and field championships.

Michael Arata is married to Emily Sneed Arata, former Deputy Mayor of the City of New Orleans, who serves as a senior executive at Ochsner Foundation Hospital. They have two boys, Gabriel and Rocko.

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APRIL 13-14, 2023 VIRGIN HOTELS NEW ORLEANS



## Speaker Biography

### Jim Jesse

Founder, Rock n' Roll Law  
Lawrence, KS

Jim Jesse has been an attorney since 1992 and has been a full-time Music Copyright Law presenter since 2013 as Rock n Roll Law. He is the former General Counsel for Cool Music Network (THECOOLTV), which is a 24-hour-a-day music video television network. Previously, he was in private practice. He founded Rock n Roll Law, and his passion is spreading music copyright law through his seminars. Thousands of attorneys and musicians have taken his courses around the country and he has done his seminar in virtually every state.

He is also a singer/songwriter who has released four full-length albums and runs his own record company.

He is the author of *The Music Copyright Law Manual* (2nd Ed.) and *The Musician's Guide to Music Copyright Law*.

# MUSIC AND THE LAW

APRIL 13-14, 2023 VIRGIN HOTELS NEW ORLEANS



## Speaker Biography

### **Tim Kappel**

Wells & Kappel, LLP  
New Orleans, LA

Tim Kappel is a founding partner of the law firm Wells & Kappel, LLP. Tim represents a diverse group of creators, professionals, businesses, and organizations in the music industry. He also assists individuals and entities in the acquisition and protection of their intellectual property. Tim's practice encompasses both transactional work and civil litigation, which gives him a unique perspective and ability to advise clients. In addition to his legal practice, Tim is a faculty member at Loyola University in New Orleans where he teaches courses on law, revenue streams, and public policy in the music industry.



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APRIL 13-14, 2023 VIRGIN HOTELS NEW ORLEANS



## Speaker Biography

### Brian Mencher

General Counsel, Global Citizen  
New York, NY

Brian has nearly 20 years of experience leading the legal, business affairs, and strategy of complex entertainment and media projects. His expertise spans major live event productions to the development and production of global broadcast specials and television/docu-series projects. He was a co-executive producer of Global Citizen Live.

Brian is a partner in the boutique entertainment law firm of Beame & Mencher LLP. He is also General Counsel & Head of Business Affairs at Global Citizen, a multi-national not-for-profit organization bridging digital media, humanitarian policy, and major event productions to help end extreme poverty NOW. As GC, Brian oversees all legal, compliance, and business affairs needs of the organization, and supports Global Citizen's international offices located in Canada, England, Australia, South Africa, Nigeria, and Germany.

In his role at Global Citizen, Brian served as the chief legal architect for *One World: Together At Home* - a global broadcast event featuring over 70 distributors/broadcasters/digital platform partners, 70 performing artists, 50 celebrity talent, and a U.S. broadcast footprint across NBC, CBS, and ABC. As the lead on all legal and business affairs, Brian managed a team of in-house and outside counsel to navigate the legal and business affair needs within a three-week period. *One World: Together At Home* raised over \$127 million dollars to support the Covid-19 response. The program also broke two Guinness Book of World Records in the process. *One World* was followed up by the organization's other international broadcast properties in 2020, including *Global Goal: Unite For Our Future*, *Every Vote Counts*, and *Global Citizen Prize*.

Prior to the pandemic, Brian played a prominent role in helping bring the Global Citizen Festival to Johannesburg, South Africa in 2018. In addition to overseeing the formation of a local South African office, he helped navigate the legal team through the production of the Festival - spanning strategy around sponsorship and partnership arrangements, production partnerships, securing comprehensive insurance coverage, global broadcast and digital rights deals, and artist engagements and music rights clearances.

Brian also works with outside legal counsel in over 20 jurisdictions throughout the world to shore up the organization's legal and compliance needs, including management and protection of Global Citizen's intellectual property portfolio, its media properties and matters integral to operations as a nonprofit.

Brian has served as a guest panelist at various entertainment law-related seminars, is a published legal scholar, and graduated in the top 3% of his law school class.



# MUSIC AND THE LAW

APRIL 13-14, 2023 VIRGIN HOTELS NEW ORLEANS



## Speaker Biography

### Lita Rosario-Richardson

Shareholder, Shulman Rogers  
Potomac, MD

Lita Rosario-Richardson is widely recognized for the legal advice she provides for creators in the arts and entertainment arena. Most recently the principal of Lita Rosario, PLLC, a boutique entertainment and intellectual property law firm in Washington D.C., Lita now joins Shulman Rogers to lead the firm's Entertainment Practice.

Lita began her career in entertainment law as a co-founder/owner and VP of Business and Legal Affairs for University Music Entertainment, a music production company that produced multi-platinum recording artist Dru Hill, Mya and ultimately SisQó. She went on to represent such artists as Missy Elliott (and consulted on Missy owning her master and music publishing copyrights), Crystal Waters, Tank and Robin S. She has secured back royalties for many artists and songwriters including, Peaches & Herb, Mr. Cheeks, Das EFX and Big Pun.

Lita has negotiated distribution and publishing agreements with all of the four major record distribution/music publishing companies including Warner Music Group, Sony/RCA, Universal Music Group and EMI/Capital Records. She has also negotiated talent and production agreements with major studios and television and cable companies including, NBC, Disney, UPN, TV One, BET, VIACOM/MTV, FUSE, DISCOVERY CHANNEL, E! NETWORK and Universal Pictures for TV shows like Big Brother, Married to Medicine, The Road to Stardom with Missy Elliott, American Song Contest and others.

An expert in copyright recapture, Lita was successful in securing the ownership rights for Afrika Bambaataa & Soul Sonic Force for arguably the most sampled song in hip hop, "Planet Rock," and all songs that sampled "Planet Rock." She has represented members of Parliament Funkadelic, including Garry Shider (Diaper Man) and George Clinton, former members of CAMEO including Nathan Leftenant and Tomi Jenkins, Mr. Cheeks, Pete Rock, Das EFX, EPMD, CeCe Peniston, the Estate of a founder of KC & the Sunshine Band, and others to regain ownership of their catalogs, including for the iconic hits records "Atomic Dog," "One Nation Under A Groove," "Candy" and "Word Up."

She has acted as an expert/consultant in litigation matters involving Lauryn Hill and NE-YO, as well as the Zapp Estate, Wayne Wonder, Sean Levert Estate, and Gerald Levert Estate matters. Rosario has represented clients in songwriter and author disputes for the mega-hit records "Who Let The Dogs Out," "Blame It On The Alcohol," and "Thong Song." She has secured ownership rights for her clients in all cases.

Lita also provides legal advice to authors of books, blogs, and podcasts, reviewing and negotiating publishing, distribution and monetization agreements and resolving author disputes.

An outspoken advocate for artist rights, Lita has lobbied Congress on artist rights issues and has served on the Washington D.C. Chapter of the Recording Academy (Grammy) Board of Governors and serves on the Board of Directors for the Black Entertainment and Sports Lawyers Association (BESLA). Lita previously served as Chair of the DC Bar's Arts, Entertainment, Media, and Sports Law Section.

Lita has secured favorable decisions in the 2nd Circuit and 11th Circuit Courts of Appeal on copyright issues involving Justin Timberlake's multi-platinum hit Suit & Tie and KC & The Sunshine Band; assisted with a 9th Circuit appeal by George Clinton in connection with the copyright ownership dispute of the Funkadelic Masters; was a contributing author for an amicus brief with the Institute for Intellectual Property and Social Justice in the 9th Circuit Court of Appeals for the case involving infringement of Marvin Gaye's "Got To Give It Up" by Pharrell Williams and Robin Thicke in "Blurred Lines", and authored a Petition for Writ of Certiorari before the United States Supreme Court on a statute of limitations issue involving copyright renewal ownership claims under Section 304 of the Copyright Act. She also recently contributed to an amicus brief in the Supreme Court along with Public Knowledge and others regarding Section 304 Termination Rights.

After graduating from Howard University Law School, Lita began her legal career as a corporate/securities law attorney at Gaston Snow & Ely Bartlett in Boston and then at Shearman & Sterling in New York. She is an adjunct professor at the University of the District of Columbia's Department of Mass Media, Visual, and Performing Arts and at American University's Kogod School of Business. Lita is admitted to practice in New York, Massachusetts and the District of Columbia, as well as the Federal Court Bars for the Southern District of New York, the District Court for the District of Columbia, the 2nd Circuit Court of Appeals and the Supreme Court.

# MUSIC AND THE LAW

APRIL 13-14, 2023 VIRGIN HOTELS NEW ORLEANS



## Speaker Biography

### Mary Ellen Roy

Partner, Phelps Dunbar LLP  
New Orleans, LA

Mary Ellen Roy is a partner at Phelps Dunbar LLP in New Orleans. She handles a variety of intellectual property law matters -- including copyright, trademark, trade secret, and name/image/likeness misappropriation – in litigation, counseling, registration, transactions, and administrative proceedings. Mary Ellen also represents news media organizations, advertising agencies, film production companies, and others in defamation, privacy, and First Amendment matters.

Mary Ellen is listed in *The Best Lawyers in America*, *Super Lawyers*, *Chambers*, *New Orleans Magazine*, and *IP Stars*. She is a former Chair of the LSBA Intellectual Property Section. Mary Ellen received her J.D. from Harvard Law School, *cum laude*.