

MUSIC AND THE LAW

April 12, 2024

The Ritz-Carlton New Orleans Hotel
921 Canal Street, New Orleans, LA

Sponsored by
LSBA Member Outreach and Diversity Department
and
LSBA Art, Entertainment and Sports Law Section



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Questions?

Contact the Member Outreach and Diversity
Department at diversity@lsba.org

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8 A.M. TO 12:30 P.M.

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Friday, April 12, 2024 – Program Agenda

8:00 a.m. – 9:00 a.m. **Plenary Session One**

1.00 General credit hour **Creating an Entertainment Law Practice – Building, Maintenance and Responsibilities**

This session discusses the fundamentals of engaging in the practice of entertainment law. It highlights and answers FAQs generated from lawyers interested in entering the practice, adds clarity to the scope of what entertainment lawyers do, sheds light on the entertainment lawyer's responsibilities and offers helpful tips for pitfalls to watch out for and how to maintain a healthy practice.

- ◆ Eugene J. Radcliff, Radcliff Law Firm, Baton Rouge, LA

9:10 a.m. – 10:10 a.m. **Plenary Session Two**

1.00 General credit hour **Get in Synch: An Intro to Music Copyrights and Licensing**

This session will introduce the copyrights that govern the music industry, then dive into the various considerations and deal terms in licensing music for film, television, advertising, and video games. The session will also look closely at the music rights governing streaming platforms and the reasons and implications for when those rights may be pulled back (see Twitter/X and, most recently, TikTok's impasse with Universal Music Group).

- ◆ Brian Mencher, General Counsel, Global Citizen, New York, NY

10:20 a.m. – 11:20 a.m. **Plenary Session Three**

1.00 General credit hour **Did (A)I Do That?**

This presentation will consist of an in-depth analysis of the current state of, and potential future ramifications of, the use of A.I. generated vocals in the music industry. While this analysis will highlight the pros and cons of the use of A.I. vocals, it will particularly home in on how much use might implicate copyright and trademark law.

- ◆ N. Kordell Caldwell, Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, New Orleans, LA

11:30 a.m. – 12:30 p.m. **Plenary Session Four**

1.00 Employment
Law Specialization
credit hour

The Case Against Work-For-Hire Language In Sound Recording Agreements

Artist representatives are frequently asked to secure rights from individuals (e.g., producers, side artists, mix engineers, vocalists, and instrumentalists) rendering services in connection with an artist's sound recordings. There are a variety of methods to accomplish this, but the one that predominates the music industry by far is the "work for hire" approach. However, lawyers using work-for-hire language in agreements between creative collaborators inadvertently advance a "pro-industry" / "anti-author" position which is hostile to recording artists' statutory termination rights. This presentation explores the legal issues underlying the problem, the potential alternatives to the work-for-hire approach, and seeks to advance a new way forward for all practitioners.

- ◆ Timothy R. W. Kappel, Wells Kappel, New Orleans, LA

**About
the
Speakers**

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Speaker Biography

N. Kordell Caldwell

Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC
New Orleans, LA

Hailing from Houston, Texas, Mr. Caldwell is an associate in Baker Donelson's New Orleans office and a member of the Advocacy Department. He assists clients throughout Louisiana's state and federal courts in various industries, including hospitality, sports and entertainment, technology, logistics, and retail. Mr. Caldwell advises clients on trademark and copyright issues, complex torts, products liability, and bet-the-company litigations. His trial experience includes successfully arguing on behalf of nationally recognized companies in multi-million-dollar matters. Additionally, Mr. Caldwell assists clients in contracts litigation, including matters involving allegations of financial impropriety, contractual disputes, and bank and wire fraud.

Mr. Caldwell is a graduate of Southern University Law Center, where he initially rose to notoriety as he became the first person to complete a law school curriculum while actively playing NCAA Division I College Football. Mr. Caldwell is also a pioneer of the NIL era of college athletics, becoming one of the first HBCU athletes to earn an NIL deal with a major corporation. Mr. Caldwell has been featured in headlining news stories both in *The Advocate* and on WAFB. During his time at SULC, Mr. Caldwell was also a member of the Moot Court Board, and served as the Chairman for the SBA Student Affairs Committee.

In addition to his current practice, Mr. Caldwell is a member of the American Bar Association Forum on Sports and Entertainment Law, the Louisiana Bar Foundation, and the Louisiana State Law Institute. Mr. Caldwell also does some advising for the U.S. Patent and Trademark Office on certain Intellectual Property and NIL issues.

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Speaker Biography

Timothy R. W. Kappel

Wells Kappel
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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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 the major live event productions to the development and production of global broadcast specials and television/docu-series projects. He was 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. Most recently, Brian was integral in producing Move Afrika, a Global Citizen initiative in partnership with Kendrick Lamar and his creative imprint, pgLang to help build a touring circuit across the African continent.

Brian has also 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.

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Eugene J. Radcliff

Radcliff Law Firm
Baton Rouge, LA

A graduate from Loyola University School of Law with a Juris Doctor Degree, Mr. Radcliff was a member of Loyola's Moot Court; Who's Who in American Law Students; Associate Justice on the SGA's Board of Review; Secretary of The International Law Society and received the Law Clinic's Gillis Long Public Service Award. He studied in Europe at the University of Vienna Law School in Vienna, Austria while simultaneously doing some post graduate work at Southern University at New Orleans, where he graduated Magna Cum Laude with a Bachelor of Science in Economics and Minors in Finance & Accounting and also received the Presidential Excellence Award, National Dean's List Award, Most Outstanding University Student Award, and graduated with the highest GPA in Economics.

As a member of the Council of International Visitors, Mr. Radcliff contributed to international legislation regarding social security systems in Brazil and Italy, parliamentary laws regarding Aborigines in Australia; and collaborated with the Solicitor-General and Chief Justice of the High Court to comment on civil code law versus common law systems in Kenya.