

Summer, 2009

### ICLE PANEL EXAMINES TRENDS IN GAMING AND INTERNET LAW

**Plymouth.** ACES and the Institute of Continuing Legal Education (ICLE) continued their successful relationship by co-sponsoring a seminar on development in the arts, communication, and entertainment industries. This year's seminar, "Hot Topics in Entertainment Law, Gaming, & Internet Law," was held on May 20, 2009 at the Inn at St. John's, Plymouth, MI. The event covered recent legal developments in both the gaming industry and in internet law. Attendees learned the ins and outs of gaming law, including how to obtain licenses, resolve compliance issues, and handle contested licensing cases; how to successfully deal with the broad range of issues that arise from the increased use of social networking sites; and info and perspectives on the latest and most important e-commerce and entertainment law topics. The seminar was organized and moderated by ACES Council and panel member Larry Jordan. Presenters

Also included Douglas L. Minke with Regulatory Management Counselors PC (East Lansing); Kathryn L. Ossian with Miller Canfield Paddock and Stone PLC (Detroit); and ACES Council member Howard Hertz with Hertz Schram PC (Bloomfield Hills).

ACES and ICLE have a long history of joint panels and additional events are planned for the 2009-2010 administrative year.



### HENSEL AWARD COMMITTEE SEEKS NOMINATIONS

Each year, ACES presents an award to a member of the bar who has contributed greatly to the arts, entertainment, or sports industries in Michigan. In 2008 the award was presented to Tracy Thompson, community television supporter, a member of the Digital Arts Film Television Association, and a past chair of ACES. The 2009 recipient will be presented with the award at a ceremony on October 25, 2009. Venue and time will be announced shortly.

## ACES Section Presents Free Educational Panels on Film Incentives and Fair Use at 47<sup>th</sup> Ann Arbor Film Festival

### Mark Your Calendars

Upcoming ACES events include:  
 —Thursday, August 20, 2009. ACES meeting. Location to be announced.  
 —Wednesday, September 16, 2009. Law student related topic. Location and speaker to be announced.  
 —Friday, October 23, 2009. ACES Annual meeting and presentation of John Hensel Award to an attorney who has been active in the ACES arenas. Location and time to be announced.



### ACES BUSINESS MEETINGS AND RELATED EVENTS

ACES held business meetings with programs in December, 2008, and January, March, and June, 2009.

**Bloomfield.** The December, 2008 business Meeting was hosted by ACES Secretary John Kamins on December 4 at the Bloomfield Hills office of Honigman Miller Schwartz & Cohn LLP. Following the meeting ACES members adjourned to Northern Lakes Seafood Company, Bloomfield Hills, for a holiday party. Special thanks are extended to John Kamins and to Honigman Miller for hosting the meeting, and to ACES Council member Richard Herman for organizing the holiday gathering.

**Detroit.** The January 22, 2009 business Meeting took place at Wayne State University's Hilberry Theatre. The meeting format was a roundtable discussion of recent cases and legal issues in the theater, particularly the issue of whether or not stage directions in a theatrical production are, or should be, copyrightable. Following the discussion, participants enjoyed the Hilberry's production of *Born Yesterday*, by Garson Kanin. (Continued next page)

**Ann Arbor.** ACES co-hosted two free educational panels with the Ann Arbor Film Festival in March. On Wednesday, March 25, the first panel, "Michigan in Motion," discussed what the new Michigan film tax incentives mean for the independent film producer and new media artist, and who would qualify for those incentives. The incentives have generated new film business in Michigan.

Panelists were tax specialist Julie May and ACES member Howard Hertz. They discussed what individuals and groups would be likely to benefit most from the incentives, and considered whether the incentives are working as intended.

"Remixing the Rules" was the topic of the second panel, presented Thursday, March 26. It addressed one of the most critical debates in the global media, arts, and entertainment industries: the battle over fair use rights in copyright law.

The "fair use" issue affects the music, film, new media, print, broadcast and journalism arenas, and is redefining the entertainment world as we now it.

The lively and educational discussion focused on the portions of copyright law affecting fair use and infringement. The panel members' views on the current state of copyright law, and whether it is compatible with the growing movement of remix art and culture was stimulating, as was the discussion on whether the controversy is serving or stifling the creativity the copyright act is supposed to foster. Panelists were filmmaker Craig Baldwin, *Negativland's* Mark Hosler, and ACES Council members Larry Jordan and chair Matt Bower. Mr. Jordan was liaison for the Film Festival.

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### Nominations Sought for Council

Three ACES Council positions will be opening in September, 2009, for three-year terms. All ACES members are eligible to serve. Send nominations to Leonard F. Charla, Chair, nominating committee, email [lcharla@comcast.net](mailto:lcharla@comcast.net)



## ACES BUSINESS MEETINGS AND RELATED EVENTS (Continued from preceding page)

The Hilberry Theater has been presenting student productions for many years. It is located on the Wayne State campus. ACES extends thanks to Wayne State University and the Hilberry Theater for hosting the event, and to event organizer ACES Council member Richard Herman.

**Oak Park.** Building on the success of the Hilberry Theatre Roundtable, above, ACES held another roundtable discussion involving the arts and copyright issues. This follow-up discussion took place on March 5, 2009 at Ringside Creative, in Oak Park, Michigan. Ringside is a state of the art production and post production facility for film and video. The discussion focused on issues relevant to documentary filmmakers, most notably the "fair use" doctrine in the Copyright Act.

Participants viewed an extended trailer from the soon-to-be-released documentary film, *It Came from Detroit*, (described as the ultimate fan's look at the city's internationally renowned "garage rock" scene), and discussed with the filmmakers their attempt and struggle to stay within fair use guidelines. Special thanks to ACES member Les Schefman and Ringside Creative for hosting, and once again, to Rick Herman for organizing the event.



### About this issue of ACES Newsletter

This issue was edited by ACES Council member Henry B. Clay, III; ACES Chair Matthew Bower provided most of the principal reporting. ACES member Len Charla assisted in production. Members with news, event information, or articles, should contact Henry Clay at the following email address

[claylaw1975@hotmail.com](mailto:claylaw1975@hotmail.com)



### State Bar of Michigan

#### ARTS COMMUNICATIONS ENTERTAINMENT & SPORTS (ACES) SECTION

**Mission Statement:** The Arts, Communications, Entertainment & Sports Section of the State Bar of Michigan provides education, information, and analysis about issues of concern through meetings, seminars, its web site, public service programs, and publication of a newsletter. Membership in the Section is open to all members of the State Bar of Michigan. Statements made on behalf of the Section do not necessarily reflect the views of the State Bar of Michigan.

#### Section position on Right to Publicity legislation and policy:

The ACES Section has been, and continues to be, involved in legislation and policy on the issue of right of publicity. State Senator Hanson Clarke has been spearheading the issue in the Michigan legislature and has worked with several ACES members, including Jeffrey Richardson, Howard Hertz, and Larry Jordan, for guidance and input on this legislation.

#### 2008-09 Officers

Chair: Matthew W. Bower,  
(P66957)  
Chair-Elect: Ethan Yale Boardman  
(P68301)  
Secretary: John M. Kamins  
(P15669)

#### Council Members

Terms expiring 2009:  
Elizabeth DuMouchelle (P45462)  
Lawrence Jordan (P27169)  
Kimberly Ward (P59520)

Terms expiring 2010:  
Leonard F. Charla (P11803)  
Henry B. Clay, III (P25249)  
Daniel C. Matson (P17210)

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Terms expiring 2011:  
Frederick J. Frank (P32115)  
Richard R. Herman (P31210)  
Todd Redden (P70564)

**Representative Assembly:**  
Martin J. Hillard (P36393)

**Immediate Past Chair:**  
Mindy M. Schwartz (P63135)

**Ex Officio:**  
Jeffrey Richardson (P60184)  
Richard Todd Hasley (P61933)  
John H. Willems (P31861)  
Duane M. Lewis (P38654)

**Commissioner Liaison:**  
Elizabeth Moehle Johnson (P39858)

#### Section Standing Committees

Certification/ICLE Seminar:

Lawrence R. Jordan

Hensel Award:

Elizabeth A. DuMouchelle

Nominations:

Leonard F. Charla

Public Action/Civic Affairs:

Duane Lewis

Spring Artist Seminar:

Matthew W. Bower

Volunteer Lawyers for the Arts and Culture:

Richard R. Herman

Young Lawyer Development / Mentoring:

Mindy M. Schwartz

Website/Newsletter:

Henry Clay

#### ACES Section Bylaws

ACES is considering revisions to its Bylaws, and solicits your suggestions, comments and proposals. Please contact Matthew M. Bower at email [mbower@saffordbaker.com](mailto:mbower@saffordbaker.com) or any Council member.

#### Volunteers

Volunteers are needed for all ACES activities. Please contact any Council member for additional information.