

## ADVERTISING LAW

Room 208  
Wed. and Thurs. 3:00-4:15

Lori Krafte  
Fall 2007

### **Required Readings:**

There will be no text book. Materials will be distributed throughout the semester via the Westlaw TWEN site.

### **Attendance:**

Class attendance is required. If you are unable to attend a class session, please let me know in advance if possible.

### **Final Grades:**

Your course grade will be determined by your performance on (i) a take-home final examination, due to Charlene Carpenter by 2:00 p.m. on December 20, 2007 (50%), and (ii) a 15 page paper on a relevant topic of your choosing, to be determined in consultation with me and submitted on or before our last class session (50%). Exceptional class participation may raise your course grade.

### **Office Hours:**

I do not hold regular office hours, but I would be happy to schedule a time to meet with you. Please feel free to email me at [lek@gdm.com](mailto:lek@gdm.com), or to call my law office at 455-7635.

### **Course Outline:**

- I. Introduction: Overview of the Areas of Law Governing Advertising
  - A. First Amendment
  - B. Intellectual Property Law: trademarks, copyrights, right of publicity
  - C. Defamation/Libel
  - D. Contract
  
- II. Advertising and Freedom of Speech
  - A. Commercial Speech Doctrine: standards and tests
  - B. Compelled Speech
  - C. Political Speech: access to the media
  - D. Defamation
  - E. Disparagement/Trade Libel

### III. Intellectual Property and Related Rights

- A. Introduction to IP Law: brief history and purpose
- B. Copyrights
  - 1. copyrightability of advertisements
  - 2. ownership
  - 3. infringement
  - 4. fair use defense
- C. Trademarks
  - 1. infringement
  - 2. comparative advertising
  - 3. product placement
- D. Parody defense
- E. Right of publicity

### IV. False Advertising

- A. Lanham Act
- B. FTC
  - 1. overview of jurisdiction and procedure
  - 2. standards for determining unfair acts or practices
- C. Claims substantiation
- D. Puffing
- E. Deceptive pictorial representations
- F. Endorsements and testimonials

### V. Contract Issues

- A. Brief review of contract law basics
- B. Advertisements as contracts
- C. State law protection of ideas

### VI. Industry Self-Regulation

- A. NAD (National Advertising Division of BBB)
- B. CARU (Children's Advertising Review Unit)

### VII. Special Issues

- A. Advertising and the internet (including spam laws)
- B. Privacy issues
- C. Children's advertising (including COPPA)
- D. Contests, lotteries, and sweepstakes