

# PIERCE

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### Entertainment Law Circular

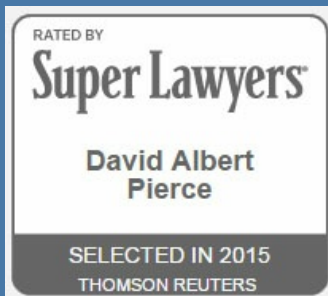
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FTC Sends Warning Letters to Clarify  
Social Media Marketing Guidelines  
By Vera Golosker, Esq.



Ever wonder if your favorite celebrities actually love the products they're posting about on their Instagram accounts or if the posts are really a guerilla marketing campaign? Well, according to the Federal Trade Commission, consumers shouldn't have to guess. In April, the FTC sent over ninety letters to various celebrities, athletes, and other influencers warning them that they must clearly identify when brands have sponsored their social media posts. In the letters, the FTC provided some guidelines to meet its requirement that ads must be identified in a "clear and conspicuous" manner.

According to the [National Law Journal](#), these letters went to a number of actors, singers, celebrities, and models, as well as leaders of various fashion labels, restaurant chains, and cosmetic companies. This is the first time that the FTC has directly reached out to social media influencers themselves to formally educate them on the FTC's Endorsement Guidelines.



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## New Film Trailer Releases

Long time Pierce Law Group LLP client, **Lionsgate Films** has released two trailers for dramas that we are proud to have provided legal services.



The first is **The Glass Castle** based on a memoir of the same name by journalist **Jeannette Walls** about her upbringing. It stars **Brie Larson, Woody Harrelson, and Naomi Watts**.



The second is **Wonder**, based on the NY Times bestseller of the same name and is an inspiring tale of a young boy homeschooled due to facial deformities who then courageously ventures to attend 5th grade in a mainstream

school. Both brands and social media influencers could face liability for not properly identifying a sponsored post depending on the facts, and whether the brand failed to instruct the celebrity to make the disclosure. The Endorsement Guidelines govern the use of endorsements and testimonials in advertising, including establishing for consumers if there is a "material connection" between the endorser and an advertiser that a consumer may not expect, such as a business or familial relationship, a brand providing a product for free in exchange for an Instagram post, or paying an influencer to endorse their product online.

The FTC noted that on mobile devices, Instagram typically only displays the first three lines of a longer post unless users click "more." The FTC recommends that disclosure of material connections appear above the "more" link. The letters also noted that consumers may skip over multiple tags, hashtags or links, especially when appearing at the end of a long post, making such disclosures inconspicuous. Therefore, the disclosure should appear at the beginning of the post, if possible, and not be buried in a string of hashtags. The letters clarify that posting "Thanks [brand]," "#sp," or "#partner" is not sufficiently clear or understandable to the average consumer. Though not the only permissible manners of disclosing a sponsorship, the [FTC noted](#) that the words "ad," "promotion," or "sponsored," or hashtags like "#ad," are acceptable forms of disclosure.

For consumers, the FTC also makes it easy to file a complaint via the FTC's website. Thus, if you are an influencer, it is important to make sure to follow the Federal Trade Commission's Endorsement Guidelines when posting promotional material on social media. Pierce Law Group LLP can provide easy to follow practical advice and checklists concerning these Guidelines to assist Influencers. Pierce Law Group LLP has substantial experience in negotiating contracts between influencers and merchandisers.

Aside from staying out of trouble with the FTC, there are a number of other considerations celebrities should consider before posting a tweet or other social media message. For an article previously written for the Beverly Hills Bar Association in 2012 by David Albert Pierce & Anthony Hanna entitled, "Blogs, Facebook & Twitter: How Instant Communication Can Help or Hurt Celebrities" [click here](#). This past article continues to contain viable tips for ensuring proper social media management.

For further information about Social Media legal issues, contact Pierce Law Group LLP at 310-274-9191.

school. The film stars Julia Roberts, Owen Wilson, and "Room" breakout star Jacob Tremblay.

## WRITERS: Submit to Slamdance's Screenplay Competition



Our client Slamdance Film Festival is currently accepting entries for its annual screenplay competition. The extended deadline is **June 24th**, and the special WithoutABox extended deadline runs until **July 28th**. Categories include Short, Original Teleplay, Horror, and Feature.

PLG-LLP co-sponsors the competition and awards prizes to the winners. For more details on the competition, please visit [Slamdance's page](#).

## Upcoming Events



**Wednesday, June 21, 2017**, Beverly Hills Bar Association presents "Look What They've Done To My Song: The Annual Music, Copyright and Litigation Panel." This event provides 1.5 hours of CLE credit for attorneys at will take place at Lawry's Restaurant. **Pierre Pine** and **Dinah Perez** will co-chair this event. The program will present a discussion on copyright law and the landmark music cases that were decided in 2016, including the controversial "Capitol v. Vimeo" and "EMI v. MP3Tunes", "Spirit v. Led

## News for Young Performers and Coogan Accounts

By Anthony J. Hanna, Esq.

As most young performers (and their parents) know, in California 15% of a minor's earnings in the entertainment industry must be set aside in a blocked trust account, until the minor reaches the age of 18. This type of performer's blocked trust account is known as a "Coogan Account" named for the late actor Jackie Coogan, whose legal guardians essentially took all of his earnings as a child actor. Most all Coogan Accounts in California earn zero interest at the few banks that even offer these accounts. There are a few Coogan Accounts that earn less than 1% interest. However, in an effort to win over new entertainment business accounts, Banc of California is now offering a whopping 3.0% interest rate on Coogan Accounts, up to \$10,000 on deposits. (After \$10,000, the rate starts to drop a bit in increments).

Pierce Law Group LLP continues to remain a legal industry leader in regard to all aspects of child actor labor laws and court ratifications of child actor contracts.

For more information on laws relating to minors in the entertainment industry contact Tony Hanna at Pierce Law Group LLP at (310) 274-9191. To learn more about opening a Coogan Account with Banc of California feel free to contact directly Tasha Speer, Branch Sales Manager in the Manhattan Beach branch at (310) 802-2945.

## Past Seminars & Speaking Events



Attorney Vera Golosker moderates BHBA panel on Copyright

On **Wednesday, May 31st**, Pierce Law Group LLP attorney Vera Golosker moderated a panel for the Beverly Hills Bar Association's IP, Internet, & New

Zeppelin," and the "Flo & Eddie" class action cases regarding the protections afforded to pre-1972 sound recordings.

Lawyers from these influential cases will be on the panel, including attorney **Henry Gradstein** who in conjunction with **Pierce Law Group LLP** attorney **Daniel Lifschitz** represented the class action plaintiffs in **Flo & Eddie, Inc. v. Sirius XM Radio, Inc.**

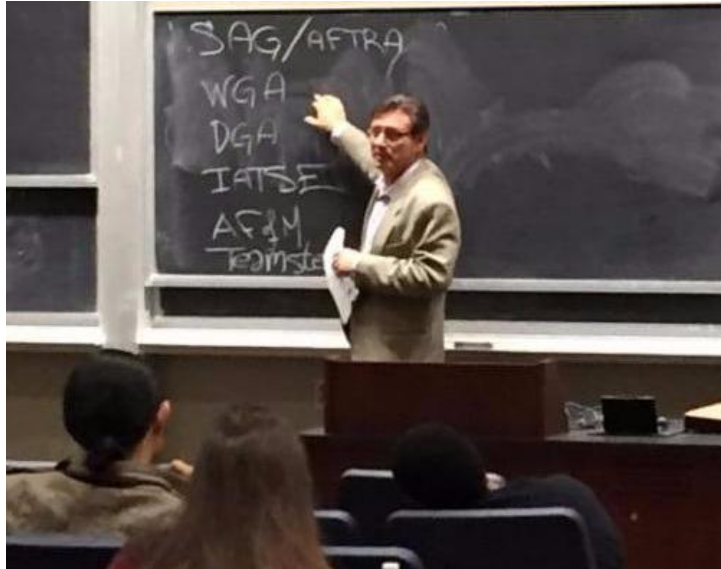
**Wednesday, July 12, 2017**, BHBA Entertainment Section presents **"The Business and Legal Reality of Virtual Reality."** This program will be held at Lawry's Restaurant and provides 1.5 hours of CLE credit for attorneys. It will cover issues confronting Virtual Reality technologies and analyze recent cases involving companies sued by VR users, VR users suing other users, and issues concerning clearance, copyright & trademarks, and other contract issues.

**David Albert Pierce** serves as Secretary of the Entertainment Law Section of the BHBA and sits on its seminar planning committee.

Media Section on Comprehensive Copyright Infringement Remedies. Vera was joined by Robert F. Helfing (Partner, Sedgwick LLP), Karen Vogel Weil (Partner, Knobbe Martens), Professor Richard Walter (Associate Dean, UCLA School of Theater, Film and Television) and Cedar Boschan (President & CEO of Boschan Corp).

## UCLA Extension

Entertainment Studies



On **Monday, June 5, 2017**, Pierce Law Group LLP attorney Anthony Hanna gave his annual speech titled, "What Every Producer Should Know About Entertainment Labor Unions" to UCLA-Extension students enrolled in David Albert Pierce's "Organizing, Financing, & Running An Entertainment Start-Up Production Company."

## PLG LLP Fun Nights Out



DAP and celebrity director **Penelope Spheeris** horse around with Wayne & Garth impersonators at the Hollywood Forever outdoor screening of Penelope's comedy classic, *Wayne's World*. 4,000 people were in attendance. Party on!

DAP along with other top area fundraisers were rewarded with suite seats at Dodger Stadium in recognition of their charitable collection efforts for the **Leukemia & Lymphoma Society**. Those still desiring to contribute to the 2017 campaign can still do



## About Pierce Law Group LLP

Pierce Law Group LLP is a full service, boutique entertainment law firm that provides both transactional and litigation legal services. Our practice areas include entertainment law, intellectual property (copyright, trademarks, right of publicity), film finance, securities law, production counsel, and labor & employment issues affecting the entertainment industry, with an emphasis on film, television, and new media. We represent production companies and other creative businesses as well as artists including producers, actors, writers, directors, comedians, and other entrepreneurs. Our client list includes both Academy Award and Emmy Award winners. We utilize an academic and analytic legal approach to accomplish creative solutions to our clients' goals.

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