DOCUMENTARIES & THE LAW Spring 2007 SYLLABUS (Tentative)

The objectives of the course are as follows: to develop the skills required for reviewing or critiquing law-genre documentaries; to understand the role of lawyering (or "legalling") in the creative process by which documentaries are made (including analysis of such issues as consent and invasion of privacy; copyright and fair use; truth and defamation); to explore the range of existing uses of visual or video legal advocacy in various legal proceedings or contexts (ranging from video settlement documentaries to victim impact statements and video clemency petitions); and to gain an understanding of the rudiments of nonfiction film storytelling.

Reading assignments can be found in the two required texts, electronic copies available in the Course Documents folder on the Course Portal, or xeroxed materials that will be available in the distribution racks. Abbreviations in the syllabus are to the texts indicated below:

- **DTD**=Documenting the Documentary: Close Readings of Documentary Film and Video (Barry Keith Grant & Jeannette Sloniowski eds., 1998) (required text)
- NCFD2=New Challenges for Documentary (Alan Rosenthal & John Corner eds., 2d 2005) (required text)
- NNW=Regina Austin, "The Next 'New Wave': Law-Genre Documentaries, Lawyering in Support of the Creative Process, and Visual Legal Advocacy," 16 Fordham Intellectual Property Media & Entertainment Law Journal 809 (on the Course Portal)

Reference may be made from time to time during class discussion to the following texts that are on reserve:

- NCFD1=New Challenges for Documentary (Alan Rosenthal ed., 1988) (on reserve)
- LIES=Brian Winston, Lies, Damn Lies and Documentaries (2000) (on reserve)
- **DFC**= William Rothman, Documentary Film Classics (1997) (on reserve)
- **ID**=Bill Nichols, Introduction to Documentary (2001) (on reserve)

NEWDOC= Stella Bruzzi, New Documentary: A Critical Introduction (2000) (on reserve)

ETHICS2=Image Ethics in the Digital Age (Larry Gross, John Stuart Katz eds., 2003) (on reserve)

Unit 1: Introduction–Advocating Visually

Films:

"The Things That Put Powelton on the Map" (2006) by the Powelton Village Civic Association

"Pride of the Hill" (2006) by the Cramer Hill Residents Association (Both of these films were produced as part of the Precious Places Community History Project of Scribe Video Center)

Reading:

NNW 809-22 (2006)

Unit 2: The Seminal American Law-Genre Documentary and a Contemporary European Variation Thereon

Films:

"The Thin Blue Line" (1987)

"Darwin's Nightmare" (2005)

Readings:

Linda Williams, "Mirrors Without Memories," DTD 379-96

Mark Gibney, "Ending the Nightmare," Humanist, Sept. 1, 2006, at 43, 2006 WL 15364596 (on the Course Portal)

Oliver Barlet, "The Ambiguity of 'Darwin's Nightmare," Africultures, Mar.

21, 2006, http://www.africultures.com/index.asp?menu=revue_affiche_article&no=4319&lang=_en (on the Course Portal)

Unit 3: Putting First Assumptions into Question

Films:

"Nanook of the North" (1922)

"Man with a Movie Camera" (1929) (excerpts)

Readings:

William Rothman, "The Filmmaker as Hunter," DTD 23-39

Seth Feldman, "'Peace Between Man and Machine," DTD 40-54

Unit 4: Narrative or Rhetorical Styles or Modes of Documentary Filmmaking and Critiques Based Thereon

Films:

"The Plow That Broke the Plains" (1936) and "The River" (1937)

"Startup.com" (2001)

"Capturing the Friedmans" (2003)

"Tongues Untied" (1989) (excerpt)

Readings:

NNW 822-42

Charlie Keil, "American Documentary Finds Its Voice," DTD 119-35 Jay Ruby, "The Image Mirrored: Reflexivity and the Documentary Film, NCFD2 34-47

Shelia Perry, "Silence and Its Opposite," DTD 416-28

Unit 5: Introduction to Storytelling and Treatment Writing for Documentaries

Film:

"Jonestown: The Life and Death of Peoples Temple" (2006)

Readings:

Sheila Curran Bernard, Documentary Storytelling for Video and Filmmakers 115-32 (2004) (on the Course Portal)

Guest Lecturer:

Nolan Walker, Independent Documentary Film Writer and Producer

Unit 6: Consent and Other Aspects of the Relationship Between the Filmmaker and Her/His Subjects

Films:

"Titicut Follies" (1967)

"Born Rich" (2003) (excerpts)

"Children Underground" (2001) (excerpts)

Readings:

NNW 842-48

Commonwealth v. Wiseman, 356 Mass. 251, 249 N.E.2d 610 (1969) Weil v. Johnson, 2002 WL 31972157 (N.Y. Sup. Ct.)

Consent forms used in connection with "Borat: Cultural Learnings of

America for Make Benefit Glorious Nation of Kazakhstan"

Brian Winston, "Ethics," NCFD2 181-93

Calvin Pryluck, "Ultimately We Are All Outsiders: The Ethics of

Documentary Filming," NCFD2 194-208

Unit 7: Film Truth versus Legal Reality?: The Relationship Between the Law-Genre Filmmaker and the Audience

Films:

"Mighty Times: The Children's March" (2005) (excerpts)

"Bowling for Columbine" (2002)

Readings:

Irene Lacher, "Documentary Criticized for Re-enacted Scenes," N.Y. Times, Mar. 29, 2005, at E1 (on the Course Portal)

Christopher Sharrett & William Luhr, "Bowling for Columbine: A Review," NCFD2 253-590

David T. Hardy & Jason Clarke, Michael Moore Is a Big Fat White Man 65-95 (2004)

Nichols v. Moore, 396 F.Supp.2d 783 (E.D. Mich. 2005)

Matthew Bernstein, "Documentaphobia and Mixed Modes," DTD 397-415

Unit 8: Propaganda, Censorship, and the Relationship Between the Filmmaker and the State

Films:

"The Triumph of the Will" (1934) and "The Wonderful, Horrible Life of Leni Riefenstahl" (1993) (excerpt)

"The Death of a Princess" (1980), reissued (2005) (excerpts)

"This Film Is Not Yet Rated" (2006)

Readings:

Frank P. Tomasulo, "The Mass Psychology of Fascist Cinema," DTD 99-118

Amos Vogel, "Can We Now Forget the Evil That She Did?," N.Y. Times, May 13, 1973, at 113 (on the Course Portal)

Anne E. Kornblut, "Administration Is Warned about Its Publicity Videos," N.Y. Times, Feb. 19, 2005, at A11 (on the Course Portal)

Alan Rosenthal, "'Death of a Princess': The Politics of Passion, an Interview with Anthony Thomas," NCFD2 463-474

Guest Lecturer:

Peter Decherney, Assistant Professor, English & Cinema Studies, UPenn

Unit 9: Fair Use and the Relationship Between the Filmmaker and the Owners of Copyrighted Material

Films:

"Parliament Funkadelic: One Nation under a Grove" (PBS Oct. 11, 2005) (excerpts)

"Tarnation" (2004)

"Untold Stories: Creative Consequences of the Rights Clearance Culture" (2004)

Prize-winning shorts on the impact of intellectual property law on film and music, http://www.law.duke.edu/cspd/contest/winners/index.html (2005)

Readings:

Hofheinz v. A & E Television Networks, 146 F.Supp.2d 442 (S.D.N.Y. 2001)

Nancy Ramsey, "The Hidden Cost of Documentaries," N.Y. Times, Oct. 16, 2005, § 2, at 13 (on the Course Portal)

Keith Aoki, James Boyle & Jennifer Jenkins, Bound by Law: Trapped in a Struggle She Didn't Understand (a comic book) (2006), available at www.law.duke.edu/cspd/comics

Patricia Aufderheide & Peter Jaszi, Untold Stories: Creative Consequences of the Rights Clearance Culture for Documentary Filmmakers, available at http://www.centerforsocialmedia.org/rock/backgrounddocs/printable_rights report.pdf

Guest Lecturer:

Ellen P. Goodman, Associate Professor, Rutgers Camden Law School

Unit 10: Lawyering and the Creative Process--Documentaries from the Perspective of an Entertainment Lawyer

Film:

"Gospel Camp"

Readings:

Alan Rosenthal, "Staying Alive," NCFD2 167-77

Derek Paget, "Dramadoc/Docudrama: The Law and Regulation," NCFD2 435-52

Guest Speakers:

Victoria Cook, Esq., Frankfurt Kurnit Klein &Selz PC Charles Wright, Esq., Corporate Counsel, Arts & Entertainment Network

Unit 11: Putting It All Together: Critiquing the Law-Genre Documentary *Films:*

"Street Fight" (2005)

"The Shame of a City" (2006)

Guest Speakers:

Tigre Hill, director of "The Shame of a City" Wendell Pritchett, Professor, UPenn Law School

Unit 12: Legal Advocacy on Film: Feature Length Format

Films:

"After Innocence" (2005)

"Sentencing the Victim" (2003)

Guest Speaker:

Marc Simon, Esq., producer of "After Innocence"

Unit 13: Legal Advocacy on Film: Short Length Formats

Films:

"Burning Bridges" (2005)

"Chinatown Is Not for Sale" (2002)

"Clemency Video on Behalf of Manuel Babbitt"

"The Josee Nkunda Story" (settlement documentary)

"Stalking: Yes or No?" (a short produced and director by Professor John Nockleby of Loyola-Los Angeles Law School)

"Eutrophication" (a short produced by Professor Robert Percival's environmental law students at the University of Maryland Law School)

Readings:

Stephen N. Subrin & Thomas O. Main, "The Integration of Law and Fact in an Uncharted Parallel Procedural Universe," 79 Notre Dame Law Review 1981 (2004)

Elizabeth Van Ness, Is a Cinema Studies Degree the New M.B.A.," N.Y. Times, Mar. 6, 2005, §2, at 1.

January 19, 2007