



## Law & Writing

Deborah Gonzalez, Esq.  
dgartlaw@att.net

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### Overview

- Introduction
- Who is a writer?
- What can be written?
- How can you protect it?
- What is copyright?
- What are some other legal issues concerning your writing?
- Q&A

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### Who are you as a writer?

- Who is a writer?
  - anyone who creates a written work, though the word usually designates those who write creatively or professionally, as well as those who have written in many different forms
- What can you write?
  - Novel, story, poem, essay, news column (article), notes, scribbling, captions, jokes, programs, song lyrics, cards, bookmarks, etc.

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### Who are you as a writer?

- Where can you write?
  - Published vs. non-published
  - Periodicals, books, notebooks, napkins, online
- Why do writer's write?
  - They have something to say and have a particular point of view in saying it.
  - Want to remember something
  - Want to have others remember - record history, etc.

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### Why should you protect it?

- Intellectual interests.
  - Creativity
  - Reputation
  - History, legacy
- Commercial/business interests.
  - Sales
  - Marketing
  - Derivative Rights

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### What is Copyright?

- **What is copyright?**

Copyright is a form of protection grounded in the U.S. Constitution and granted by law for original works of authorship fixed in a tangible medium of expression. Copyright covers both published and unpublished works.

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### What is Copyright?

- **Bundle of Rights**

Right to Reproduce the Work: the right to copy, imitate, reproduce, duplicate or transcribe the work in fixed form.

Right to Derivative Works: the right to modify the work to create a new work. A new work that is based upon an existing work is a "derivative work".

Right to Distribution: the right to distribute the work to the public by sale, rental, lease or lending.

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### What is Copyright?

- **Bundle of Rights (cont).**

Public Display Right: the right to show a copy of the work directly to the public (e.g., hanging up a copy of a painting in a public place) or by means of a website, film, slide, or television image at a public place or to transmit it to the public.

Public Performance Right: This is the right to recite, play, dance, act or show the work at a public place or to transmit it to the public.

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### What is Copyright?

- **What does copyright protect?**

Copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed.

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### What is Copyright?

- **When is my work protected?**

Your work is under copyright protection the moment it is created and fixed in a tangible form that it is perceptible either directly or with the aid of a machine or device.

- **Do I have to register with your office to be protected?**

No. In general, registration is voluntary. Copyright exists from the moment the work is created. You will have to register, however, if you wish to bring a lawsuit for infringement of a U.S. work.

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### Other Legal Issues?

- Public Domain
- Work Made for Hire
- Appropriation
- Fair Use

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### Other Legal Issues?

- **Plagiarism**
  - The theft of another person's writings or ideas and making them appear to be your own.
  - "Plagiarism" is not a legal term – the COA is violation of copyright law.
  - Defense: parody, fair use

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**Other Legal Issues?**

- Case
  - January 2002, two highly regarded historians, Stephen Ambrose and Doris Kearns Goodwin, were accused of plagiarism in *The Weekly Standard*.
  - The magazine revealed that Ambrose (who died in October 2002) took passages from another author's work and used them in his 2001 book *The Wild Blue*, while Goodwin used passages from several authors in her 1987 book *The Fitzgeralds and the Kennedys*.

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**Other Legal Issues?**

- Case
  - Both authors apologized, acknowledging that they had erred and adding that their failure to provide proper attribution was completely inadvertent. Goodwin went so far as to address her mistakes in an essay in *Time* magazine. They agreed to correct the problem in future editions of the books in question.

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**Other Legal Issues?**

- Defamation of character
  - The communication of false information stated as a fact which brings harm to an individual or an entity, such as a business, group or government.
  - For it to be defamation, the statement must be delivered in speech or in writing to at least one person other than the victim.

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**Other Legal Issues?**

- Slander vs. Libel
  - Slander is used when the defamation of character is spoken. This can be person to person or a person speaking to many people.
  - The term libel refers to the written defamation of someone's character. Libel is the defamation of an individual's or an entity's character which is published in a written medium, such as a newspaper.
    - Also from audible media such as tv or radio

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**Other Legal Issues?**

- Defense
  - Absolute truth
  - Malicious Intent
  - Public vs. Private Persona

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**Other Legal Issues?**

- Case
  - Marquis of Queensboro v Oscar Wilde, 1895 -- Wilde brought a libel suit against the Marquis of Queensbury, who insulted Wilde as "a sodomite" in public. Wilde did sue and in the process of the trial, his homosexual exploits became known. As a result, Queensbury won the libel suit and Wilde was tried on criminal charges of sodomy and spent two years in jail.

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### Other Legal Issues?

- Case
  - Law student wins libel case against former friend for Facebook defamation; UK; July 2010; involved child pornography
  - <http://www.solicitr.com/2010/07/28/law-student-wins-libel-case-against-former-friend-for-facebook-defamation/>

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### Other Legal Issues?

- Case
  - Student's Facebook Tirad Against Teacher is Protected Speech; US; Feb 2010;
  - <http://www.wired.com/threatlevel/2010/02/student-facebook-tirade-against-teacher-is-protected-speech/>
- What about cyberbullying?

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### Resources

- US Copyright Office
  - <http://www.copyright.gov/>
- Copyright Registration Books, Manuscripts, Speeches
  - <http://www.copyright.gov/fls/fl109.html>
- TW&A
  - [www.classiccitylaw.com](http://www.classiccitylaw.com)

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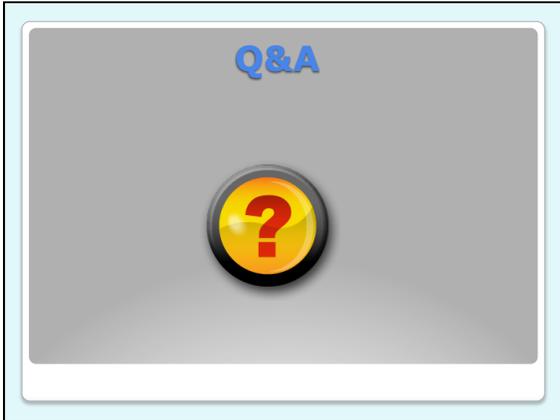
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