



The Singer's Library

Contractually Obligated

BY BRIAN MANTERNACH

A 2017 publication walks musicians through the world of performer contracts, negotiations, procuring legal aid, and much more.

Imagine you are offered a performance engagement. You accept the gig, book your airfare, and turn down other opportunities for that same time frame. Then, out of the blue, the performance is canceled. Are you legally entitled to any reimbursement for your expenses or compensation for lost wages?

What if you sing with an opera company that continues to use publicity photos of you after your performance closes? Should you be paid for that?

What if you don't receive all the money you were promised for a performance? How do you go about getting the money you earned without burning a bridge with the host organization?

And what on earth is a *force majeure* clause?

To help musicians learn the basic legal language of their profession, Rowman &

Littlefield recently published *The Enterprising Musician's Guide to Performer Contracts*. Author David R. Williams discusses how he uses his background in music and law to assist musicians as they negotiate the legalese of performance contracts.



Brian Manternach

In the foreword, Stephanie Blythe mentions that being a working musician has changed dramatically over the last 20 years and, therefore, artists need to be more responsible than ever for the trajectory of their careers. What are some of the most significant of these changes as far as the impact on today's aspiring artists versus those of previous generations?



David R. Williams

I can't speak to what Stephanie had in mind, specifically, but I think that for today's artists several things are different. First, there are fewer artist managers today, so artists necessarily need to take a more proactive role in the design, building, and maintenance of their careers.

Second, while I don't have any hard data to support this assertion, anecdotal evidence suggests that there is more competition due, in part, to the globalization of the arts market: more and more international students are coming to the United States for their training and many international artists are coming here to work.

Adding to those stresses, after the recession of 2008, there are fewer traditional opportunities because some opera companies closed their doors and, for some who survived, their operating models changed (a shortened season, a switch to a business model that relies more heavily on young artists, etc.). For some companies, budget concerns have led to shorter rehearsal periods, which can be stressful for everyone—so showing up inadequately prepared went from being burdensome and unprofessional to being a career-ending misstep.

Rather than feel defeated, however, I think today's emerging artists are able to meet many of these challenges head on because they have advantages prior generations did not have: technological advances, broader conservatory curriculum, and other resources like artist-centric blogs and books.

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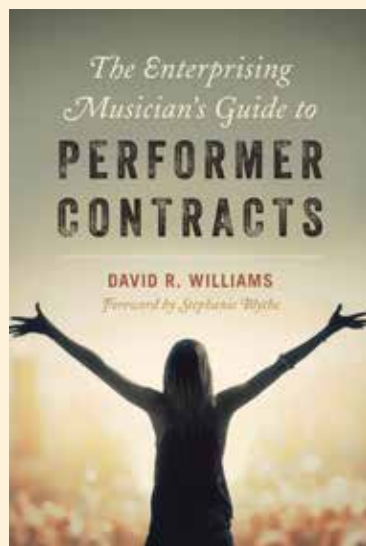
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Book Review

With *The Enterprising Musician's Guide to Performer Contracts*, author David R. Williams seeks to introduce the basic concepts, language, and procedures related to contract law that are most relevant to working musicians. He highlights potential risks for performers by using examples of situations they may come across—both hypothetical and real life.



There are three listed objectives for those who read the book: 1) Know what constitutes a valid contract, 2) Understand your rights, and 3) Be able to appropriately exercise your rights while preserving the business relationship when a dispute arises.

Williams suggests using the volume as a guidebook to answer specific questions or for general reference. This being said, there is much to benefit from a cover-to-cover read, especially for singers who receive contracts from multiple organizations.

He is up front in saying that the book cannot provide legal advice, since that would require information specific to individual cases and applicable laws. But he does discuss what performers should look for in a person who they would seek legal counsel from, if needed, as well as how that advice can be obtained for little or no cost.

In the book's dedication, Williams writes that he hopes the information shared will encourage readers to embrace the business aspects of their craft so that the world will continue to benefit from the energy, passion, and joy that is their gift to the rest of us. Considering how many intangibles are already involved in building a sustainable, lucrative career in music, Williams' book is, likewise, a gift to performers. *The Enterprising Musician's Guide to Performer Contracts* provides working musicians clear guidance that is crucial for a performance career.

—Brian Manternach

Technology—many artists now have their own websites with electronic press kits with headshots, audio and visual files, and downloadable bios to help with day-to-day career administration.

Curriculum—it's common now for music students to have access to skills-based business training through their university/conservatory coursework such as entrepreneurship courses like the one I teach at Mannes [School of Music]; courses on music industry topics that focus on things like choosing the right business model, contracts, intellectual property rights; and career services planning. Additionally, there are all kinds of advanced repertoire and style classes, language coaching, and more teacher-practitioners who can provide a unique perspective for student-musicians.

Finally, blogs and books like mine and several others available today are inexpensive tools that can have a big impact to help artists with career-related issues like understanding contract terms and negotiation.

You are a highly trained musician yourself, earning three degrees at renowned programs before going back to law school. What skills and knowledge did you gain in your musical training that have become assets in your work as an artists' consultant?

People are often surprised to hear me say how similar the experiences are of going to music school and going to law school. Music school taught me several things: self-discipline, patience, the value to be found in the attention to detail, and the importance of seeing and appreciating how I take in information and, ultimately, learn. For me, there's no such thing as a

shortcut. I don't trust that route. I'll always choose the longer, more methodical route because, in part, the slowness of it forces me to think about my process as I'm living it and make the necessary adjustments along the way.

I took these learnings from music school, applied them to law school, and now they are the basis for my teaching and consulting work.

In the numerous lectures you have presented at universities and other organizations on performers' contracts, is there certain information audiences find surprising? In what area do you find aspiring performers least prepared?

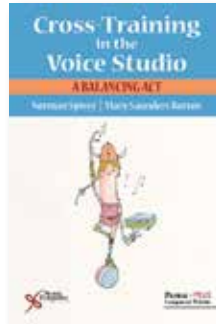
The thing that audiences find most surprising is how much hidden detail can be found in artists' contracts. Creative folks tend to be easily put off by all of this minutiae. I often hear, "Can you just boil it down to the absolute minimum things I will need to know in order to be well informed?"

I understand the frustration—it's a lot to assimilate at first. But the good news is that understanding contract language is a skill that can be developed like any other. It just takes practice, and after a while you'll start to see things pop out at you that shouldn't be there and notice things that should be there but aren't.

In addition to not understanding their own contractual obligations and restrictions, artists at all levels rarely understand the substantial differences between agents and managers. For example, many artists in New York will tell you that the primary function of their manager is to procure employment for the artists on their roster. This is patently false and usually there is a clause to this effect in the artist-management contract itself.

Has the information you present in these lectures and in your book changed from the time you began taking an interest in performers' contracts to now? Do you find

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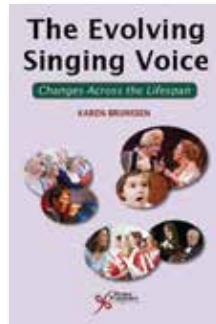
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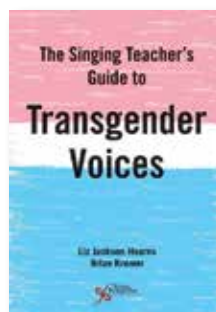
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“Rather than feel defeated, however, I think today’s emerging artists are able to meet many of these challenges head on because they have advantages prior generations did not have . . .”

yourself emphasizing different information as the industry continues to change?

The first lecture I gave was about 15 years ago at the New England Conservatory of Music. Nothing has changed in my lectures as far as the content of the lectures. But my emphasis has changed because back then I stressed the self-empowerment aspect of embracing this information.

Now I present it as part of a bundle of critically important skills that any working musician should have as the CEO of their own brand, the other skills being creative entrepreneurship, branding and marketing, interpersonal and networking skills, organizational/time management, personal finance, and tax. You know why? Because no one is going to do this for you unless you can afford to pay them to. If you are fortunate enough to be in that position, you should at least know enough about these areas to actively participate in that decision making.

It’s worth noting that you have been invited to speak at all three of the music schools you attended. In fact, you even taught Music Law as an adjunct professor at the Crane School of Music at SUNY Potsdam, where you had previously earned a bachelor of music degree. What is it like to be able to give back to your alma mater institutions in this way?

Well, I especially loved my five years at Crane once I matured enough to appreciate the value of the education I was receiving. There was a time toward the end of my program there when I thought that I never wanted to leave.

I can’t tell you how much I enjoyed teaching in Crane’s Music Business Institute. I am enormously proud of my affiliation with the

school and that program in particular. In fact, they hired me because I wrote a letter to Dean Sitton asking if there were any teaching opportunities where I could be of service to the school.

I was flattered to have been invited to teach there and to serve the school as a guest lecturer before and since then, as well as at NEC and at UW–Madison. The professors and staff at all of these institutions directly or indirectly shaped my thinking and my values. It’s been deeply satisfying to be able to give back to them by sharing the skills I’ve developed and experiences I’ve gained since graduating.

Even though I ultimately did not choose a performance path, my journey is very similar to that of a professional musician’s: you continue to make important connections, accumulate experiences, learn, assimilate, grow, and make the necessary adjustments on your journey to living your most authentic life regardless of how that evolves and what it ends up looking like.

Visit www.EnterprisingArtistConsulting.com for more information.

Brian Manternach is on the voice faculty of the University of Utah’s Department of Theatre. In addition to his contributions to Classical Singer, he is an associate editor of the Journal of Singing. An active singer, he holds a doctor of music degree from the Indiana University Jacobs School of Music. Visit www.brianmanternach.com for more information or contact him at bmantern@gmail.com. 