

Seminar in Mass Communication Law

Journalism 7025-M50

Spring 2011

5:30-8:30/Monday/Online

Elinor Kelley Grusin, Ph.D. Professor Emeritus

Office Hours: As Needed

Phone/Cell contact: Distributed at the first class

Email contact: egrusin@memphis.edu

COURSE SPECIFIC REQUIREMENTS

CATALOGUE DESCRIPTION: The study of laws and regulations affecting mass media with attention to social and political forces that shape the law; exploration of First Amendment theories as well as the constitutional framework of the legal system; in-depth legal research in the student's selected area of interest.

Course Specific Requirements:

1. Assigned readings.
2. Mid-term and final exams
3. A research proposal and paper.
4. Informed participation in class discussion. **Each of you will be assigned to help to lead discussions of the assigned readings on a particular night.**

Because this is a graduate class, you will share responsibility for discussion of material. You also will be evaluated each week on participation, and absences will definitely lower your grade.

Research Proposal:

By the date published in the calendar, you must turn in a proposal for a research paper on some topic within the general area of mass communication law. Your proposal will begin by your **FIRST** writing the questions your paper will attempt to answer. The proposal will explain your topic, i. e., "Former Justice William Joseph Brennan--A Friend of the Press." The proposal will outline the direction and scope of your paper as well as an overview of the types of sources you plan to consult. Such a topic as the one on Brennan would require examination of Brennan's opinions affecting the press. It may be the Court's majority opinion or a concurring or dissenting opinion by Brennan. Another topic might be "The Fairness Doctrine--Should it Be Brought Back as Law?"

This type legal topic would involve going to the Communications Act of 1934 and reading the section that provided for the doctrine, then looking at cases involving the doctrine, as well as the attempts by members of Congress to bring it back as law. You would also look at the Telecommunications Act of 1996. You would also look at arguments—pro and con—for and against the Fairness Doctrine. Another topic might be the effect of blogging and other social media on the number of libel cases. Is the law of libel different for defamation in blogs or in a Tweet than in a newspaper?

The Research Paper:

You will write an original paper with a minimum of 15 pages, using normal 65-space side margins and 12-point page.. You may use either the Blue Book on legal citations or the Chicago Manual of Style, 14th or 15th edition, for endnotes. **YOU MAY NOT USE APA OR ANY OTHER PARENTHETICAL REFERENCE STYLE FOR A LAW PAPER.** Case names are generally used as citations and would interrupt the reading of your paper

because of their length **Your papers will be graded on content, including writing quality, comprehensiveness of research, adherence to complete and proper citation style, grammar, punctuation and spelling. All of these will be analyzed to determine a final paper grade. WHEN WRITING YOUR PAPER, PLEASE ATTRIBUTE ALL DIRECT QUOTES. DON'T JUST DROP THEM INTO THE MIDDLE OF THE TEXT WITH ONLY A FOOTNOTE NUMBER. GIVE DIRECT QUOTES THEIR OWN PARAGRAPH. ALSO USE NO MORE THAN TWO TO THREE SHORT BLOCK QUOTES. IF THE QUOTE IS THAT IMPORTANT AND IS FOUR OR MORE LINES, SUMMARIZE IT IN YOUR PAPER AND PLACE THE ENTIRE QUOTE IN AN ANNOTATED FOOTNOTE/ENDNOTE.**

You will have a cover page with appropriate information. It is NOT part of the 15 pages. Within your paper, you will have an introduction, a statement of the problem and a review of pertinent literature, including major arguments pro and con on your topic. **After making an objective—not opinionated—study of the subject, you also are expected to come to some conclusions based on your analysis of the literature.**

YOU MAY NOT CITE YOUR TEXTBOOK OR ANY OTHER TEXTBOOK. You will use a minimum of 25 acceptable sources—traditional, scholarly sources, such as law journal articles, legal newspapers, cases, statutes and scholarly books (OTHER THAN TEXTBOOKS) A significant number of your sources must be “primary sources,” which means state and federal statutes, court cases, constitutions or congressional or state legislative proceedings. “Secondary sources” are scholarly journals or legal newspapers. Popular magazines, newspapers etc., are NOT acceptable sources and may be used only as starting points for your own reading but NOT for use in your paper. You may use limited citations –two or three from professional publications, such as Quill and Columbia Journalism Review. For a complete list of mass communication scholarly journals (refereed), go to the AEJMC website.

Your written work will be submitted to Turnitin.com, or a similar electronic detection method, for an evaluation of the originality of your ideas and proper use and attribution of sources. As part of this process, you will be required to submit electronic as well as hard copies of your written work, or be given other instructions to follow. (SEE THE SECTION OF THE SYLLABUS ON PLAGIARISM.) By taking this course, you agree that all assignments may undergo this review process and that the assignment may be included as a source document in Turnitin.com's restricted access database solely for the purpose of detecting plagiarism in such documents. Any assignment not submitted according to the procedures given by the instructor may be penalized or may not be accepted at all.

PREREQUISITE: None

TEXTBOOKS:

Required:

1. Pember, Don R., and Clay Calvert, Mass Media Law, 17th Edition, Brown & Benchmark Publishers. You also will read selected cases and other materials.

2. Chicago Manual of Style

<http://www.indiana.edu/~citing/Chicago.pdf>

Suggested Research Aids:

Black's Law Dictionary , West Publishing Company.

Wren, Christopher G. and Jill Robinson Wren, The Legal Research Manual. Adams and Ambrose Publishing Co.

Helpful site, in addition to Lexis/Nexis, for legal research online:
<http://www.abanet.org/tech/ltrc/lawlink/home.html>

Go to the above site hosted by the American Bar Association and scroll to “Legal Research Resources.” Most are free sites hosted by universities and law schools, such as Northwestern, Cornell and Indiana University School of Law. At the very top is a section titled “Federal Resources,” which you also should explore.

CLASSROOM FORMAT: Seminar

GRADING:

Midterm Exam	30 percent
Final Exam	30 percent
Research Paper	30 percent
Participation/quizzes	10 percent

Number grades on tests translate into these letter grades: A, 90-100; B, 80-89; C, 70-79; D, 60-69; F, below 60.

Note: I take grades of plus or minus each week for each student’s contributions and tally these at the end of the semester for a participation grade. OFF-THE-SUBJECT OR SUPERFICIAL COMMENTS DO NOT COUNT FOR YOU AND MAY COUNT AGAINST YOU. INFORMED AND INSIGHTFUL COMMENTS ARE ENCOURAGED. QUESTIONS DON’T COUNT.

OTHER ISSUES:

Professionalism:

Students in this department are preparing for careers in which adherence to professional standards is a prerequisite to success; therefore, students will be expected to conform to practices that will in large part govern their professional success. Those standards include, but are not limited to:
Keeping with job requirements;
Punctuality in attendance and completion of assignments;
Acting responsibly in keeping with all obligations.

Writing:

Students’ literacy is assumed. Mistakes in spelling, structure, language and punctuation will produce grade reductions.

Assignments:

All assignments are due on the day assigned.

Copyright Policy:

When do you violate copyright?

- 1) Ideas cannot be copyrighted, but the way they are described can.
- 2) Anything set down in a tangible form, i.e., written, is by law copyrighted.
- 3) If, in a paraphrase, your work is “substantially similar” to a copyrighted work, you are guilty of copyright infringement.
- 4) A citation indicates where you got material. However, that portion you do not show as a direct quote must be “substantially original” to you. In other words, you can’t just paste in something from another’s work, put a citation at the bottom and call it your own. You need a full rewrite in your own words and syntax so the unquoted material is “substantially original” to you.

What is plagiarism?

From UM Student Handbook, 1998, p. 8.

The term “plagiarism” includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full or clear acknowledgement.

It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

Examples of plagiarism violations:

1. Original sentence

Overall, 24 of the 25 states focusing on this issue concluded that cameras did not pose a problem regarding jurors and witnesses, and only one state (Virginia) arguably reached negative conclusions on this issue.

Paraphrased sentence violating copyright and plagiarism standards

Overall, 24 of the 25 states concluded that the cameras did not pose a problem regarding jurors and witnesses.

Rewrite that would not violate copyright and plagiarism standards.

Half of the 50 states have investigated whether cameras in the courtroom create problems for juries or trial witnesses. Only one state, Virginia, determined there might be repercussions.

The other 25 states concerned with the issue did not find any negative consequences.

(Citation for source)

2. Original paragraph.

The Federal Judicial Center, as part of its study of cameras in federal courts, examined the reports and conclusions of 12 states (Arizona, California, Florida, Hawaii, Kansas, Maine, Massachusetts, Nevada, New Jersey, New York, Ohio, and Virginia) of the potential effects of cameras on witnesses and jurors. The Federal study concluded that “[r]esults from state court evaluations of the effects on jurors and witnesses indicate that most participants believe electronic media presence has minimal or no detrimental effects on jurors or witnesses.”

Paraphrased sentence violating copyright and plagiarism standards

The Federal Judicial Center also studied the findings of 12 of the 25 states as part of their study of cameras in courtrooms. The Federal study concluded that “results from state court evaluations of the effects on jurors and witnesses indicate that most participants believe electronic media presence has minimal or no detrimental effects on jurors or witnesses.” (cited here).

Rewrite that would not violate copyright and plagiarism standards.

An examination by the Federal Judicial Center concluded that electronic media in the courts have a minimal impact on witnesses and jurors. The study covered 12 states where cameras had been permitted in courtrooms. (Cite for source)

3. Original paragraph.

In *Richmond Newspapers v. Virginia* the Supreme Court held that the Sixth Amendment right to a public trial is not a right afforded only to defendants -- that the constitutional right to a public trial also belongs to the public. “Without the freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press would be eviscerated,” the court ruled. “The First Amendment can be read as protecting the right of everyone to attend trials.”

**Gideon's Trumpet*, Anthony Lewis

Make No Law, Anthony Lewis

Rewrite that would not violate plagiarism standards.

The U.S. Supreme court has found that the Sixth Amendment applies to everyone, not just defendants in trials. In effect, the public has as much a right of access to trials, as the accused has to be tried in an open court. This Richmond Newspapers v. Virginia finding means attempting to close a trial to the press conflicts with both the Sixth Amendment and the First Amendment. When the press is excluded the public's right to observe a trial, and the right to freely debate issues being considered by a court, would be constrained by a branch of government, the judiciary (Cite for source).

ADDITIONAL OPTIONAL READING

Additional Reading: If you want to read any of the books below and write a report, you will receive extra credit. You may find other books you prefer. I have selected these because I have read them and know they provide solid information about the First Amendment and/or how the U.S. Supreme Court works, and they are very readable. The ones starred are especially helpful and interesting reading. You will earn points added to your final grade.

Extra credit reports are due by March 11.

- *The Brethren, Bob Woodward and Scott Armstrong
Freedom of Speech for Me but Not for Thee, Nat Hentoff.
Minnesota Rag, Fred W. Friendly.
Hugo Black and the Judicial Revolution, Gerald T. Dunne
- *Inside the Warren Court, Bernard Schwartz
- *Gideon's Trumpet, Anthony Lewis
Make No Law, Anthony Lewis

ONLINE PROTOCOL FOR SYNCHRONOUS CLASSES:

- First, take time to familiarize yourself with Wimba, the software that the University will be using for online class meetings this semester. You'll find two links to be especially helpful:
 - Wimba Classroom Getting Ready Guide
<http://www.wimba.com/assets/resources/WC_Getting_Ready_Guide.pdf>
 - Wimba Classroom Student Participant Guide
<http://webhelp.wimba.com/WC/v6_1/Participant_Guide/>
- Second, make certain you understand how Wimba functions. The software is not a radical departure from Wimba Voice. If you have difficulties, please contact the Wimba help desk for answers to your questions (available 24/7). All you need do is get to a point at which you're ready to participate when the class meets for the first time.
- Third, test the audio and video components. You'd be best served by using a headset with a boom microphone. Reason: the headset will keep the mic at a constant distance from your lips, producing consistency in sound quality, which everyone will appreciate.
- Fourth, your instructor will send you a website address via email for your individual class.

(866) 350-4978 (USA/Canada)
0800 007 6788 (UK)
(703) 956-3917 (other)
technicalsupport@wimba.com
www.wimba.com/technicalsupport

TENTATIVE TIMETABLE:

NOTE:

CALENDAR AND DEADLINES. (I RESERVE THE RIGHT TO MAKE CALENDAR CHANGES OR TO ADD ASSIGNMENTS WITH ADVANCE NOTICE.)

JOUR 7025

Class Schedule for Spring 2011

Date

Topic/ Assignment

Pages

Additional Info

Week One

Go over syllabus.

Constitution and Bill of Rights and U. S. Supreme Court. Introduction to the American Legal System and the First Amendment.

Pember, Chapters 1 and 2

Also, read the Bill of Rights in your text.

Week Two

More on the First Amendment, sedition and the meaning of freedom.

Read Near v. Minnesota, 283 U. S. 697 (1931).

Lexis search questions will be emailed to you.

Week Three	Prior Restraints	Pember, Chapter 3	Know especially <i>Tinker v. Des Moines School District</i> and <i>Hazelwood School District v. Kuhlmer</i> . Search Results Returned
Week Four	Libel-Establishing a Case/ <i>New York Times v. Sullivan</i>	Pember, Chapter 4	Read: <i>New York Times v. Sullivan</i> , 376 U.S. 254-305 (1964) Read and bring to class an article from a known, credible mainstream source about online libel issues.
Week Five	Libel-Proof of Fault/Defenses and Damages	Pember, Chapters 5,6	Know especially <i>Curtis Publishing Co. v. Butts</i> , <i>Gertz v. Welch</i>
Week Six	Invasion of Privacy/	Pember, Chapters 7,8 Read a news story from a known, credible and mainstream source about current online privacy issues.	Know the differences between the four types of invasion of privacy as well as the definitions of each and defenses used in each one.
March 4	Mid-Term Take-Home Exams Distributed—To Be Returned March 12		
March 7-13	SPRING BREAK		
Week Seven	Gathering Information-Records and Meetings	Pember, Chapter 9	Tennessee Public Records Law, TCA, 10-7-503 to 505 Tennessee Open Meetings Law, TCA. 8-44-101 to 106 or Similar Access Laws

			in Your State
Week Eight	Free Press/Fair Trial	Pember, Chapters 11 and 12	See my UM Drive for a recent study regarding effects of publicity on trials.
Week Nine	Regulation of Obscene and Erotic Materials	Pember, Chapter 13	

Week 10	Copyright	Pember Chapter 14	
Research Papers Due April 15 Week 11	Regulation of Advertising	Pember, Chapter 15	
Take-Home Final Exams to be distributed April 18 Week 12	Regulation of Telecommunications	Pember, Chapter 16	
Week 13 Take Home Final Exams Due Back on Wednesday, April 27	Presentation of Research		

Paper Submissions to AEJMC Southeast Colloquium

The Law and Policy Division of AEJMC invites scholars to submit original papers for the annual AEJMC Southeast Colloquium. Please see AEJMC.org for submission deadline as well as dates and location of the regional conference.

Papers may focus on any topic related to communications law and/or policy, including defamation, privacy, freedom of information, Federal Communications Commission issues, copyright, obscenity and other issues regarding freedom of speech and press.

A panel of judges will blind referee all submissions, and selection will be based strictly on merit.

Authors need not be AEJMC or Law and Policy Division members, but they must attend the convention to present accepted papers. The Department of Journalism can provide financial support for your trip.

Law and Policy Division papers must be no longer than 50 double-spaced pages (including appendices, tables, notes and bibliography). You must use Chicago Manual of Style or Bluebook citations.

The top three faculty papers and top three student papers in the Law and Policy Division will be recognized. Student authors of single-authored papers should clearly indicate their student status to be considered for the student paper awards.

Authors should submit one original and three copies of each paper. Each copy should include a 250-word abstract. On the cover page of the original, authors should include the title of the paper, and the name, affiliation, address, office phone, home phone, fax and e-mail address for each author. Student submissions should clearly be indicated on the cover page of the original as well. On the cover page of the three copies, only the title of the paper should appear, with no information identifying any author and no mention of the authors' status as faculty or student.

DEPARTMENT POLICIES

EMAIL:

You must have your UM email account activated. If you are using another provider such as Google, you are required to have your UM email forwarded to that account. Go to the <http://iam.memphis.edu> website to implement forwarding of UM email. You are required to check your email daily. You are responsible for complying with any email sent to you by your professor or the University.

CELLPHONES:

You must turn them off during class.

ATTENDANCE:

Class attendance is mandatory in the Department of Journalism. You may be assigned a failing grade for the semester for nonattendance, or habitual late arrival. No late work will be accepted without prior arrangements, which are acceptable to your professor. Students may not be permitted to make up any missing work unless it is for an absence due to illness or other catastrophic emergency such as a death in the family that can be documented (e.g. with a doctor's note or a copy of the newspaper obituary). This is a professional program for journalists who are expected to understand and comply with deadlines. If you have some problem making it to class on time make arrangements to fix the problem or consider taking another class. You should consider this class your "job" in the educational process and be on time just as you would elsewhere.

CHEATING:

In addition to university-wide policies stated in the Code of Student Rights and Responsibilities, the Department of Journalism considers making up quotes from sources, turning in substantially the same assignment for credit in two different courses, or a student receiving any assistance from others for work assigned to be done on his/her own, as acts of cheating punishable to the degree determined appropriate by the course instructor and department chair. That may include grade reductions or seeking dismissal of the student from the university.

"Your written work may be submitted to Turnitin.com, or a similar electronic detection method, for an evaluation of the originality of your ideas and proper use and attribution of sources. As part of this process, you may be required to submit electronic as well as hard copies of your written work, or be given other instructions to follow. By taking this course, you agree that all assignments may undergo this review process and that the assignment may be included as a source document in Turnitin.com's restricted access database solely for the purpose of detecting plagiarism in such documents. Any assignment not submitted according to the procedures given by the instructor may be penalized or may not be accepted at all."
(Office of Legal Counsel, October 17, 2005)

ONLINE SETEs:

You are urged to complete the SETEs evaluation of this Once your instructor has posted your grade, you can immediately see that grade, provided you completed a teacher evaluation for that class. How to access your evaluation forms: Log in using your UUID and email password; click on the gray “Student” tab; complete an evaluation for each course listed and hit the “Submit” button at the bottom of the form. It will only take a few minutes of your time. We take the evaluations very seriously and use them to improve courses and instructional quality. Your feedback is essential and will be appreciated.

DISABILITY:

Any student who feels s/he may need an accommodation based on the impact of a disability should contact me privately to discuss your specific needs. Please contact the Office for Disability Services at (901) 678-2880 in 110 Wilder Tower Hall to coordinate reasonable accommodations for students with documented disabilities.