

Law of Mass Communication

JOUR 7025/8025-M50

Spring 2015

Online meeting

5:30-8:30 p.m., Tuesday

Matthew J. Haught, Ph.D.

Office: Meeman 326

Office hours: Tuesday & Thursday 1-4 p.m. and by appointment

Phone: 901-678-3490

Email: mjhaught@memphis.edu

COURSE REQUIREMENTS

CATALOG DESCRIPTION:

The study of laws and regulations affecting mass media with attention to the 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.

PREREQUISITE:

Graduate status

COURSE OVERVIEW:

Knowledge of laws and regulations and the legal system, as well as an understanding of the political and social forces that shape the law, are vital to every citizen, regardless of his/her chosen field. This knowledge is especially important to those individuals who choose to work in any field within mass communication. The Seminar in the Law of Mass Communication is designed to provide students in mass communication with the opportunity to study laws and regulations in greater depth through selected readings, research projects, and class discussions. These activities are designed to provide a historical perspective as well as up-to-date knowledge of the current laws and regulations affecting public communication. Students also will explore the ethical implications of developments in the law of public communication. In addition, students will become familiar with fundamentals of legal research and will explore in greater depth an area of law related to their special needs and interests.

TEXTBOOKS REQUIRED:

* Pember, D.R., & Calvert, C. (2014). *Mass Media Law* (19th ed.). New York: McGraw Hill.

ISBN: 9780077861421

* Selected media law cases and other materials (available online).

CLASSROOM FORMAT:

Synchronous Internet Chat using Adobe Connect. Read the assigned chapters **before** class. This class operates in a seminar format. Class time will primarily be spent in discussion of legal issues, facts, and cases. To that end, students must complete the assigned readings and be prepared to discuss the night's topic.

GRADING:

Key Facts Quizzes	15 percent
Discussion Leadership and Response	10 percent
Midterm Exam	15 percent
Final Exam	20 percent
Research Paper	30 percent
Research Paper Presentation	10 percent

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

ATTENDANCE & CLASS CONDUCT FOR JOUR7025/8025

- Attendance is mandatory and will be taken at the beginning of each class session. Students are allowed two unexcused absences; after two, additional unexcused absences will drop the student’s final grade by one letter grade for each absence. Missing a total of six classes will result in the student failing the course. The University’s policy for excused absences apply to this course.
- Attendance will be determined by a roll call on the online chat system.

ASSIGNMENTS

KEY FACTS QUIZZES (Given at random, as needed) 15 percent
These in-class quizzes test students about the basics of media law, including the freedoms of the First Amendment, defenses for libel, the role of the courts, tests for legal standards, and other legal matters. Quizzes will be given at random throughout the semester. Quizzes generally will be fill-in the blank.

DISCUSSANT/RESPONDENT (Once each per semester) 10 percent
Each student is will take the lead on a discussion for class one week; similarly, each student will, for one week, respond to the discussion leader. Students will sign up for their weeks in advance. The discussant will write a two-page essay discussing the week’s readings and turn it in to the professor on Saturday before class. Then, the respondent will write a two-page response to the discussant’s essay. Both essays will be distributed to the entire class on Monday, and students will read both in addition to the week’s readings. During the class session, the discussant and respondent will take the lead in the classroom seminar.

MIDTERM EXAM (March 3) 15 percent
Combines Key Facts with essays about cases and their applications.

FINAL EXAM (May 5) 20 percent
Combines Key Facts with essays about cases and their applications.

RESEARCH PAPER (Various deadlines) 30 percent
Minimum 25-page research paper addressing a legal case or issue. Paper must use primary document research for most of the research, and appropriately use supporting secondary sources. Research must explore a legal topic and argue a legal decision.

RESEARCH PRESENTATION (April 28)**10 percent**

Professional presentation of research paper in class. Students will prepare a 15-minuted audio-visual presentation and be prepared for question and answer.

ADDITIONAL INFORMATION ABOUT RESEARCH PAPER**PROSPECTUS: Due Jan. 27**

1. Your proposal will begin by FIRST writing the questions your paper will attempt to answer.
2. The proposal will explain your topic, i. e., "Former Justice William Joseph Brennan--A Friend of the Press."
3. 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 about 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. In addition, 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? What problem does anonymity pose for libel suits?

PROPOSAL: Due March 3

In total, your proposal should be about 10 pages long. It should include the following sections:

1. Begin with a complete introduction that explains the legal problem you are researching. Your introduction should outline the procedure by which you will argue your point.
2. Write a complete academic literature review about previous scholarship related to your subject. Focus on on journalism and mass communication journals, such as *Communication Law and Policy* and the *Journal of Media Law and Ethics*, the *International Journal of Communication Law and Policy*, *Federal Communication Law Journal*, and *Journalism and Mass Communication Quarterly*. This literature review should support your argument and identify the scholarly gap that your study will answer.
3. Write a brief methodology that explains the primary sources you will engage and how you will build your argument. (The tone of this section might be a bit different as you are discovering your primary sources.)

RESEARCH PAPER: Due April 14

Build on your proposal and complete an original research project. You must use either the Blue Book legal citations or the Chicago Manual of Style, 15th edition, for footnotes.

1. 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.
2. Attribute all direct quotes, and follow style guidelines for setting off direct quotes.
3. Use third-person, active voice.
4. Limit the number of block quotes you use in your paper. As a rule, you should not use more than four in the entire paper.
5. 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.
6. Do not cite your textbook, or a dictionary. Use a minimum of 25 acceptable sources—traditional, scholarly sources, such as law journal articles, legal newspapers, cases, statutes and scholarly books.
 7. 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.
 8. Popular magazines, newspapers, websites etc., are NOT acceptable sources and may be used only sparingly — three or four — in your paper. You may use limited citations — two or three from trade publications, such as *Quill* and *Columbia Journalism Review*.
 9. 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. By taking this course, you agree that your paper may be included as a source document in Turnitin.com’s restricted access database solely for the purpose of detecting plagiarism.

SCHEDULE OF CLASSES

WEEK 1 Jan. 20 Key Facts, the Law, and the U.S. Constitution

- U.S. Constitution and Bill of Rights
- Pember & Calvert Ch. 1

WEEK 2 Jan. 27 First Amendment History and Theory/Incorporation

- *Schenck v. United States*, 249 U.S. 47 (1919)
- *Abrams v. United States*, 250 U.S. 616 (1919)
- *Gitlow v. New York*, 268 U.S. 652 (1925)
- *Whitney v. California*, 274 U.S. 357 (1927)
- Blanchard, M. (1996) The twilight of the first amendment age? *Communication Law and Policy*, 1(3): 329-365.
- Pember & Calvert Ch. 2

WEEK 3 Feb. 3 First Amendment Protections

- *Dennis v. United States*, 341 U.S. 494 (1951)
- *Brandenburg v. Ohio*, 395 U.S. 444 (1969)
- *Santa Clara County v. Southern Pacific Railroad Company*, 118 U.S. 394 (1886)
- *Citizens United v. Federal Election Commission*, 558 U.S. ____ (2010)
- Silver, D. & Kozlowski, D. (2012) The first amendment originalism of Justices Brennan, Scalia and Thomas. *Communication Law and Policy* 17: 385.
- Bunker, M. (2000) Constitutional baselines: First amendment theory, state action, and “new realism.” *Communication Law and Policy* 5:1.
- Pember & Calvert Ch. 3

WEEK 4 Feb. 10 Prior Restraint

- *Near v. Minnesota*, 283 U.S. 697 (1931)
- *New York Times Co. v. United States*, 403 U.S. 713 (1971)
- Carter, E.L. & Clark, B. (2006). Death of procedural safeguards: Prior restraint, due process, and the elusive first amendment value of content neutrality. *Communication Law & Policy*, 11(2): 225-254.
- Schroeder, J. (2014). Focusing on how rather than on whom: Constructing a process-based framework for interpreting the press clause in the network-society era. *Communication Law & Policy*, 19: 509.
- Pember & Calvert Ch. 3

WEEK 5 Feb. 17 Defamation and Libel I

- *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964)
- *Curtis Publishing Co. v. Butts*, 388 U.S. 130 (1967)
- *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974)
- *Rosenbloom v. Metromedia, Inc.*, 403 U.S. 29 (1971)
- Youm, K.H. (2014) The actual malice of *New York Times v. Sullivan*: A free speech touchstone in a global century. *Communication Law & Policy* 19: 185.
- Pember & Calvert Ch. 4

WEEK 6 Feb. 24 Defamation and Libel II

- *Time, Inc. v. Firestone*, 424 U.S. 448 (1976)
- *Hutchinson v. Proxmire*, 441 U.S. 111 (1979)
- *Wolston v. Reader's Digest Assn., Inc.*, 443 U.S. 157 (1979)
- *Herbert v. Lando*, 441 U.S. 153 (1979)
- *Milkovich v. Lorain Journal Co.*, 497 U.S. 1 (1990)
- Forde, K.R. (2005) How *Masson v. New Yorker* has shaped the legal landscape of narrative journalism. *Communication Law & Policy* 10: 101.
- Pember & Calvert Ch. 5-6

WEEK 7 March 3 Midterm exam

WEEK 8 March 10 Spring Break

WEEK 9 March 17 Privacy

- *Time, Inc. v. Hill*, 385 U.S. 374 (1967)
- *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975)
- *Florida Star v. B. J. F.*, 491 U.S. 524 (1989)
- *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97 (1979)
- Halstuk, M.E. & Chamberlin, B.F. (2006) The Freedom of Information Act (1966-2006): A retrospective on the rise of privacy protection over public interest in knowing what the government's up to. *Communication Law & Policy* 11: 511.
- Pember & Calvert Ch. 7-8

WEEK 10 March 24 Commercial Speech I

- *Valentine v. Chrestensen*, 316 U.S. 52 (1942)
- *Pittsburgh Press Co. v. Pittsburgh Commission on Human Relations*, 413 U.S. 376 (1973)
- *Virginia State Pharmacy Board v. Virginia Citizens Consumer Council*, 425 U.S. 748 (1976)
- *Bigelow v. Virginia* 421 U.S. 809 (1975)
- *Central Hudson Gas & Electric Corp. v. Public Service Comm.*, 447 U.S. 557 (1980)
- Pember & Calvert Ch. 15

WEEK 11 March 31 Commercial Speech II

- *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484 (1996)
- *Posadas de Puerto Rico Associates, dba Condado Holiday Inn v. Tourism Company of Puerto Rico et al.* (478 U.S. 328; 106 S. Ct 2968; 92 L. Ed. 2d 266)
- *Greater New Orleans Broadcasting Assn., Inc. v. United States*, 527 U.S. 173, 119 S. Ct. 1923, 144 L. Ed. 2d 161 (1999).
- Michael Hoefges and Milagros Rivera-Sanchez, "Vice" Advertising under the Supreme Court's Commercial Speech Doctrine: The Shifting Central Hudson Analysis, 22 HASTINGS COMM. & ENT. L.J. 345 (2000)
- Hindman, E.B. (2004). The Chickens Have Come Home to Roost: Individualism, Collectivism and Conflict in Commercial Speech Doctrine. *Communication Law & Policy* 9: 237.
- Pember & Calvert Ch. 15

WEEK 12 April 7 Intellectual Property

- *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004 (2001) *The Copyright Act of 1976*, 17 U.S.C. §§ 101-810
- Stewart, C. (2014) Do Androids Dream of Electric Free Speech? Visions of the Future of Copyright, Privacy and the First Amendment in Science Fiction. *Communication Law & Policy* 19: 443.
- Bunker, M. (2009) Adventures in the Copyright Zone: The Puzzling Absence of Independent First Amendment Defenses in Contemporary Copyright Disputes. *Communication Law & Policy* 14: 273.
- Pember & Calvert Ch. 14

WEEK 13 April 14 Obscenity & Telecommunications

- *FCC v. Pacifica Foundation*, 438 U.S. 726 (1978)
- *FCC v. Fox Television Stations, Inc.*, ___ U.S. ___ (2012)
- *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997)
- *Verizon Communications Inc. v. Federal Communications Commission*, 740 F.3d 623 (D.C. Cir. 2014); 11-1355 (2014)
- Cenite, M. (2004) Federalizing Or Eliminating Online Obscenity Law As An Alternative To Contemporary Community Standards. *Communication Law & Policy* 9: 25.
- Matthew D. Bunker, Clay Calvert & William C. Nevin (2011) Strict in Theory, But Feeble in Fact? First Amendment Strict Scrutiny and The Protection of Speech, *Communication Law and Policy*, 16:4, 349-381
- Pember & Calvert Ch. 13, 16

WEEK 14 April 21 Free Press/Fair Trial & Journalistic Privilege and FOI

- *Cohen v. Cowles Media Co.*, 501 U.S. 663-679 (1991).
- Tenn. Code Ann. 8-44-102 et seq.
- Tenn. Code Ann. 10-7-503 et seq.
- Freedom of Information Act (FOIA), 5 U.S.C. § 552
- *Press-Enterprise Co. v. Riverside Superior Court II*, 478 U.S. 1-15 (1986).
- Bunker, M.D., Splichal, S.L., & Martin, S. (1999). Triggering the first amendment: Newsgathering torts and press freedom. *Communication Law and Policy*, 4(3): 273-297.
- Pember & Calvert Ch. 9-12

WEEK 15 April 28 Research presentations

FINAL May 5 5:30-7:30 p.m.

DEPARTMENT POLICIES

PORTFOLIO REQUIREMENT:

All Department of Journalism undergraduate students are required to develop and maintain an active portfolio of their work. Students are to begin the portfolio in JOUR 2121 and contribute to it during every skills course thereafter. The portfolio should contain samples of the student's work from courses and/or professional experience and should develop as the student builds skills. Portfolios will undergo a final review while students are enrolled in the capstone course for their concentration.

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 <http://iam.memphis.edu> 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. Personal student information, such as grades, is restricted to your UM email address.

MOBILE PHONES AND LAPTOPS:

Some classes require a tablet, laptop or a smartphone to be used during class or to complete class assignments. Others do not allow them. Your instructor will set the policy for his/her specific 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. Your instructor will set the policy for his/her specific class. Students with excessive absences are encouraged to withdraw from the course prior to the drop deadline.

DEADLINES:

All deadlines are firm. Assignments turned in late will **NOT** be accepted unless arrangements have been made with the instructor.

ACADEMIC INTEGRITY:

In addition to university-wide policies stated in the Code of Student Rights and Responsibilities, the Department of Journalism considers any fabrication of content and/or sources, misappropriation and plagiarism of facts or other content, turning in substantially the same assignment for credit in two different courses, receiving any assistance from others for work assigned to be completed on his/her own, and violations of copyright law as acts of academic dishonesty punishable to the degree determined appropriate by the course instructor and/or department chair. Penalties might include grade reductions, failure of the course and/or 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).

Intellectual property and copyright guidelines

1. Ideas cannot be copyrighted.
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.

Plagiarism: From UM Student Handbook: 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.

ONLINE SETEs:

You are urged to complete the SETEs evaluation of this course. 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 to coordinate reasonable accommodations for students with documented disabilities.

DIVERSITY:

Students are required to respect the differences of others and treat all persons with civility. Discriminatory, derogatory and threatening language or behavior will not be tolerated. Further, students are expected to consider their work through a diverse mind. Mass communication reach a mass audience, and students should be aware of how those messages are received by a diverse audience.

WEATHER POLICY:

Check with local media and the University of Memphis website regarding inclement weather. If the university is closed or classes are canceled, this course will not meet. However, students will still be responsible for that day's work.

AP STYLE AND GRAMMAR:

All written work should follow the AP Stylebook and accepted rules of grammar and punctuation. If you don't know the style for a particular phrase, look it up or ask your classmates or the instructor.