

Seminar in Mass Communication Law

JOUR7025-M50

Spring 2013

5:30-8:30 Mondays, online (Memphis time)

Instructor: Dan Trigoboff, JD

Consultations by phone or email

Phone: 910 988-0879 910 630-7066.

Best times to reach me are Tuesday, Thursday and Friday afternoons.

Contact me at dtrboff@memphis.edu or dtrigoboff@methodist.edu

COURSE REQUIREMENTS

CATALOGUE/COURSE 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.

TEXTBOOKS:

Required:

Pember, Don R., and Clay Calvert, *Mass Media Law*, 18th Edition, · Publisher: McGraw-Hill Humanities/Social Sciences/Languages; 18 edition (February 21, 2012)

ISBN-10: 0073526185

ISBN-13: 978-0073526188

Recommended: *Chicago Manual of Style*

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

Suggested Research Aids:

1. *Black's Law Dictionary*, West Publishing Company.
2. Wren, Christopher G. and Jill Robinson Wren, *The Legal Research Manual*. Adams and Ambrose Publishing Co.
3. Helpful site, in addition to Lexis/Nexis, for legal research online:
4. <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

COURSE SPECIFIC REQUIREMENTS:

1. Assigned readings w/ quizzes.
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.

SEE DETAILS ON THE RESEARCH PROPOSAL AND PAPER AT THE BOTTOM OF THIS SYLLABUS.

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: Consider quizzes and class participation as a way to enhance your grade while studying the material. I look for informed and insightful questions and comments that advance the classes' understanding of the material.

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, but clear them with me first. The books included provide solid information about the First Amendment and/or how the U.S. Supreme Court works. They are written for a mass audience, not lawyers. 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 12.

**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

**Supreme Conflict: The Inside Story of the Struggle for Control of the United States Supreme Court* Jan Crawford Greenburg

Don't Shoot the Messenger: How Our Growing Hatred of the Media Threatens Free Speech for All of Us Bruce Sanford.

ONLINE PROTOCOL

You need to use your University of Memphis email as your login. Then your password.

Then go to: meeting --> Audio Setup Wizard.

Please go through this set-up BEFORE class.

The link is below.

<http://ummeet.adobeconnect.com/jour7025>

Don't forget to use your headsets and mics.

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

Class Schedule for Spring 2013

We will not hold class on Jan. 21 due to the holiday. However, the material in Week One provides a foundation for the course, and I encourage you to read the assignments carefully. Contact me if you have questions.

Week One—and Two 1/28

Go over syllabus.
Discuss the Constitution, Bill of Rights and U. S. Supreme Court.
Read Introduction to the American Legal System and the First Amendment. Be able to discuss the following: It is easy to agree to give freedom of speech if you agree with what is being said. Otherwise, it is not so easy.
Read Pember, Chapters 1 and 2.
Also, read the Bill of Rights in your text.

Continue to discuss the First Amendment, sedition and the meaning of freedom. Read *Near v. Minnesota*, 283 U. S. 697 (1931). Be able to answer the question: At what point does speech cross the line and become incitement.
Lexis search questions will be emailed to you

Week Three—2/4

Prior Restraints
Read Pember, Chapter 3
Know especially *Tinker v. Des Moines School District* and *Hazelwood School District v. Kuhlmer*.
Return your search results from Lexis/Nexis.
Research Proposal Due 2/8

Week Four--2/11

Libel-Establishing a Case
Read *New York Times v. Sullivan*, 376 U.S. 254-305 (1964)
Read Pember, Chapter 4
Read and bring to class an article from a known, credible mainstream source about online libel issues

Week Five--2/18

Libel-Proof of Fault/Defenses and Damages
Pember, Chapters 5,6
Know especially *Curtis Publishing Co. v. Butts*, *Gertz v. Welch*

Week Six--2/25

Invasion of Privacy
Read Pember, Chapters 7,8
Read a news story from a known, credible and mainstream source about current 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.

Week Seven--3/4 Gathering Information-Records and Meetings

--What is the public's right to know and why is it important?

Read Pember, Chapter 9

Read 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

Mid-Term Take-Home Exams at a time TBA

Extra Credit Reports Due 3/10/12

SPRING BREAK 3/11---3/17

Week Eight--3/18

Free Press/Fair Trial--Practice vs. Perception

**Be Ready to Discuss the above topic plus which is more important--
the First Amendment or the Sixth or is there a third option and
why?**

Read Pember, Chapters 11 and 12

**Read and be ready to discuss a recent scientific study regarding the
effects of publicity on trials. (This material is likely to run over to the
following week.)**

Week Nine--3/25 Regulation of Obscene and Erotic Materials

**Focus on difficulties regulating content, difference between
sexual content and illegal obscenity and separate protections
for minors.**

Read Pember, Chapter 13

Week Ten--4/01

Copyright --Questions for Discussion:

**Online Piracy, News Aggregation and the Hot News doctrine. Are
proposed solutions constitutional?**

**Read Pember Chapter 14. Find articles on online piracy and "hot
news," and be ready to discuss them in class.**

Week Eleven--4/8

Regulation of Advertising

**What are the ways in which we regulate advertising? What are the
weaknesses of each?**

Read Pember, Chapter 15

Week Twelve--4/15

**Regulation of Telecommunications--What are the newer issues in
this area of regulation? What is net neutrality and what is its current
status?**

**Read an article from a mainstream publication and be ready to
discuss net neutrality.**

Read Pember, Chapter 16

Research Papers Due April 15

Week Thirteen--4/22 Presentation of Research

Take Home Final Exams May 6

**DETAILS ON RESEARCH PROPOSAL AND RESEARCH PAPER BELOW.
PLEASE REFER TO THESE AS YOU COMPLETE EACH ASSIGNMENT.**

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 of 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, and 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. What are some special problems with suing for libel for Internet content?

The Research Paper (due April 15):

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. **DO 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.

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. *[Please note: you will be writing your paper for the fall 2013 deadline and the spring 2014 conference. The current website refers to the spring 2013 conference held in February.]* 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.

ASSESSMENT

PROFESSIONAL VALUES AND COMPETENCIES FOR SEMINAR IN MASS COMMUNICATION LAW

- understand and apply the principles and laws of freedom of speech and press in the United States as well as receive instruction in and understand the range of systems of freedom of expression around the world, including the right to dissent, to monitor and criticize power, and to assemble and petition for redress of grievances;
- demonstrate an understanding of the history and role of professionals and institutions in shaping communications;
- conduct research and evaluate information by methods appropriate to the communications professions in which they work.

HOW PROFESSIONAL VALUES AND COMPETENCIES WILL BE MET IN JOUR7025:

Upon completion of Journalism 7025, students should have a better understanding of the laws that affect mass media and those who plan to work in media-related fields.

- Students will learn the laws related to libel, privacy, copyright, access to government information, advertising and telecommunications.
- Students will learn to apply the law through the use of hypothetical legal problems they must solve at each class meeting following discussion. This exercise is intended to develop their abilities to think critically as application is the highest form of learning.
- Students will gain knowledge of the operation of the U.S. Supreme Court as well as its influence on their daily lives, including the effect of the law on the rights of women and minorities and their inclusiveness in American life.
- Students will gain knowledge of the importance of federal and state access laws and the ability to use these in their working lives.
- Students will learn to think critically about the political and social forces that help to shape laws that continue to evolve in response to these political and social forces.

HOW ASSESSMENT OF STUDENT LEARNING WILL BE MET FOR SEMINAR IN MASS COMMUNICATION LAW

- Students will demonstrate knowledge of media law through two take-home exams, informed class discussion and presentation of selected topics.
- Students will develop the ability to analyze and solve hypothetical legal problems.
- Students will prepare a research paper proposal on a specific topic related to their field of interest, which will be approved by the instructor. By the date listed in the calendar, students will submit a conference-quality research paper on a selected area/problem within media law, using a minimum of 25 primary legal sources. (Detailed instructions are in the syllabus.)

PROFESSIONAL VALUES AND COMPETENCIES FOR JOURNALISM PROGRAM:

The Accrediting Council on Education in Journalism and Mass Communication requires that, irrespective of their particular specialization, all graduates should be aware of certain core values and competencies and to

- understand and apply the principles and laws of freedom of speech and press, for the country in which the institution that invites ACEJMC is located, as well as receive instruction in and understand the range of systems of freedom of expression around the world, including the right to dissent, to monitor and criticize power, and to assemble and petition for redress of grievances;
- demonstrate an understanding of the history and role of professionals and institutions in shaping communications;
- demonstrate an understanding of gender, race, ethnicity, sexual orientation and, as appropriate, other forms of diversity in domestic society in relation to mass communications.
- demonstrate an understanding of the diversity of peoples and cultures and of the significance and impact of mass communications in a global society.
- understand concepts and apply theories in the use and presentation of images and information;
- demonstrate an understanding of professional ethical principles and work ethically in pursuit of truth, accuracy, fairness and diversity;
- think critically, creatively and independently;
- conduct research and evaluate information by methods appropriate to the communications professions in which they work;
- write correctly and clearly in forms and styles appropriate for the communications professions, audiences and purposes they serve;
- critically evaluate their own work and that of others for accuracy and fairness, clarity, appropriate style and grammatical correctness;
- apply basic numerical and statistical concepts;
- apply tools and technologies appropriate for the communications professions in which they work.

ASSESSMENT OF STUDENT LEARNING FOR JOURNALISM PROGRAM:

The Council seeks to promote student learning and encourages experimentation and innovation. Assessment is a system of evaluation of student learning at the course or unit level (as opposed to grading at the individual level). Three criteria should guide assessment of student learning:

- Awareness: familiarity with specific information, including facts, concepts, theories, laws and regulations, processes and effects.
- Understanding: assimilation and comprehension of information, concepts, theories and ideas.
- Application: competence in relating and applying skills, information, concepts, theories and ideas to the accomplishment of tasks.

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:

Cell phones should be 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 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 the Office for Disability Services at (901) 678-2880 in 110 Wilder Tower Hall to coordinate reasonable accommodations for students with documented disabilities.