

JOMC 340: Intro to Mass Communication Law

Summer 2015, Session II: Monday-Friday 1:15 p.m. – 2:45 p.m., Carroll 33

Instructor: Brooks Fuller



pfuller@live.unc.edu



@ItsPBrooks (Follow me on Twitter to share media law news and events)

366 Carroll Hall

Office Hours: Monday-Thursday, 2:45 p.m.- 4:00 p.m. or by appointment

Please sign up for office hours online at brooksfuller.youcanbook.me

Prerequisites: JOMC 153 – News writing. This class is a requirement for all JOMC majors (you must pass with a C- or better to graduate from the School of Journalism and Mass Communication).

Course objectives. Welcome to JOMC 340! The University catalog and the JOMC Course Directory say JOMC 340 is: “Introduction to press freedom and the First Amendment, including libel, privacy, access to information, free press-fair trial, advertising and broadcast regulation, journalistic privilege, and prior restraint.” The laws governing news reporters and mass communication practitioners are grounded in traditions and philosophies that pre-date much of the media practices and technologies that will make up your professional life. In JOMC 340, we will trace some of the key developments in the philosophies underlying mass communication law and we will survey an array of legal doctrines so that you are equipped to identify and analyze many of the practical legal issues that impact your chosen professions in practice.

At the end of this course, you should be able to:

- Understand the various sources of law that govern communication and media practice and the court/regulatory systems in which media law issues are adjudicated
- Understand the origins and theory of the First Amendment and associated communication freedoms
- Be able to read a case and identify its key components in an organized, well written case brief
- Identify or “spot” legal issues in mass communication practice and in hypothetical cases
- Apply fundamental legal doctrines to hypothetical fact situations to show your ability to identify key facts and determine the likely outcome of a hypothetical legal problem
- Know the key elements of libel, privacy, copyright infringement, trademark claims and other claims to avoid such claims or, alternatively, to be prepared to defend oneself against such claims

Required texts and readings.

Trager, Russomanno, Ross & Reynolds (eds). *The Law of Journalism and Mass Communication*, 4th edition. Referred to as “Trager” in the syllabus.

For some helpful study aids, see the website for the 3rd edition of our textbook at: <http://college.cqpress.com/sites/medialaw/Home.aspx>

***NOTE: This is an older online version of the text, so use it only as a supplement for basic concepts as the law has changed in several complex areas. The information covered in class discussions will be up-to-date, so you should primarily rely on that as you study.

Cathy Packer, Hugh Stevens & C. Amanda Martin, eds., *North Carolina Media Law Handbook*, 2007. (This is available online at <http://ncmedialawhandbook.com/>.) (Referred to as NCMLH in the syllabus.)
VERY HELPFUL, QUICK PRIMER.

The textbooks will be supplemented by articles and other readings via Sakai located under the “Resources” tab.

NOTE: All assigned readings should be completed before the class sessions for which they are assigned. The readings will prepare you to discuss, ask questions, offer opinions and perspectives, disagree, argue, share knowledge, etc. We will also have in-class and online reading quizzes covering the text and the supplemental readings (see below).

Honor Code. You are expected to conduct yourself within the guidelines of the University honor system (<http://honor.unc.edu>). All academic work should be done with the high levels of honesty and integrity that this University demands. You are expected to produce your own work in this class. You should properly attribute any work done by others. Your full participation and observance of the Honor Code is expected, and it is your responsibility to be aware of what constitutes a violation of the Honor Code. In your group work you should also be mindful that you are responsible for upholding and maintaining the honor of our University learning community.

Diversity. The University’s policy statements on Equal Employment Opportunity and Nondiscrimination are outlined here: <http://www.unc.edu/ugradbulletin/intro.html>. In summary, UNC does not discriminate in offering access to its educational programs and activities on the basis of age, gender, race, color, national origin, religion, creed, disability, veteran’s status, sexual orientation, gender identity, or gender expression or disabilities.

Harassment. UNC does not tolerate harassment based on gender, race, religion, sexual orientation, culture, disability, or for any other reason. It is also a violation of the Honor Code and Title VII of the Civil Rights Act (1964) and Title IX of the Educational Amendments. If you need assistance with a harassment issue or problem, bring it to my attention or The Office of the Dean of Students, dos@unc.edu or 919-966-4042.

Special Accommodations: If you require special accommodations to attend or participate in this course, please let me know as soon as possible. If you need information about disabilities and accommodations, visit the Learning Center website at <http://learningcenter.unc.edu/ldadhd-services/> or call 919-962-3782.

Attendance. You are expected to attend class. Learning is a participatory process. Attendance will be taken every day using a sign-in sheet. It is your responsibility to sign in each class period, so please seek out the attendance sheet. You may take up to two (2) absences for any reason without it adversely impacting your grade. You do not have to notify me of your reasons for these two absences, and you do not have to provide a doctor's note. **Use your absences wisely.** If you know you need to be absent for university-related activities or other obligations, be sure to take those into account. For each class you miss after two, your final course grade will be lowered by three points. For example, if your grade is 81 (B-) and you have three absences, your final grade will be changed to a 78 (C+). No absence after your two allowed absences will be excused unless serious extenuating circumstances exist. If circumstances exist that require substantial time out of class, I will contact the Senior Associate Dean for Undergraduate Studies for help to resolve your attendance situation.

Arriving on time is a courtesy to your fellow classmates and is a component of the attendance requirements for this class. Repeated tardiness (10 min or more) will affect your attendance and participation grade. If you must leave class early, please let me know prior to the start of class, but please do not make a habit of leaving early.

Participation. This course is enriched by your active participation in the class and/or on Sakai. Our classroom will be a safe space for discussing unique viewpoints, but we must maintain decorum and respect at all times. At times, I may call on you to move the discussion along and contribute to class by articulating points from the course in your own words. Sometimes I will ask you follow-up questions to help distinguish important cases and concepts. If you keep up with the assigned readings and study the material with your classmates, you will have no problem preparing for this type of in-class discussion. By calling on you in class, it is not my intention to single you out or pick on you, but to give you an additional opportunity to discuss what you are learning and contribute to our learning environment. When you critically engage in the reading materials and come to class prepared, I think you'll find it makes learning easier and more fun when we use this method to explore the material as a group. Please feel free to e-mail me or post questions to our discussion forum on Sakai throughout the semester, particularly if you stumble upon interesting media law issues in the news. Your participation in all class activities is important and will count for 50 points (out of 450 possible points; approx. 10%).

Participation will often include homework "assignments," denominated as HW/P on the syllabus or announced in class. These are not standard assignments that I will collect for grades, but rather chances for you to do some out-of-class thinking, reading, and discussion that will then enrich our class when you come in with your own, fresh ideas. If you don't get a chance to share your thoughts during class, please feel free to share what you found or what you're thinking by starting a discussion thread on Sakai.

Laptops and cell phones. Laptops are permitted in class; however, I reserve the right to ask you to close your laptops during presentations or other class discussions. You are expected to use your laptop only to take notes for class or view course materials and websites. Other use may result in my asking you to leave your laptop at home. **Cell phone/smart phone use is not permitted in class.** Please silence your cell phones and keep them in your bags. I have no problem allowing you to monitor your cell phone for emergencies, but you must let me know in advance and in a courteous manner. If you are expecting an important phone call or must respond to an emergency, please let me know before class. Otherwise, if I see you using your phone during class, I will deduct 5 points (approx. 1 percentage point) from your final grade each time you use your phone without permission. NOTE: We will take a 5-10 minute break in the middle of each class.

Office hours. My office hours are Monday through Thursday from the end of class at 2:45 p.m. until 4:00 p.m., and by appointment. You are also welcome to make an appointment by email at least two days in advance or by visiting <https://brooksfuller.youcanbook.me>. Appointments are highly encouraged and preferred. When making an appointment, please also include a brief note about your question or concern for our meeting so that I can be most helpful to you. You may also email me with questions at any time. I will try to answer questions by email within 24 hours of receipt. Please feel free to drop in to chat. I rarely respond to e-mail after 8pm, so please consider this when you need to ask questions about assignments, exams, or other issues.

Your final grade will be calculated as follows:

| | |
|---|-------------------|
| * Participation (in-class/Sakai and attendance) | 50 points |
| * In-class presentation | 25 points |
| * Case brief (homework) | 25 points |
| * Quizzes (in class and on Sakai) | 100 points |
| * Midterm exam | 100 points |
| * Final exam (cumulative) | <u>150 points</u> |
| | 450 points |

Grade scale. The alpha/numeric conversion for course grades is as follows:

- A = 417-450 points (93-100%)**
- A- = 403-416 points (90-92%)**
- B+ = 390-402 points (87-89%)**
- B = 372-389 points (83-86%)**
- B- = 358-371 points (80-82%)**
- C+ = 345-357 points (77-79%)**
- C = 327-344 points (73-76%)**
- C- = 313-326 points (70-72%)***
- D+ = 299-312 points (67-69%)**
- D = 268-298 points (60-66%)**
- F = less than 268 points (less than 60%)**

*This course is required for students enrolled in the School of Journalism and Mass Communication. You must earn at least a C- to avoid repeating the course.

Grades are not negotiable. However, I am happy to meet with you regarding a specific assignment or exam grade as long as you contact me within one week of receiving the grade. I am happy to correct clerical errors at any time.

Quizzes: Quizzes will cover material from the assigned readings. In-class, “pop” quizzes will cover material assigned for the day on which the quiz is given. For example, a quiz given on July 1, 2015 will cover only the reading material listed on the syllabus for July 1. Sakai quizzes may cover a broader range of material. Expect each quiz to take approximately 5 minutes. Each quiz is worth the same number of points (10). I will give approximately twelve (12) quizzes during the semester. Only your ten (10) highest scores will count. There will be no makeup quizzes. If you are absent for an in-class quiz, you will receive a score of 0. Please note that Sakai quizzes will be timed and only accessible for a limited time. Please be diligent and complete Sakai quizzes on time. All quizzes are closed book and closed note, and you may not work in groups.

In-Class Presentations: You will be assigned to present a 5-10 minute talk about a current media law issue or case that you find interesting or relevant to your future career, school, or your personal interests. Your presentation is worth 25 points. Although this is meant to be fairly informal and to prompt discussion about interesting issues in media law, you will be graded based on the quality of your presentation, your ability to explain the key facts and issues in the case and why the issue is significant, and your ability to answer basic questions about your topic. You will not be graded on your technical mastery of the media law issues since you will be presenting on topics we have not yet discussed in class. The main purpose of this assignment is to get you to find something you are truly interested in and tell us about it! For example, if you are interested in photography and visual communication, you may want to discuss the *Sconnie Nation* case (see <http://fairuse.stanford.edu/case/kienitz-v-sconnie-nation-llc/>) and the doctrine of fair use in Copyright Law.

Case briefs: During week one, we will discuss how to read judicial decisions as primary sources of common law (i.e. case precedent). To fully appreciate these sources, it is important to understand how to recognize the most important facts, rules of law, and the rationale for the court’s decision. Case briefs help you organize your thoughts and simplify more complicated court cases. They are also helpful study tools as you prepare to write essay responses for the exams. You will be asked to brief a key media law case to assess your ability to analyze the facts and key outcomes of a real case. I will provide you with an example brief. In the first two weeks of class, I will post to Sakai a PDF version of the case I would like you to brief. Your assignment is to read the case thoroughly and write a case brief of about 2-3 pages in which you outline the key Facts, Procedural background, legal Issues, Rules of Law, the Decision, the court’s rationale for the decision, and any significant concurring or dissenting opinions issued by the judges. The case brief is DUE Friday, July 17, 2015 by 5:00pm via e-mail to pfuller@live.unc.edu. Early submissions are encouraged. Late case briefs will not be accepted and will earn a score of 0 out of 25. No exceptions.

While you will likely not have to brief judicial opinions during your professional work unless you pursue a legal education, the ability to parse and understand technical legal language will enhance your ability to perform your work as a communications practitioner because you will be better prepared to read judicial opinions, professional case studies, ethics opinions, FTC orders, and other materials that may impact your work. Learning to dissect cases will also help you as you work through the materials in our class and succeed in JOMC 340.

Exams. We will have two in-class exams, a midterm and a final. The exams will cover material presented in class and in the readings. Exam questions may appear in the form of multiple choice, true-false, short answer, or essay questions. The final exam will have a cumulative portion that will include material from the first exam.

Week by Week – JOMC 340 Summer II, 2015

Please note: this schedule is subject to change.
Always check the syllabus on Sakai for the most up-to-date info

| Date | Topic | Assignment for this day |
|---|--|--|
| <p><u>WEEK 1</u></p> <p>Monday, June 22</p> | <p>Syllabus and Intro to the Sources of Law and the Courts</p> | <p>READ: Syllabus READ: Trager - Chapter 1, The Rule of Law, pp. 3-29 (STOP at The Case Process)</p> <p>HW/P: Spend some time re-reading the section on <i>Citizens United</i> (pp. 40-46) and take notes for class discussion tomorrow. What are the First Amendment concerns in <i>Citizens United</i>? Should all expenditures be treated as speech? What might change your mind?</p> <p>Tomorrow we will also discuss how to brief cases, why case briefing will help you in JOMC 340, to infinity, and beyond.</p> |
| <p>Tuesday, June 23</p> | <p>Understanding the Courts</p> | <p>READ: Trager – Chapter 1, The Rule of Law, pp. 29-49 (STOP at end of Chapter 1)</p> <p>READ: NCMLH <i>The North Carolina State System</i> chapter</p> <p>READ: “About Federal Courts”</p> <p>Available at http://www.uscourts.gov/FederalCourts.aspx Click on the “About the Federal Courts” menu on at the top of the page. Read the main page and the first three subheadings (STOP at Educational Resources and skip over references to Bankruptcy court and Article I courts).</p> |
| <p>Wednesday, June 24</p> | <p>First Amendment: Protections and Hierarchies</p> | <p>READ: “A Plague of Hypersensitivity” (Sakai)</p> <p>READ: Trager - Chapter 2, The First Amendment, pp. 50-65 (STOP at Contemporary Prior Restraints)</p> <p>READ: Trager – Chapter 11, Electronic Media Regulation, pp. 512-516 (Internet Regulation)</p> |
| <p>Thursday, June 25</p> | <p>First Amendment: Hierarchies cont’d, Prior Restraints</p> | <p>READ: Trager – Chapter 2, The First Amendment, pp. 65-97 (Including Cases for Study – STOP at end of Chapter 2)</p> <p>[Be prepared for a Quiz on Chapter 1 and 2]</p> |

| | | |
|---|--|---|
| | | HW/P: Spend some time reading the cases for study (NYT v. United States, and Near v. Minnesota). Think about the concept of prior restraint. What constitutes a prior restraint? Are they valuable/worthwhile/effective? How would you have decided the NYT v. United States "Pentagon Papers" case? |
| Friday, June 26 | Protected vs. Unprotected Speech Categories | READ: Trager, Chapter 3, Speech Distinctions, pp. 100-138 READ: "Elonis v. United States and the Nuances..." (New Yorker piece) (Sakai) |
| <u>WEEK TWO</u> Monday, June 29 | Indecency, Obscenity, and Violence | READ: Trager, Chapter 12, Obscenity, Indecency, and Violence, pp. 526-575 READ: Trager, Chapter 11, Electronic Media Regulation, pp. 474-483 (STOP at Program and Advertising Regulations) |
| Tuesday, June 30 | Commercial Speech | READ: Trager, Chapter 14, Advertising, pp. 637-649 (STOP at Legislative and Agency Ad. Regulation), and pp. 661-674 (Cases for Study --- Focus on <i>Central Hudson</i>) READ: Bolger v. Youngs Drug Prod. ("Syllabus" only: available at https://www.law.cornell.edu/supremecourt/text/463/60#writing-USSC_CR_0463_0060_ZS) |
| Wednesday, July 1 | Commercial Speech cont'd Advertising regulations | READ: Trager, Chapter 14, Advertising, pp. 649-660 READ: FTC ".com Disclosures" (Sakai) Recent FTC ruling: https://www.ftc.gov/news-events/press-releases/2015/06/crowdfunding-project-creator-settles-ftc-charges-deception |
| Thursday, July 2 | Advertising Cont'd, Political Ads, and Regulated financial communications AND/OR Exam Review | READ: Trager, Chapter 11, Electronic Media Regulation, pp. 483-497 (STOP at Broadcast Licensing) READ: Benefits and Risks of Using Social Media for Financial Comm. (Sakai) READ: SEC guidance for using social media to disclose material nonpublic information at http://www.sec.gov/litigation/investreport/34-69279.pdf |
| Friday, | | |

| | | |
|---|--|--|
| July 3 | Midterm Exam | Please come to class with sharpened #2 pencils and a fresh “scantron” sheet. |
| <u>WEEK THREE</u> Monday, July 6 | Libel and Defamation | READ: Trager, Chapter 4, Libel: The Plaintiff’s Case, pp. 142-158 (STOP at Defamation) READ: NCMLH, Libel chapter (Identification section, Publication section) |
| Tuesday, July 7 | Libel and Defamation | READ: Trager, Chapter 4, Libel: The Plaintiff’s Case, pp. 158-164 (STOP at Actual Malice), and Texas Beef Group v. Winfrey (Sakai) READ: NCMLH, Libel chapter (Defamatory Content section) |
| Wednesday, July 8 | Libel and Defamation | READ: Trager, Chapter 4, Libel: The Plaintiff’s Case, pp. 164-187 (Focus on Cases for Study) READ: NCMLH, Libel chapter (Fault section, Injury section) |
| Thursday, July 9 | Defenses to Libel and Defamation | Read: Trager, Chapter 5, Libel: Defenses and Privileges, pp. 189-205 (STOP at Libel-Proof Plaintiff) and pp. 216-225 |
| Friday, July 10 | Defenses to Libel and Defamation | READ: Trager, Chapter 5, Libel: Defenses and Privileges, pp. 206-216 Read: NCMLH (Defenses section) |
| <u>WEEK FOUR</u> Monday, July 13 | Privacy claims: False light/Embarrassing Private facts | READ: Trager, Chapter 6, Protecting Privacy, pp. 227-243 (STOP at Appropriation) READ: NCMLH, Privacy Chapter (False Light section) |
| Tuesday, July 14 | Privacy claims: Embarrassing Private facts/Intrusion | READ: Trager, Chapter 6, Protecting Privacy, pp. 259-273 (STOP at Cases for Study) READ: NCMLH, Privacy Chapter (Private Facts section) |
| Wednesday, July 15 | Privacy claims: Appropriation | READ: Trager, Chapter 6, Protecting Privacy, pp. 243-259 (STOP at Intrusion) READ: NCMLH, <i>Privacy</i> chapter (“Appropriation” section) READ: “When to Use a Release” in the context of using a person’s name or image at http://fairuse.stanford.edu/overview/releases/when/ |
| | | |

| | | |
|--|---|---|
| <p>Thursday, July 16</p> | <p>Intellectual Property: Copyright</p> | <p>READ: Trager, Chapter 13, Copyright, pp. 577-603 (STOP at Fair Use) READ: NCMLH, <i>Copyright</i> chapter (all)</p> <p>READ: “Welcome to the Public Domain” at http://fairuse.stanford.edu/overview/public-domain/welcome/</p> <p>READ: “Public Domain Trouble Spots” at http://fairuse.stanford.edu/overview/public-domain/trouble-spots/</p> |
| <p>Friday, July 17</p> | <p>Intellectual Property: Copyright cont’d and Fair Use</p> | <p>READ: Trager, Chapter 13, Copyright, pp. 603-627 (STOP at Cases for Study)</p> <p>READ: Digital Media Law Project, “Cybersquatting” available at http://www.dmlp.org/legal-guide/cybersquatting</p> <p>READ: “Fair Use” at http://fairuse.stanford.edu/overview/fair-use/ and be sure to scroll down and read the four subsections titled “What is Fair Use?,” “Measuring Fair Use: The Four Fair Use Factors,” “Summaries of Fair Use Cases,” and “Disagreements Over Fair Use: When are You Likely to Get Sued” – each of these sections is a hyperlink you must click.</p> <p>Case brief DUE via e-mail by 5pm to pfuller@live.unc.edu</p> |
| <p><u>WEEK FIVE</u> Monday, July 20</p> | <p>Catch-up on IP</p> <p>AND Intro to Access to Government Activities (meetings and law enforcement)</p> | <p>READ: Trager, Chapter 10, Media and the Courts, pp. 418-450 (STOP at Bench-Bar Press Guidelines)</p> <p>READ: NCMLH, <i>Access to the Judicial Process</i> (all)</p> <p>NOTE: Today’s class is paced to allow us some flexibility. We may not cover all of the Access materials, but you will need to read everything for quizzes and the final.</p> |
| <p>Tuesday, July 21</p> | <p>Court rooms and trial publicity, a PR perspective</p> | <p>Guest speaker: Kylah Hedding (QUIZ TODAY)</p> <p>NOTE: Readings TBD, please check Sakai/e-mail</p> |
| <p>Wednesday, July 22</p> | <p>Protection of Sources and Reporter’s Privileges</p> | <p>READ: Trager, Chapter 9, Reporter’s Privilege, pp. 382-416 (Full Chapter) READ: NCMLH – the Journalist’s Privilege</p> |
| <p>Thursday, July 23</p> | <p>Newsgathering and FOIA</p> | <p>Guest speaker: Pressley Baird (QUIZ TODAY)</p> <p>READ: Trager, Chapter 8, Newsgathering, pp. 324-334 (STOP at Using Social Media...) and pp. 346-373 (SKIM Cases for Study section)</p> <p>READ: NCMLH, <i>Access to Government Meetings</i> and <i>Access to State and Local Documents</i></p> |
| | | |

| | | |
|-----------------------------|---|--|
| Friday, July 24 | Reading Day | Office hours will be available from 10am-1pm and by appointment |
| Monday, July 27 | Review Session | We will meet for review from 1:15-2:15 in Carroll 33. |
| Tuesday, July 28 | Final Exam 11:30am to 2:30pm in Carroll 33 | Please come to class with sharpened #2 pencils and a fresh "scantron" sheet. |

If you have any questions about material on the syllabus, please e-mail me at pfuller@live.unc.edu