



## MEJO 341: Introduction to Media Law – Fall 2018

Advertising, Public Relations and Strategic Communication Focus

Section 1: Tuesdays and Thursdays from 11 a.m. to 12:15 p.m. in CA 33

School of Media and Journalism

University of North Carolina at Chapel Hill

### Instructor

#### Michael Hoefges, J.D., Ph.D.

- Office: 355 Carroll Hall
- Weekly Office Hours: Tuesdays and Thursdays from 3:30-5:00 p.m. (CA 355)
  - Please schedule appointments during office hours on Sakai.
  - Other days and times are available for appointments – please email to arrange.
  - Please note: There will be days that I will need to cancel office hours for appointments, but I'll let you know in advance and try to make alternate arrangements for those days.
- Telephone: (919) 843-0971 (direct line to my office, equipped with voice mail)
- Email: [mhoefges@email.unc.edu](mailto:mhoefges@email.unc.edu)
- Twitter: @mhoefges (please be sure to follow me on Twitter for the semester)
- Graduate Teaching Assistant: TBA

### Course Description and Objectives

**Welcome to MEJO 341: Introduction to Media Law: Advertising, Public Relations and Strategic Communication Focus!** The **purpose** of the course is to identify and explore significant legal issues that confront professionals in today's rich and rapidly evolving digital and multimedia environment – mostly in the United States but internationally, as well. Specifically, the **objectives** of the course are to equip you with relevant substantive knowledge and a framework within which to identify, comprehend, analyze and process current and evolving legal issues that you are likely to face in your professional media careers. View this course as an opportunity to strengthen your professional skill set and develop your analytical reasoning related to your intended professional field. Whether you pursue a career in advertising, public relations, or strategic communication, you'll find that legal issues will surface often and influence your daily work and professional career in many significant ways. Also, you'll find that media law is complex and evolves as rapidly as media professions themselves. It will serve you well to keep abreast of legal developments in media law including – and especially – those that most significantly impact your profession and career. We'll learn how to keep up with relevant law and regulatory developments for advertisers, marketers and public relations professionals. **And, perhaps most importantly, you'll learn how our legal system works in a self-governing democracy to protect your constitutional and legal rights as professional communicators and as informed citizens.**

**Please note:** Nothing in this course should be construed as legal advice or legal opinion on any specific matter or circumstances. The law changes frequently, and every case is different because of its unique facts for purposes of legal analysis and potential liability. Media professionals frequently need to consult an attorney and have liability insurance coverage for errors and omissions regarding their professional activities. This is especially true for those who work for themselves or start-ups.

**PREREQUISITE: Successful completion of MEJO 153. No exceptions, please.**

**ACCREDITATION:** Our School's undergraduate program is proud to be accredited by the Accrediting Council on Education in Journalism and Mass Communication (ACEJMC). Among the Professional Values and Competencies for accreditation is **“understanding and applying the principles and our laws of freedom of speech and press in the United States, as well as having an understanding of 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.”** Another is

the ability to “**think critically, creatively and independently.**” You may read the entire list of “Professional Values and Competencies” here <http://www.acejmc.org/policies-process/principles/> (scroll down to “Professional Values and Competencies”). No one course can cover all the “Professional Values and Competencies” completely. Our focus in this course will be U.S. media-related law including relevant international treaties to which the United States is a signatory. The course will also incorporate relevant international and foreign law principles and concepts that affect expression and other related rights globally. And, we’ll learn how to critically analyze legal issues and problems and to develop a logically-reasoned, legally-sound and well-supported conclusion or solution to a legal issue or problem. **The types of legal issues and problems that we’ll study are among those that you may well encounter in your professional media careers – probably more frequently than you might think!**

### Required Course Materials and Resources

**TEXT:** ROBERT TRAGER, ET. AL., THE LAW OF JOURNALISM AND MASS COMMUNICATION (6th ed. 2018). Please be sure to have the **sixth edition** and not an older version because of substantial updates.

**GUIDEBOOK:** SOCIAL MEDIA AND THE LAW: A GUIDEBOOK FOR STUDENTS AND PROFESSIONALS (Daxton R. Stewart, ed., 2nd ed. 2017). Available online via UNC Libraries license (link in Sakai course).

**PowerPoint Slides and Other Materials:** The PowerPoint slides for each day’s lecture will be available in a PowerPoint file on the course Sakai site. Before coming to class each day, please access and read the PowerPoint slides for that day’s lecture so that you’ll have your own file of the slides in class and be familiar with the content before class. Many students open the PowerPoint files in the “Notes” view and take notes on their laptops during class in the notes space under each slide. ALSO: Readings from the Internet and other sources are indicated in the schedule and are available either on the Sakai site or on the Web via the Internet. You will need Internet access and need to monitor the course Sakai site and your UNC email account on a regular basis for important course information, announcements and digital PDF “handouts.” You are responsible for all materials and messages posted on our Sakai site.

**IMPORTANT REGARDING EMAIL CORRESPONDANCE:** All course-related email messages will be sent to your official UNC email address ONLY via UNC email, Sakai and/or ConnectCarolina. In addition, all course-related email messages that you send to the instructor or graduate teaching assistant should be sent using your official UNC email address ONLY please. Emails sent from other domains (i.e., gmail, hotmail, yahoo, etc.), especially with attachments, often are trapped by the UNC spam filters and not delivered. Also, there are Family Educational Privacy and Rights (FERPA) issues that arise with the use of third-party servers that we will avoid. Also, a few words about email etiquette: Questions or concerns that require lengthy responses (or require follow-up questions before an answer can be provided) are best handled in a visit during office hours or a telephone call. So please feel free to come to office hours for those types of questions or concerns, or to call. **Please note: Always be professional in your email correspondence for the course and please include MEJO 341 in the subject line. Thank you.**

### Classroom Environment and Electronic Devices Policy

**Classroom discussion:** It’s important to the success of class discussion for everyone to feel comfortable asking questions, discussing issues, and expressing opinions and viewpoints. Please feel free to raise your hand when you have a question or comment that relates to our topic of discussion, and please be respectful of others when they are speaking. Free and open discussion and expression of various viewpoints often helps each of us better understand issues and concepts – especially when we hear and think about viewpoints that we’ve not considered before and especially those with which we may not agree. Also, in consideration of me, your colleagues in class, and our dedicated cleaning staff, please do not eat during class. Beverages are allowed only in non-spill containers. Please be kind and pick up after yourselves when you leave class. Be courteous and professional during class.

**Electronic devices:** All electronic devices must be silenced and stored away during class. However, you may use a laptop (or similar device, i.e., electronic pad) ONLY to create class notes on the PowerPoint slides (open PowerPoint file in “Notes” view) or using word processing software. All other applications must be closed (no texting, messaging, Facebook-ing, Instagram-ing, etc.). Any non-class related use of laptops (or other electronic devices) during class is not permitted and may cause you to lose your laptop privileges for the semester.

### Important University Policies

**Honor Code:** The Honor Code is in effect in this course and all others at the University. As an instructor, I am required – and fully committed – to treating Honor Code violations seriously. Please make sure that you are thoroughly familiar with the terms of the Honor Code including your rights and responsibilities.

- For more information, please visit the Office of Student Judicial Conduct website at <https://studentconduct.unc.edu> (click on “For Students” and then “Rights and Responsibilities;” then, to obtain the Code itself in PDF format, click on “Instrument of Student Judicial Governance”).
- **If you have not yet done so, please complete the University’s Honor System Module at <https://studentconduct.unc.edu/students/honor-system-module>.**
- If you have questions, it is your responsibility to ask me about the Code’s application.

The University requires that all completed quizzes and exams be submitted with a signed statement by you verifying that you complied with the Honor Code. **PLEASE NOTE:** Among other things, for our course, it is a violation of the Honor Code to utilize unauthorized materials during an exam or quiz, give or receive unauthorized help during an exam or quiz, or to communicate anything about the contents of an exam or quiz given this semester to another student who has yet to take the exam or quiz and, similarly, to receive such communication from someone who’s completed an exam or quiz given this semester that you have yet to complete. In addition, it is a violation of the Honor Code to verify your presence in class by signing the attendance sheet when you’ve not attended the entire class period (i.e., signing in and leaving early, or coming late and signing in, without instructor approval), or to sign in for another.

**Accessibility Resources and Service (ARS):** According to ARS: “The University of North Carolina at Chapel Hill facilitates the implementation of reasonable accommodations, including resources and services, for students with disabilities, chronic medical conditions, a temporary disability or pregnancy complications resulting in difficulties with accessing learning opportunities. **All accommodations are coordinated through the Accessibility Resources and Service Office.**” (Emphasis added.)

- Reach ARS by telephone at 919-962-8300 or by email at [accessibility@unc.edu](mailto:accessibility@unc.edu).
- Detailed information about the registration process is available at <https://accessibility.unc.edu/about-ars/policies/student-and-applicant-accommodations>.
- Additional information about ARS is available at <https://accessibility.unc.edu/about-ars>.

If you think this policy applies to you, please contact ARS immediately as I am not trained or permitted to determine what reasonable accommodations you may need for your situation. That said, please know that I am fully committed to working with you and ARS confidentially if accommodations are recommended for you in this course. (ARS contact information above reformatted for clarity.)

**Diversity and Inclusivity:** The University’s “Commitment to Diversity” states: “The University of North Carolina strives for excellence both in academic engagement and cocurricular support. Sustaining a diverse and inclusive community is critical to achieving educational excellence.” You may read the entire commitment statement at <http://catalog.unc.edu/about/introduction/> and learn more information, including policies and procedures, by visiting the University’s Diversity and Multicultural Affairs (DMA) website at <http://diversity.unc.edu/>. Please know that I am fully committed to these policies and procedures.

**Discrimination, Sexual Violence and Harassment:** “Any student, whether they are an undergraduate or a graduate/professional student, with concerns about discrimination on the basis of membership in any protected class, including sexual violence and harassment, is encouraged to contact EW Quimbaya-Winship, Deputy Title IX/ Student Complaint Coordinator at [eqw@email.unc.edu](mailto:eqw@email.unc.edu).” Please know that I am fully committed to the University’s policies against discrimination, sexual violence and harassment.

## Course Grading Policies

**Evaluation:** There will be two (2) exams during the semester and a comprehensive final exam. The exams will comprise some combination of objective-type questions (i.e., multiple choice, true/false and/or identifications), and subjective-type questions (i.e., short answer and/or essay), as determined by the instructor. There will be ten (10) reading quizzes counted during the semester. Total points possible are:

<b>Quizzes</b>	<b>100 points (10 at 10 points each)</b>
<b>Exam 1:</b>	<b>100 points</b>
<b>Exam 2:</b>	<b>100 points</b>
<b>Final Exam:</b>	<b>150 points (about 100 points “new” material, 50 points cumulative)</b>
<b>COURSE:</b>	<b>450 points</b>

The following percentage scale will be used to convert all point totals in the course to letter grades:

	<b>A = 93-100%</b>	<b>A- = 90-92%</b>
<b>B+ = 87-89%</b>	<b>B = 83-86%</b>	<b>B- = 80-82%</b>
<b>C+ = 77-79%</b>	<b>C = 73-76%</b>	<b>C- = 70-72%</b>
<b>D+ = 67-69%</b>	<b>D = 60-66%</b>	<b>F = &lt; 60%</b>

Using these percentages, your **course grade** will be based on the **total number of points** you earn on the exams and quizzes minus any points for excessive absences during the semester (see attendance policy below). Please note that the point scale and corresponding grades in the table below are “rounded up” based on percentages (i.e., 417/450 for the lowest “A” is 92.6% “rounded up” to 93%, etc.):

	<b>A = 417-450 points</b>	<b>A- = 403-416 points</b>
<b>B+ = 390-402 points</b>	<b>B = 372-389 points</b>	<b>B- = 358-371 points</b>
<b>C+ = 345-357 points</b>	<b>C = 327-344 points</b>	<b>C- = 313-326 points</b>
<b>D+ = 299-312 points</b>	<b>D = 268-298 points</b>	<b>F = 267 points and less</b>

Please expect QUIZZES to cover assigned readings for the day the quiz is administered. Dates of quizzes might NOT be announced in advance (but sometimes, I give clues). Format of quizzes may vary. Please expect each EXAM to cover lecture material, handouts, any guest lectures, and all assigned readings from the text and other sources. It is strongly recommended that you review each of your exams and quizzes carefully and thoroughly when they are returned. Although I will not return the objective portions (multiple choice, and true and false questions) of exams, you are encouraged to come review those questions along with the answer key after each exam during office hours.

**IMPORTANT:** Undergraduate majors must earn a course grade of “C-” or higher in MEJO 341 as one of the School of Media and Journalism’s graduation requirements – that means earning a **final point total of 313 points or higher** out of 450 possible points (313/450 is 69.5% “rounded up” to 70%). So, the point total scale already incorporates a “rounding up” feature.

**IMPORTANT:** For each of the first TWO exams, you’ll need to bring a blank scantron form, No. 2 pencils with erasers, your laptop with wireless Internet connection capability, MS Word® word processing software, and a blank Bluebook (as back-up in case of computer failure). The comprehensive FINAL EXAM will consist of objective-type questions only, and you only will need a blank scantron and No. 2 pencils with erasers. All you’ll need for the quizzes will be a pencil or pen. **Please note: Exams and quizzes may be administered online via Sakai at the discretion of the instructor (if so, this will be announced in advance with instructions).**

## Class and Exam Attendance Policies

- **Is class attendance required?** Yes. In the professional world, we all are expected to be on time for a job (or meeting) and prepared to work. Please treat this course in the same professional manner. Please plan to attend every scheduled class meeting on time with the assigned reading(s) completed and your own electronic or paper copy of that day's PowerPoint slides. According to University policy, "Regular class attendance is a student obligation . . . . No right or privilege exists that permits a student to be absent from any given number of class meetings." Pursuant to that policy, I'll take attendance **each day** by circulating an attendance verification sheet for you to sign verifying your own individual attendance for the entire class period that day. It is your responsibility to please be in class on time and to sign the attendance sheet for yourself when it circulates. Otherwise, you will be counted "absent." **Please do not sign the attendance sheet if you have arrived late or plan to leave class early without talking to me first before or after class. Signing the attendance sheet without attending the entire class period, from start to finish, will be considered academic dishonesty in this course (as will signing in for someone else).**
- **Are there "excused" absences if I miss class?** Yes. Each of you will have two (2) self-excused absences to utilize at your own discretion on any class day on which we do NOT have an exam scheduled. It is not necessary to advise me when or why you use your self-excused absences – the decision is completely yours depending on your individual circumstances. However, please use your self-excused absences judiciously, sparingly and wisely for conflicts arising from job interviews or unexpected illness, for example. There are no "excused" absences beyond the two (2) self-excused absences that each of you is allotted. There is a separate policy for quizzes and exams below. **If you anticipate or accumulate excessive absences, please discuss with me ASAP.**
- **What if I run out of self-excused absences and then miss additional classes?** For each absence beyond your two (2) self-excused absences, five (5) points will be deducted from your final point total for the semester (450 points possible). Again, there are no "excused" absences after you've exhausted your two (2) self-excused absences (subject to policy on excused absences for religious reasons and for regularly organized and authorized University activities). Also, please see policy for quizzes and exams below.
- **What is the attendance policy for quizzes?** Reading quizzes may or may not be announced in advance. Your quizzes grade will be based on ten quizzes (10 points possible each for 100 total points possible). There will be more than ten quizzes during the semester but only your ten highest scores will count. If you miss a quiz, that will be a score of zero on that quiz. Thus, if there are twelve quizzes, and you miss two of them, the ten scores for the quizzes that you took will count. If you take all of the quizzes (say, 12 or 13, for example), then your top ten scores will be added together for your total quizzes score for the semester (your lowest scores will be dropped). **Thus, the extra quizzes are the "make up" quizzes – otherwise, THERE ARE NO "MAKE-UP" QUIZZES.**
- **What is the attendance policy for exams?** You must attend each exam as scheduled in the syllabus for the section of MEJO 341 for which you are registered. Ordinarily, there are no "early" exams. **Make-up exams will be permitted and scheduled at the instructor's discretion in the event of serious and documented circumstances that are beyond your control and prevent you from attending a scheduled exam.** Such circumstances include serious illness or injury to you, or a death in your family. If you must request a make-up exam, please contact me as soon as possible – the sooner before the exam the better, if possible. Make-up exams are not guaranteed simply upon request. When permitted and when possible, make-up exams should be completed within one (1) week from the date of the original exam, and a make-up exam may be different in content and format than the original exam at the discretion of the instructor. See final exam policy below. You may not use one your two (2) self-excused absences on an exam day.

- **What if I have to miss the final exam?** The University and School have scheduled the date and time of the final exam for your section, which cannot be changed. **Please note:** Under University policy, it is necessary in most circumstances for a student to petition the Dean of the School in advance to reschedule her or his final exam in a course. In our School, you should contact the Senior Associate Dean for Undergraduate Studies (Dr. Charlie Tuggle) to get permission to reschedule your final exam. Regardless, usually, there will no “early” final exams scheduled. For more information, please see the University’s policy statement on final exams in the current *Undergraduate Catalog*. **If you have any questions about any of this, please ask me ASAP.**
  
- **What about absences for religious reasons?** Under current University policy, “Students are authorized up to two excused absences each academic year for religious observances required by their faith. Students who wish to request more than two excused absences in an academic year for religious observances required by their faith will need to contact their course instructors and request the additional absence, which will only be granted with the course instructor’s permission. Primary holy days for religious observance are noted on a Web-based interfaith calendar site at [www.interfaithcalendar.org](http://www.interfaithcalendar.org). **Students are responsible for providing a written notice for an excused absence for a religious observance two weeks in advance of the date requested or as soon as possible if the date occurs within the first two weeks of the semester.** This policy also applies to students who have an excused absence for a religious observance during the summer. Students must be given the opportunity to make up tests and other work missed due to an excused absence for a religious observance. Make-up tests may entail an alternative examination, or other accommodation which allows the student not to be penalized for an excused absence for a religious observance.” (Emphasis added). To the extent that this policy applies to you, it supersedes any conflicting policies stated above. Please let me know if you have any questions. I am committed to making reasonable accommodations for students who request missing class for observance of religious observances required by their faith.
  
- **What if I have to miss class or an exam for an organized and authorized University activity that I am required to attend?** According to University policy, “Students who are members of **regularly organized and authorized University activities** and who may be out of town taking part in some scheduled event are to be excused during the approved period of absence. **Notification of such an absence must be sent by the responsible University official to the instructor before the date(s) of the scheduled absence.**” (Emphasis added). To the extent that this policy applies to you, it supersedes any conflicting policies stated above. Please let me know if you have any questions.

### Learning Tips and Suggestions

- **General Tips for Preparing for Class and Exams:** There is a significant amount of material in this course, and many of the concepts are complicated and not always fully comprehensible until you’ve had time to process the information and review examples. **Avoid “cramming” for exams – that almost never results in success in this course in terms of learning the concepts or performing well on the exams. It also provides for a very stressful experience, which is not best for learning. Instead, it’s best to begin preparing as early as possible for each exam including REVIEWING the material that we cover each day before reading the next day’s assignment. Work through the study guides that I’ll provide for the various topic areas.**
  
- **Before each class period:** Please carefully complete the assigned reading(s). Also, it’s best to download and read the PowerPoint slides from the Sakai site and have them available for class each day (either electronically or on paper). Then review the readings, your notes and the PowerPoint slides after class each day. Is everything you need to know on the PowerPoint slides? Of course not! Does having the PowerPoint slides mean that you don’t have to take notes during the lecture and discussion? Again, of course not! Is it enough just to study the PowerPoint slides for the exams? Once again, of course not! **So, please be aware that the PowerPoint slides are bulleted outlines for class discussion and should not be considered a substitute for taking thorough notes during class or for completing the assigned readings. Often, we will cover points not listed on**

**the slides, omit points that are listed, and cover in more depth points that are listed in abbreviated form on the slides. You are responsible for class discussion for exams.**

- **Preparing for exams:** Begin to prepare for the exams by reviewing and synthesizing the material we cover. Many students in the past have found that making study outlines is beneficial. Work through the study guides that will be provided and make a comprehensive study outline for each topic. Please ask when you have any questions about the material or need any help with study methods or exam preparation. Sooner is always better than later in terms of seeking help and guidance, and when preparing for exams. Again, some friendly advice: Avoid “cramming” for these exams.
- **Please note that the exam dates and times are on the syllabus.** Friendly advice: Please record the dates and times of all exams on your calendar NOW to ensure that your schedules are clear for ALL EXAMS INCLUDING THE FINAL EXAM. Any changes will be announced in advance.

### Reading Assignments and PowerPoint Slides

Please complete each reading assignment before the class period on the day that it is scheduled below for discussion. The PowerPoint slides for each lecture will be posted in advance. Again, as mentioned previously, the PowerPoint slides are not a substitute for the assigned reading material, class lecture and discussion, or asking questions and taking accurate and thorough notes during class.

### CLASS AND EXAM SCHEDULE

**Our class and exams schedule is listed below by date. You'll be notified of any changes that may be necessary during the semester, which may well occur. Please be sure to complete the assigned readings before class on the dates that they are listed to be discussed.**

[TRR] is the Trager, *et al.*, text; and [SML] is the social media law guidebook by Stewart (ed.).

**PLEASE NOTE: Current topical readings will be added as appropriate during the semester and posted on Sakai or e-reserve, or referenced with an Internet link in a class Sakai announcement.**

### Week 1

- **8.21 [T] – Introduction to MEJO 341 and Some Recent Cases to Discuss to Get Us Started**
  - READ: Syllabus – thoroughly and carefully, please!
  - READ: FTC “Business Blog” post here <https://tinyurl.com/y7gwg8tl> regarding social media influencers:
    - What is the legal disclosure requirement for social media influencers who promote products and when does it apply?
    - In addition to the proposed consent agreement, what else did the FTC do to warn specific social media influencers about legal disclosure requirements?
  - READ: Christine Hauser, *F.D.A. Warns Company Over Kardashian Instagram Marketing*, N.Y. Times, August 13, 2015, at B1 here <https://tinyurl.com/y8htwuxn>
    - READ: FDA “warning letter” here <https://tinyurl.com/qxxb4tb>
    - What legal problems did the FDA allege regarding Ms. Kardashian’s post? Why did the FDA allege that her post “misbranded” the drug? What did the FDA request?
  - READ: SEC news release regarding settlement of a federal insider trading lawsuit against a public relations professional here <https://tinyurl.com/yd2zazkq>
    - Exactly what illegality was alleged against the PR professional? What were the terms of the settlement? What did she agree to do, without admitting liability?
  - We’ll discuss some other recent media law cases as well – have you seen any lately that you’re curious about or want to ask about?

▪ **8.23 [R] – Sources of Law**

- READ: TRR, Ch. 1, pp. 1-17 (stop at “Structure of the Judicial System”)
- READ: WWW, North Carolina Constitution – Preamble and Declaration of Rights at <http://www.ncga.state.nc.us/Legislation/constitution/nconstitution.html>

**Week 2:**

▪ **8.28 [T] – The Courts – Federal and State Court Systems**

- READ: TRR, Ch. 1, pp. 17- 39) plus *Marbury v. Madison* (U.S. 1803) in “Cases for Study” (skim the *Citizens United* case – we’ll come back to this case)
  - Be sure to read the section on “Briefing Cases” – we’ll come back to this also.
- VISIT: The Federal Courts website (2018) at <http://www.uscourts.gov/FederalCourts.aspx>
  - READ: From the menu across the top of the page, use the drop-down – “About the Federal Courts” – and click on each subtitle and read each page (“The Federal Courts & the Public,” “Court Role and Structures,” and “Types of Cases” – and click on the hyperlinks to each sub-section on left and read those pages also). Explore the website including the federal circuits map – in what federal circuit is North Carolina?

▪ **8.30 [R] – The First Amendment: Theories, Prior Restraint, and Content-based Laws**

- READ: TRR, Ch. 2, pp. 50-71 (stop at “Content-Neutral Laws”), plus *New York Times Co. v. United States* (U.S. 1971) (the “*Pentagon Papers* case) and *Reed v. Town of Gilbert* (U.S. 2015) in “Cases for Study”

**Week 3**

▪ **9.4 [T] – First Amendment: Content-neutral Laws, Public Forums, and Government Speech**

- READ: TRR, Ch. 2, pp. 71-84
- VISIT: KNIGHT FIRST AMEND. INST., *Knight Institute v. Trump – Lawsuit Challenging President Trump’s Blocking of Critics on Twitter* at <https://tinyurl.com/y9jkdzy7>, and READ the main page and WATCH video. Then READ the recent posts “Federal Court Rules that President Trump’s Blocking of Twitter Critics Violates First Amendment” (5.23.18) and “President Trump Unblocks Critics and Files Notice of Appeal in Knight Institute Lawsuit” (6.4.18)
  - Note argument that president’s Twitter account is a “public forum” but not the entire Twitter platform – why is that distinction so important, constitutionally?
- READ: Ballard Spahr, *D.C. Circuit Holds That Transit Authority Is Permitted to Reject Religious Advertisements*, MEDIA AND ENTMT’T L. LEGAL ALERTS (Aug. 3, 2018), <https://tinyurl.com/y8bec19w>
  - When is the signage on municipal transit (buses, subways, etc.) a “public forum?”

▪ **9.6 [R] – First Amendment: Levels of Protection and Speech Distinctions**

- **NOTE: We’ll be covering these readings over the next two class periods.**
- READ: TRR, Ch. 3 (all) (see below for “Cases for Study”)
- READ: Oyez case synopsis for *United States v. Alvarez* (U.S. 2012) here <https://tinyurl.com/ycyktsa7>
- READ: TRR, Ch. 3, *Elonis v. United States* (U.S. 2015) in “Cases for Study”
- READ: Eric Goldman, *A Cautionary Tale of Sarcasm in Social Media – Ross v. City of Jackson* (July, 28, 2018), TECH. AND MARKETING L. BLOG, <https://tinyurl.com/y7o2c33o>
- READ: TRR, Ch. 10 (and skim “Cases for Study”) (focus on how categories of “obscenity” and “indecentcy” are defined, regulated and protected, or not, under the First Amendment)
- READ: SML, Ch. 9, Amy Kristin Sanders, *Obscenity, Revenge Pornography and Cyberbullying*

**Week 4**

▪ **9.11 [T] – First Amendment: Levels of Protection and Speech Distinctions, cont’d**

- **9.13 [R] – First Amendment and Political Speech – Corporate and Organizational Speakers: Ballot Propositions and Public Issues; and Lobbying and the Right to Petition**
  - READ: Middleton, *et al.*, (10th ed. 2018), Ch. 7 (“Political Speech”) (PDF) (via University Libraries e-reserve service on Sakai) (just skim the sections on “Elections” and “Regulation of Political Broadcast Programming” – we’ll cover these later in the semester)
  - READ: TRR, Ch. 1, *Citizens United v. FEC* (U.S. 2010) in “Cases for Study”
    - Focus on the First Amendment issues – why did the Court use strict constitutional scrutiny, and how? What did the Court hold on the disclosure requirements for election ads? How is this decision an extension of the three “corporate speech” cases – *First National Bank*, *Consolidated Edison* and *Pacific Gas & Electric*?

#### Week 5

- **9.18 [T] – First Amendment and “Commercial” Speech**
  - READ: TRR, Ch. 12, pp. 536-556 (stop at “Remedying Problems...”), and *Central Hudson Gas & Elec. Corp. v. Pub. Svc. Comm’n of N.Y.* (U.S. 1980) and *Sorrell v. IMS Health Inc.* (U.S. 2011) in “Cases for Study” (focus on First Amendment – we’ll cover FCC, FDA, FEC, SEC, and other advertising regulations later including commercial and political advertising)
  - READ: Case: *Kasky v. Nike, Inc.* (Cal. 2002) (from link, click on “Opinion,” just skim dissent) available here <http://scocal.stanford.edu/opinion/kasky-v-nike-inc-32202>
  - CURRENT ISSUE: Corrective tobacco ads: *U.S. v. Philip Morris USA, Inc.* (D.C. Cir. 2017)
    - READ: Sapna Maheswari, *Why Tobacco Companies are Paying to Tell you that Smoking Kills*, N.Y. TIMES, Nov. 24, 2017, <https://tinyurl.com/ybtg6hyn>
    - READ: Summaries from Campaign for Tobacco Free Kids:
      - Text of corrective ads summary here <https://tinyurl.com/ycmwngq8>
      - Media plan for corrective ads here <https://tinyurl.com/yd5fpg8p>
- **9.20 [R] – Catch-up and Review for FIRST EXAM – Using the I-R-A-C Analysis**
  - REVIEW: [F]-I-R-A-C tool for analyzing legal cases and issues from TRR, Ch. 1. We will be using that on the FIRST EXAM as a framework to analyze and address the legal ISSUE(S) raised in a hypothetical set of FACTS that I will provide on the exam. You will be asked to complete the I-R-A-C portions to reach a logically-reasoned, legally-sound and well-supported CONCLUSION based on your APPLICATION of the correct legal or constitutional RULE(S) – including using the FACTS from the hypothetical and relevant case precedents that we have studied to support your analysis.

#### Week 6: FIRST EXAM THIS WEEK

- **9.25 [T] – FIRST EXAM TODAY – Exam promptly begins at 11:00 a.m. and ends at 12:15 p.m.**

This will take us through the FIRST EXAM for the semester. I’ll provide a specific schedule for the remainder of the semester once I’ve gotten to know you all better, your interests, and what pace is a good one for us.

That said, the **SECOND EXAM is scheduled for TUESDAY, OCTOBER 30** and will likely cover DEFAMATION CLAIMS (specifically, libel claims), PHYSICAL HARM AND EMOTIONAL DISTRESS CLAIMS, AND PRIVACY CLAIMS – new material we cover after the First Exam through the Second Exam. We’ll begin covering defamation law on Thursday, September 27, the next class period after the First Exam.

The **FINAL EXAM is scheduled for THURSDAY, DECEMBER 13 (noon-3:00 p.m.) (CA 33)** and likely will cover all or most of the following topics: INTELLECTUAL PROPERTY (COPYRIGHT AND TRADEMARK LAW); REGULATED FINANCIAL-RELATED COMMUNICATIONS (SEC REGULATION, INVESTOR RELATIONS); FCC REGULATION OF COMMERCIAL ADVERTISING; FCC AND FEC REGULATION OF POLITICAL ADVERTISING; FDA REGULATION OF DRUG ADVERTISING; FTC AND OTHER REGULATION OF UNFAIR AND DECEPTIVE ADVERTISING; AND ACCESS LAW (GOVERNMENT AND THE COURTS) FOR ADVERTISING AND PR PROFESSIONALS (may not get to all of these depending on class interests and time). The FINAL EXAM is cumulative and all objective (no essay) (about 100 pts. on new material and 50 pts. on cumulative material).