



JOMC 740.01: Media Law – Fall Semester 2018
Tuesdays and Thursdays – 2:00-3:15 p.m. (338 Carroll Hall)
School of Media and Journalism
University of North Carolina at Chapel Hill

Instructor and Contact Information

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

- Office: 355 Carroll Hall
- Office Hours: Tuesdays and Thursdays – 3:30-5:00 p.m. (please make appointments on Sakai)
 - Other days and times by appointment made in advance, please
 - Office hours may need to be cancelled on occasion (you'll be notified, and I'll make alternate arrangements)
- Telephone: (919) 843-0971 (office line with voicemail)
- Email: mhoefges@email.unc.edu
- Twitter: @mhoefges (please follow me on Twitter for the semester)

Course Description, Objectives and Accreditation

Official Course Description: Survey media law areas: First Amendment, libel, privacy, intellectual property, corporate and commercial speech, media and judiciary, confidential sources, freedom of information, electronic and new media regulation, international issues. Semester topics may vary with class interests. Conduct legal research, identify/analyze secondary and primary legal resources, produce original graduate-level legal research. (3 credits)

Overview and Objectives: The purpose of the course is to foster and develop a substantial and intensive knowledge of important and evolving principles and concepts in the field of media law and policy. You should expect to master skills needed to access, comprehend, analyze and synthesize secondary legal resources, such as legal texts, legal articles in trade publications, articles in academic and scholarly legal journals and law reviews; as well as primary legal documents such as court briefs and opinions, statutory legislation and related materials, and various governmental administrative documents including agency rules and guidances. You should expect to develop proficiency in communicating legal knowledge and analysis of legal issues, materials and cases both in written and oral presentation formats.

Theory and research track students (Ph.D. and M.A. students; and M.A./J.D. and Ph.D./J.D. dual degree students): You should expect to learn how to formulate original legal research questions and conduct original legal research to answer these questions using appropriate, sufficient and relevant secondary and primary legal sources and documents located using various legal indexes and computerized databases. You should expect to learn to produce an original piece of legal research relevant to your area of study that includes appropriate introduction, background, literature review, research questions, methods, analysis, discussion and conclusion sections. These research projects should utilize *Bluebook* citation style (an alternate acceptable academic citation style is fine with instructor permission; *APA*, for instance).

Professional track students (M.A. students): You should also expect to learn how to formulate original legal research questions relevant to your professional field of study and conduct original legal research to answer these questions using appropriate, sufficient and relevant secondary and primary legal sources and documents located using various legal indexes and computerized databases. You should expect to produce an original legal research project that includes preparing a literature review, and legal research questions and methods, to write up a "white paper" with recommended "best practices" suitable for presentation in a professional context in your field. These projects should utilize *APA* citation style (or an alternate style with instructor permission). You may opt to write a traditional legal research paper if you wish.

Beyond the course and your graduate program: You should expect to recognize and understand how law and regulation are – or are not – continuing to adapt to and evolve in the rapidly advancing digital media and communication landscape, and how to keep abreast of changes in the law that impact your area(s) of study and professional or academic career(s). **And, perhaps most importantly, you'll learn how our legal system works in a self-governing democracy to ideally protect our constitutional and legal rights as informed and participatory advocates, media professionals, and citizens.**

COURSE EMPHASIS: This section is designated for students who are studying such fields as advertising, public relations, strategic communication and other related areas.

Please also 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. Professionalism often means knowing when to seek legal advice.

Accreditation: Our School's professional M.A. 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 are “**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.**” In addition, our students should be able to “**think critically, creatively and independently**” and “[c]ontribute knowledge appropriate to the communication professions in which they work.” No one course can cover all of these topics completely. Our focus in this course will be U.S. law, including relevant international treaties to which the United States is a signatory, but the course also will incorporate relevant international and foreign media law principles and concepts that affect expression and other rights globally. You may review the full list of ACEJMC Values and Competencies at <http://journalism.ku.edu/acejmc-professional-values-competencies>. We will consider these appropriate for all graduate students in this course.

Required Course Materials and Resources

- (1) ROBERT TRAGER, ET AL., THE LAW OF JOURNALISM AND MASS COMMUNICATION (6th ed. 2018)
- (2) 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 site))
- (3) Park Library Course Guide for MEJO 740 – Section 1 (Hoefges) at <http://guides.lib.unc.edu/mejo740-1/home>
- (4) Citation guide for your legal research project (please note that you are responsible for ensuring that your project complies completely and fully with the citation style that you select) – this likely will include one of the following:

- THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia L. Rev. Ass'n et al. eds., 20th ed. 2015)
- PUBLICATION MANUAL OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION (6th ed. 2009)

Please be sure to have the correct edition of the required text (the online version is fine if you prefer). Copies should be available for purchase at the campus bookstore among other local and online sources. The third item is an online course guide containing resources for our class, available on the Roy H. Park Library website, which our wonderful Park librarian has set up for us – **Stephanie Willen Brown** at swbrown@unc.edu. Stephanie is always very helpful for our students, especially with regard to research projects and sources.

PowerPoint Slides and Online Resources: In addition to our course resources website listed above, any PowerPoint slides used for daily classes will be available online on the course **Sakai site**. Before coming to class each day, please access and read the PowerPoint slides and any other materials posted for that day's class so that you'll have your own copy of the slides and materials in class and be familiar with the content before class. Readings from Internet and other sources will be indicated in the Sakai reading assignments. Bring those to class as well. You will need Internet access and will need to monitor the course Sakai site and your UNC email account on a regular basis for important course information, announcements and digital “handouts” and materials. And, please be sure to watch my Twitter feed as it may well contain cases and issues that we will discuss in class. All course **email** messages will be sent to your official UNC email address only. Please check your UNC email account regularly, and clean out your “inbox” so that incoming email messages will not get “bounced.”

Important note: Please send class-related email to the instructor ONLY via your UNC email account because email from other domains, including attachments, are subject to being screened out by the University “spam” filters and may not be received. Please do not send any assignments via email from any other email address or server (i.e., Gmail, MSN, Yahoo, etc.) other than the UNC server using your UNC email address in order to best ensure that the email and attached documents are delivered timely. You are expected to be professional in email correspondence.

Classroom Environment

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 questions or comments that relate to our topic of discussion, and please be respectful of others when they are speaking. Free and open discussion of various viewpoints often helps us better understand issues and concepts. The First Amendment free speech clause applies

in our class with vigor. Our class should be a marketplace of diverse ideas, thinking, and viewpoints. Your participation in class discussion is a key component of the course, and class participation is a component of your final grade. Also, to best utilize our class time, please prevent your various electronic devices from disturbing the class.

Important University Policies

Honor Code: According to the **University Office of Student Judicial Conduct:** “The University of North Carolina at Chapel Hill has had a student-led honor system for over 100 years. Academic integrity is at the heart of Carolina and we all are responsible for upholding the ideals of honor and integrity.

The student-led Honor System is responsible for adjudicating any suspected violations of the **Honor Code** and all suspected instances of academic dishonesty will be reported to the honor system. Information, including your responsibilities as a student, is outlined in the **Instrument of Student Judicial Governance**. Your full participation and observance of the Honor Code is expected. . . . [For example,] **plagiarism** in the form of ‘deliberate’ or ‘reckless’ representation of another’s words, thoughts, or ideas as one’s own without appropriate attribution to the original author in connection with submission of academic work, whether graded or otherwise, is a serious breach of the academic integrity demanded by the Honor Code and one of the most common forms of academic misconduct processed by the Honor System. . . . [To help prevent plagiarism:] Quote and cite any words that are not your own. If you paraphrase the words of another, you must still give proper attribution. If you look it up, write it down. . . . [Regarding **unauthorized versus authorized collaboration:**] All academic work in this course . . . is to be your own work, unless otherwise specifically provided. It is your responsibility if you have any doubt to confirm whether or not collaboration is permitted.” (Emphasis added.)

The University requires that written work be submitted with a signed statement of Honor Code compliance. We’ll also discuss how the Honor Code applies to assignments in class. Throughout the semester, please see me immediately if you have any questions about how the Honor Code applies in the context of the course or specific assignments. For details, please read the **Instrument of Student Judicial Conduct** at:

<https://studentconduct.unc.edu/sites/studentconduct.unc.edu/files/documents/Instrument.pdf>.

For more information, please visit the website for the **Office of Student Judicial Conduct** at:

<https://studentconduct.unc.edu/>.

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.”

- ARS can be reached by telephone at 919-962-8300 or by email at 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>.

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 egw@email.unc.edu.” Please know that I am also fully committed to the University’s policies against discrimination, sexual violence and harassment.

Course Requirements and Grading

Graded components: Your course grade will be determined based on the following components:

Class Participation	10%
Case Presentation	5% (in class)
Problem-solving Exercises	30% (two at 15% each) (take-at-home)
Legal Research Project	Topic Memorandum – 5%
	Background, Literature Review, Research Questions and Methods – 15%
	Final Legal Research Project – 25%
Project Presentation	10%

Grading: Generally, grades will be assigned based on the following criteria:

H (clear excellence and superiority): The grade of “H” is earned by students who clearly, convincingly and constantly demonstrate a superior ability to critically analyze, synthesize and apply assigned readings through class discussion and all written problem solving work; and who produce outstanding legal research projects that demonstrate a superior ability to formulate, conduct and present an original legal research paper or project that utilizes a variety of highly relevant and appropriate secondary and primary legal sources, contributes substantial and original knowledge to the field, and is excellently documented and sourced using *The Bluebook: A Uniform System of Citation* or another acceptable citation system.

P (entirely satisfactory): The grade of “P” is earned by students who consistently demonstrate a clear and substantial ability to critically analyze, synthesize and apply assigned readings through class discussion and all written problem-solving work; and who produce sound legal research projects that demonstrate a clear and substantial ability to formulate, conduct and present an original legal research paper or project that utilizes sufficient, relevant and appropriate secondary and primary legal sources, contributes original knowledge to the field, and is well documented and sourced using *The Bluebook: A Uniform System of Citation* or another acceptable citation system.

L (low passing): The grade of “L” is earned by the student who demonstrates substantial achievement of most requirements necessary for the grade of “P” but has not fully demonstrated sufficient achievement in each area necessary to earn the higher grade. The grade of “L” is earned by the student who achieves the minimum passing requirements for all components of the course but whose work is, on average, below the level of being worthy of the grade of “P.”

F (failure): The grade of “F” is reserved for the student who occasionally misses class, does not demonstrate having completed assigned readings or other assignments, and fails to meet the minimum requirements for each problem-solving exercise, the legal research project and/or class participation.

Attribution: These descriptions are based, with thanks, in part on those prepared by Drs. Jane Brown, Pat Curtin and Rhonda Gibson.

Attendance and Class Participation

Attendance and Class Preparation: Please plan now to attend every scheduled class meeting on time and in full. Absences from class or portions of class periods are unacceptable and will negatively affect your participation grade and your final course grade. **Two unexcused absences from class may result in an automatic failing grade for the course (see University policies noted below and policy on excused absences for documented emergencies, including serious illness to you or a death in your immediate family, or recommended by ARS).** When you arrive to class each day for lecture and discussion, please have your copies of all assigned readings and notes for that particular day. You should carefully read all assigned readings for each class meeting prior to the day on which they are scheduled for discussion. In other words, the readings will be listed in the schedule for you for the day on which they will be discussed in class. See University attendance policies below and policies regarding accessibility resources above.

- **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. **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 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.
- **What about other circumstances that cause me to miss class?** If you must miss class due to an emergency beyond your control such as a serious illness or injury, or a death in your family, please advise the instructor as soon as is practicable – documentation may be requested to excuse absence. If you miss class related to accommodations recommended by ARS, please be sure ARS provides required documentation for absence to be excused.

Class Participation: Class participation is a component of your course grade. Reading and analyzing the assigned materials before class and then participating actively and intelligently in class discussion of those materials is one of the most effective methods of learning and analyzing legal concepts that we will cover. Please be prepared to participate in a focused class discussion of the assigned readings at each class session. You should be able to demonstrate that you've read the assigned materials carefully, critically and thoughtfully. It is helpful to take notes when you read to synthesize your comments and thoughts. Be sure to bring the assigned readings along with your notes to class each day. This will help facilitate class discussion. Missing class and not participating in class discussions will negatively affect your class participation grade as noted above (subject to attendance policies noted herein).

Case Presentation: During the course, each of you will have the opportunity to select one of the assigned court opinions (or perhaps another case, or other primary legal or regulatory source) to lead the discussion on that case (5% of your final grade).

Problem-Solving Exercises

We'll have two "take-at-home" problem-solving exercises during the semester. These will be distributed for you to complete on your own time within the parameters of an assigned due date and time, and page limitation. You may not collaborate in any way with anyone else and must complete the problem-solving exercises entirely on your own. You'll receive more instructions for completing the problem-solving exercises including the materials you may utilize to complete them. If emergency circumstances arise that prevent you from completing the problem-solving exercises on time, please let me know as soon as possible in advance of the due date. Extension of problem-solving exercise due dates are at the discretion of the instructor with good cause demonstrated in advance. **Due dates for these exercises will be determined by our progress and schedules.**

Legal Research Project and Presentation

Each of you will complete an original work of legal research in the form of a legal research project with sufficient, relevant and appropriate use of secondary and primary legal sources and authorities. You'll receive further and detailed instructions on completing the legal research project. We'll discuss the legal research project in more detail in class, and I'll post instructions on Sakai for each of the steps. The due dates for various components of the research project – including the final project – are listed below along with the due date for the final project. Extensions of these due dates are only available for good cause demonstrated in advance and at the discretion of the instructor. Each of you will prepare and deliver a professional presentation of your research project for the class –

think of this as a great way to learn about all of the interesting topics that you and your colleagues have explored this semester and also as a means of helping to develop and sharpen your presentation skills. There will be many times in your professional careers that you'll need to deliver a professional presentation, most likely. You'll receive further instructions on how to prepare and deliver your presentations for the course.

Preliminary Course Schedule

Our schedule for the semester including the assigned readings will be provided in detail on our course Sakai site. In the meantime, please be sure to note important due dates below. Our schedule may change due to unforeseen circumstances, and you'll be notified accordingly in such circumstances. For the reading assignments, [Trager] refers to the main text, and [SML] refers to the social media law guidebook. Others should be self-explanatory. Some readings are accessible on the Internet or Sakai as indicated. Also, you'll receive instructions on accessing court opinions and legal journals by citation in the legal databases we'll be using. Additional topical readings may be added with prior notice. You should please complete all readings before the date listed in the class schedule below and forthcoming for the remaining weeks.

Week 1

- **8.21 [T] – Course Overview, and Class Meet-and-Greet**
 - READ: Course Syllabus (available on Sakai site)
 - DISCUSS: Specific areas of media law, regulation or policy that interest you and relate to your program of study; and how to start exploring potential topics for your individual research project

- **8.23 [R] – Primary Sources of Law and Regulation**
 - READ: Trager, Ch. 1 (stop at *Citizens United* case on p. 44) (focus on the sources of law for today)
 - EXAMPLE: Federal statute, related agency rule and agency guidances on rule:
 - READ: Children's Online Privacy Protection Act at <https://tinyurl.com/zs4olhl> (all parts)
 - READ: FTC's Children's Online Privacy Protection Rule at <https://tinyurl.com/pezfvda> (click on "Text of Rule" and read; and also click on "Children's Online Privacy Protection Rule: Final Rule Amendments" and just skim – notice that this is the agency's basis and justification for enacting rule)
 - READ: FTC COPPA guidances "Children's Online Privacy Rule: A Six-Step Compliance Guide for Your Business" at <https://tinyurl.com/ycy97h8d> and "Complying with COPPA: Frequently Asked Questions" at <https://tinyurl.com/okd9e5k>
 - FOR DISCUSSION: Find at least one media report of a COPPA issue, case or matter. Just search online and see what you can find. Props to those who find out why the FTC was concerned about the "BabyBus" app – what was that all about? What should you avoid if you're designing a commercial app targeted to children? Any other COPPA cases that you found? Try and find at last one more other than the "BabyBus" matter, please.

This will take us through the first week with a detailed readings list forthcoming after I get to know you and your research and professional interests better – and also have a chance to determine a good pace for our class. For now, take note of the following pertinent DUE DATES for key components of the course:

- 9.5 [W] – Topic memorandum DUE – via Sakai "Dropbox" by 5 p.m. (MS Word file)
- 10.17 [W] – Introduction, literature review, research questions, and methods DUE – Sakai "Dropbox" by 5 p.m. (MS Word file)
- 11.28 [W] – Final legal research project DUE – Sakai "Dropbox" by 5 p.m. (MS Word file)
- 12.8 [S] [noon-3 p.m.] [Final Exam period] – PRESENTATIONS

PLEASE NOTE: The project DUE dates are NOT on class days – they are on Wednesdays so that you may concentrate on our class readings on the Tuesdays of the weeks of these DUE dates. The PRESENTATIONS are scheduled for our final exam period set by the University and School (sorry it's on a Saturday).

We will schedule the DUE DATES for the two problem solving exercises and also your individual class case discussions once we've met the first week and have a tailored schedule for the class.
