

MEJO 740.2
Mass Communication Law for graduate students
School of Media and Journalism
University of North Carolina at Chapel Hill
Fall 2019

Instructors: Dr. Tori Smith Ekstrand
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Class Meets: 6:30 p.m. – 9:15 p.m.
Mondays
Carroll Hall 338

Texts (required): Robert Trager, et al., *The Law of Journalism and Mass Communication*, 6th ed., Thousand Oaks, Calif.: CQ Press, 2018. (Be sure to buy the correct edition.)

Cuillier, D., & Davis, C. N. *The art of access: Strategies for acquiring public records*. Washington, D.C.: CQ Press, a division of Sage (2019).

For MA students: *The Associated Press Stylebook 2018* and *Briefing on Media Law*, Basic Books, 2018. (Yes, I'm serious about this. I worked for the AP for almost 10 years. I expect you to know this.)

For MA/JD students only: *The Blue Book: A Uniform System of Citation*, 20th edition, 2015.

The Course

The purpose of this course is to foster and develop a substantial and intensive knowledge of important and evolving principles and concepts in the field of media law. You should expect to master skills needed to access, comprehend, analyze and synthesize secondary and primary legal resources including legal texts, academic and scholarly legal journals and law reviews, court opinions, legislation and related materials, and various administrative materials. You should expect to develop

proficiency in communicating legal knowledge and analysis of legal materials and cases both in writing and orally. You will conduct original legal research to answer these questions using appropriate, sufficient, and relevant secondary and primary sources located with various legal indexes and computerized databases. You should expect to produce an original journalism project related to an important media law question or questions. Beyond the formal objectives of this course, it is my intent to help you see how integral mass media law is to all of what we do in the School, our profession, and in our lives, generally.

AEJMC VALUES AND COMPETENCIES: The School of Journalism and Mass Communication's accrediting body (AEJMC, The Association for Education in Journalism and Mass Communication) outlines a number of values you should be aware of and competencies you should be able to demonstrate by the time you graduate from our program. Learn more about them here:

<http://www2.ku.edu/~acejmc/PROGRAM/PRINCIPLES.SHTML#vals&comps>

Learning Outcomes

- Understand the origins and theory of the First Amendment and how the law and the court systems work.
- Understand differences in approaches to free speech and the role culture and norms play in the development of law and legal tests.
- Understand concerns about censorship & state action in a democracy and how the law protecting against prior restraint is the backbone of the First Amendment.
- Write well and thoroughly about the law.
- Be able to apply legal tests to new scenarios and hypotheticals.
- Be able to read and research a case and conduct legal analysis.
- Understand and appreciate that changes in First Amendment law are almost always the result of social struggle and cultural shifts in the United States.
- Know the elements of libel and privacy claims, learn to avoid such claims or, alternatively, be prepared to defend oneself in the face of such claims.
- Identify what parts of media law scholarship will be useful in future professional or academic endeavors.

Reading & My Expectations

Careful and sustained reading is necessary for this course. Readings will be from the text, from articles in class and from readings posted online. You will receive guidance on what you should be reading in each class. Therefore, attendance is critical because reading assignments will depend on our in-class progress. I will offer insight on key concepts for the work in this course, but I am relying on you to do the reading to learn. In other words, I will not be lecturing in this course; in this way, the class is flipped. I will offer guidance on key concepts to know and understand to help complete assignments in the course.

Professionalism, Attendance and Ethics

The law does not operate in a vacuum. It is shaped, studied and molded by professionals who are required to show up on time in court, at hearings, meetings and in other settings. When professionals are unable to attend these proceedings, they alert each other about the reasons and make plans accordingly. I expect the same professionalism from you in this class. Therefore, these are the following requirements for our classroom atmosphere:

1. Attendance

Attendance is essential. We meet only once a week so attendance is even more important. There is a clear correlation between class attendance and grades. I will be taking attendance and taking note of those who repeatedly walk in late. I won't be talking to you about it because we are adults, and my expectations here are clear. I will just take note and that will be reflected in the professionalism part of the grade.

2. Class Environment

I'm very in tune with the general mood and atmosphere of the classroom and am eager to build a relationship with you and foster relationships among students within the class. To do this well, there is a certain level of interpersonal respect we need to encourage!!

Therefore:

- Smartphone use is prohibited. This includes under the desk or in your lap. Phones should be out of sight and silent. Please practice restraint.
- I want to discourage laptops. After both experimentation and reviewing pedagogical research, I am convinced more than ever about our inability to remain attentive in front of the machines. We'll discuss this as a group.
- The study of free speech requires more tolerance and understanding than the study of some other subjects. Indeed, there is an entire theory of the First Amendment that is based on the principle of tolerance. There are and will be many political and social views in our class. This makes it the perfect place to talk about free speech, but it can also create tensions. Tensions are good. What we don't want are tensions that escalate into "fighting words" or "speech that creates a chilling effect" on other students. (Stay tuned and we'll talk about these concepts.) We want to create an atmosphere in which students feel safe to talk and in which they feel heard, even if other students do not agree with their views.

The University is committed to fostering a diverse and inclusive academic community, and prohibiting discrimination and harassment. Please review the University policy statements on diversity and inclusivity, and prohibited harassment and discrimination, both in *The Undergraduate Bulletin* at <http://www.unc.edu/ugradbulletin/>.

In particular, we need to understand that our classmates differ from us in race, ethnicity, gender, political persuasion, sexual orientation, class, age, ability and religion. We want to create an inclusive atmosphere. While we want to encourage free speech in the classroom, courts have been very clear that speech that disrupts a classroom environment may not be tolerated. Let's not even go there. We want to create a room that embraces our differences and helps us learn through those differences.

3. Deadlines

As a former journalist, I am serious about deadlines. I dock assignments one grade for every day they are late. There is no wiggle room here unless you are hospitalized or incarcerated.

4. My commitment to you:

As lawyers will tell you, a contract like this is not a one-way street. **Therefore, in return for your active attention, professionalism and participation in class, I pledge to:**

- Work hard to keep the class engaging, interesting and relevant to your studies.
- Make time for active participation and explore topics and subjects that the class directs.
- Take breaks when classroom lethargy seems suddenly unbearable!
- Keep to our schedule. But if we need to change our schedule, I pledge to promptly alert you to changes and negotiate such changes with you, with reasonable timeframes, alternatives, etc.
- Be fair and equitable in my/our treatment of all students and in grading.
- Listen carefully to your concerns about the course.
- Support you in your UNC endeavors and your plans after graduation.
- Make time to talk to you about your concerns so that we can come to reasonable solutions (and you are not cursing me in the shower!) 😊

Course Requirements

Problem-Solving Exercise One	15%
Problem-Solving Exercise Two	15%
Case Teach-In	10%
Media Law Journalism Project	50%
Memo: 5%	
Secondary Source Summary, Planning & RQs: 20%	
Final: 20%	
Present: 5%	
Participation, Attendance & Professionalism	10%

The course will include two problem-solving exercises, one in-class case presentation, and a legal research paper. MA/JD students are required to submit your research to the AEJMC Southeast Regional Colloquium.

PROBLEM-SOLVING EXERCISES: You will be assigned two problem-solving exercises during the semester. These are practical exercises that teach you to apply the law you are learning in this course to the kinds of problems professional communicators encounter in the workplace. I will give you a real or hypothetical set of facts and then ask you a short set of very specific legal questions. Alternatively, I may ask you to brief a case and answer some questions about its significance. You will identify the relevant legal issue or issues, identify the relevant legal rules and/or case precedents, explain how those rules and/or case precedents apply to the facts of the case, and state your conclusion. These are open-book exercises, but you can use only your assigned readings – *no outside research*. Your written answers probably will range from three to five pages, depending on the question.

CASE TEACH-IN: You will receive more instructions about this in class, and you will sign up for your date to present your case. You will be presenting on a current media law topic that I will assign. The point will be to engage your audience, garner interest and discussion, and teach them something about the topic and the law.

MEDIA LAW JOURNALISM PROJECT: This is a part of the course that is guaranteed to make your brain grow. I welcome topics that are job-related. If you had a recurring media law problem in your workplace or if you're beginning to see a new media law problem in your research area, this might be a good way to find a solution to the problem. Each student will be required to identify a research topic in the field of communication/media law and to read what other scholars already have written on that topic. Then, each student will conduct original research in that area.

[MA/JD students will be producing a 20 to 25-page paper, including footnotes or endnotes, following Blue Book style. Students will develop a set of research questions related to the topic, and then to read and analyze primary legal materials (e.g., court decisions, congressional hearings, or statutes) to answer the research questions. Your paper could conclude with a set of guidelines or best practices for people in your business. These will be submitted to an academic conference.]

Everyone else will complete a long-form feature journalism piece or project (about 3,000 to 4,000 words) that must have a targeted publisher or some other plan for publication (i.e.- Medium). This project will include interviews with key stakeholders, a plan for online or printed publication/website suitable for your piece, and an indication of interest from the published outlet or goals for publication. The goal of this option is to give you a chance to be a thought leader online or in print on a particular media law issue (not to mention it makes for a nice resume addition, a social media boost and

something to talk about in a future job interview.) **One student I had who put his full effort into this project wound up winning an AP award for his work!**

To help ensure your success, you will work on your final project in several stages as outlined below.

Stage 1	Write a two to three-page double-spaced memo describing your research topic. (5% of grade)	
I will provide each student with comments on your topic. Changes to your topic will likely be necessary BEFORE you can move to stage 2.		
Stage 2	<p><u>MA students:</u> Read at least 10 law review articles on your topic and/or peer-reviewed journal articles/studies on your topic. General mass media articles (i.e. – <i>The New York Times</i>) are not acceptable for this part of the project. Summarize each of these articles in an annotated literature review. List at least four sources you will contact and interview for your story. Summarize the basic approach to your journalism project and the main research questions you plan to tackle. Discuss where and how you will publish. (20% of the grade)</p> <p><u>MA/JD students:</u> Read at least 10 law review articles on your topic and/or journal articles/studies on your topic. Write an introduction to your paper and literature review. Propose your research questions. (20% of the grade)</p>	
I will provide each student with feedback on Stage 2 that should inform the final deliverable.		
Stage 3	<u>MA/JDs:</u> Complete your 20-page paper (20% of the grade)	<u>MA students:</u> Complete your long-form feature journalism project (3,000 to 4,000 words or equivalent that we agree upon) (20% of the grade)
Stage 4	Present your paper/project to the class (5% of the grade)	

More detailed instructions on each part will be provided. You also will be trained in how to use Westlaw Next, an online database of legal materials, and you will be assigned a Westlaw password.

PARTICIPATION

See the section above on professionalism. Attendance, class engagement, and communication with me will factor into your grade. You need to do the reading. I will be cold-calling on people.

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 examinations; and who produce outstanding legal research that demonstrates a superior ability to formulate and conduct an original legal research project. Students produce research that uses a variety of highly relevant and appropriate secondary and primary legal sources, contributes substantial and original knowledge to the field, and is well-documented and sourced. Students are active participants who always meet deadlines. **“H” students usually represent the top 2-3% of the class. That means in a class of 10 people, only two to three people will receive an H. These are the room’s top performers.**

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 examinations; and who produce sound legal research that demonstrates a clear and substantial ability to formulate and conduct an original legal research project. Students use sufficient, relevant and appropriate secondary and primary legal sources and contribute original knowledge to the field, using well documented sources. Students participate and meet deadlines. **In class of 10 people, usually 6 to 7 people will receive a P.**

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 has not completed assigned readings or other assignments, and fails to meet the minimum requirements for each examination, the legal research project and class participation. Students rarely participate, miss class, stay below the radar, fail to communicate effectively with the instructor and their peers and miss deadlines.

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

Honor Code

The Honor Code and the Campus Code, embodying the ideals of academic honesty, integrity and responsible citizenship, have for over 100 years governed the performance of all academic work and student conduct at the University. Acceptance by a student of

enrollment in the University presupposes a commitment to the principles embodied in these codes and a respect for this most significant University tradition.

Your participation in this course comes with the expectation that your work will be completed in full observance of the Honor Code. Academic dishonesty in any form is unacceptable, because any breach in academic integrity, however small, strikes destructively at the University's life and work.

The [Instrument of Student Judicial Governance](#), which contains the provisions of the Honor Code, states that students have four general responsibilities under the Code:

1. Obey and support the enforcement of the Honor Code;
2. Refrain from lying, cheating, or stealing;
3. Conduct themselves so as not to impair significantly the welfare or the educational opportunities of others in the University community; and
4. Refrain from conduct that impairs or may impair the capacity of University and associated personnel to perform their duties, manage resources, protect the safety and welfare of members of the University community, and maintain the integrity of the University.

The [Instrument](#) defines plagiarism as "deliberate or reckless representation of another's words, thoughts, or ideas as one's own without attribution in connection with submission of academic work, whether graded or otherwise."

Please submit all written work with the following pledge: "On my honor, I have neither given nor received unauthorized aid on this assignment."

Inclement Weather Policy

If the campus is open, class will take place. Any other cancellations will be posted online before 9 a.m.

Disability/Accommodations

If you are a student with a documented disability OR a student with a unique personal situation (e.g. – a terminally ill family member or you are struggling with depression, etc.), please talk to me or email me during the first two weeks of class so that we can work together to make your experience in this class a success. I am very happy to work with you to make the necessary and reasonable accommodations. While I prefer to have documentation from Accessibility Resource Services (ARS) to help you, there are times when students do not report a disability and/or struggle with mental health or a family situation to ARS. I am happy to have these conversations with you and provide reasonable accommodations as required by law. I cannot, however, accommodate you to the point that it would be unfair to other students in the class – or to the point in which you will miss important material in the course. But there are many possibilities,

and I urge you to come speak to me earlier rather than later in the semester. I cannot help you in this regard if you come to me at the last minute.

Students who may need academic accommodations and associated resources, like extended testing time, must contact the Department of Accessibility Resources and Service (ARS) in a timely manner to determine whether and to what extent such accommodations or resources are necessary for this course. However, only ARS can make this determination for you – not your professor. It is the goal of UNC to “ensure that all programs and facilities of the University are accessible to all members of the University community.” If you think this might apply to you, please contact ARS confidentially as soon as possible either by telephone at 962-8300 or visit the ARS website at <http://accessibility.unc.edu/about-us> for additional information. Please know that I am fully committed to this policy and will abide by any recommendations ARS may make for you for this course.

MEJO 740 Annotated Schedule

See full schedule on Sakai site along with assignments and readings

Aug. 26	Introduction to Media Law
Sept. 2	Labor Day (no class)
Sept. 9	Doing Legal Research/First Amendment Basics
Sept. 16	Doing Legal Research/First Amendment Basics Stage 1 - Topic Memo Due
Sept. 23	Private Conferences with Tori (no full class meeting)
Sept. 30	Access to Information
Oct. 7	Access to Information Problem Solving Assignment #1 Due
Oct. 14	Libel/Privacy
Oct. 21	Libel/Privacy Stage 2 – Annotated Lit Review or Full Lit Review Due
Oct. 24	Libel/Privacy
Oct. 28	Libel/Privacy
Nov. 4	Reporters Privilege Problem Solving Assignment #2 Due
Nov. 11	Copyright & IP
Nov. 18	Copyright & IP
Nov. 25	Final Drafts - Peer/Professor Workshop
Dec. 2	Stage 3 - Papers/Projects Due
Friday, Dec. 6	Stage 4 – Presentations Due, 7 p.m. start

In addition to these items due in bold, you will be presenting in class on a media law topic & case.