

MASS COMMUNICATION LAW

JB 4163 Fall 2008 12:30 – 1:20 p.m., MWF (JB 101)

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Hours: 2:30 - 3:30 p.m., MW; 1:30 - 2:30 p.m., Fri.
And By Appointment

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COURSE CONTENT AND GOALS

Knowledge of media law is essential for a successful career in mass communication, not only to recognize the many legal pitfalls that face professional communicators but also to understand the legal framework that is shaping the convergence of old media industries and the emergence of new ones.

Perhaps without realizing it, you already are affected by legal issues facing the media. For example, what are your First Amendment rights as a college student? Would you shed those rights by publishing on the World Wide Web or by placing a profile on Facebook?

In this course, we will explore the major principles of media law by examining the important court decisions and statutory enactments in each area of communication law. We will analyze how they have developed and how they are applied today. Our discussions, readings and assignments will provide you with a context for analyzing legal and regulatory situations that might occur during your career.

The School of Journalism and Broadcasting at Oklahoma State University is one of more than 100 accredited professional journalism/mass communication programs in the United States. The Accrediting Council on Education in Journalism and Mass Communications (ACEJMC) requires that all graduates of accredited programs should be aware of certain core values and competencies and be able to perform at an adequate level. Most relevant to this course are expectations that you demonstrate:

- An understanding of the relevant constitutional freedoms, legal issues and ethical principles in mass communication, and
- Critical, creative and individual thinking.

More specifically, I expect that by the end of this course, you should be able to do the following:

1. Understand how the law is shaped, including the delicate balancing of social values that often takes place.
2. Recognize and assert your legal rights as a professional communicator and as a resident of the United States.
3. Apply the law and precedents to specific situations (such as a news article or advertisement) and determine if there are potential legal problems.
4. Articulate the First Amendment rights of the public and press and how they might be applied to emerging media.

In this course, you are expected to keep up with assigned readings, participate intelligently in class discussions and study diligently for tests. In short, you are expected to do your best.

REQUIRED READINGS

These readings were chosen because they provide a solid grounding in the major principles of media law. Now that you've spent the money – read them. Read the assigned pages (listed in the syllabus) before the start of class. Our in-class discussions and exams are based on the readings. If you don't keep up, you will be lost in class and on the exams. After the course is completed, don't be in a hurry to sell your textbooks because you will still find them to be excellent resources.

1. *Mass Media Law*, Pember, 2009/2010 edition
2. *Mass Communication Law in Oklahoma*, Senat, 6th edition
3. Readings on the Course Home Page

You also will find class much more interesting if you do the readings. To encourage our discussion, I will call upon students to provide the facts or reasoning of a case you were to have read and to answer the reading guide questions. ***Please, come to class prepared by having completed the reading/study guides found on the course home page.***

COURSE HOME PAGE & E-MAIL LIST: I will use these tools to post reminders, announcements and other course-related materials. The course home page also contains required readings. The home page can be found by navigating through the URL provided at the top of the syllabus. These can be useful tools if you check them regularly. Make sure that the e-mail address you actually use is the one on file with OSU. Please remember that a “reply all” to the e-mail list would send your response to everyone in the class. If you want to send a confidential message to me, use my OSU e-mail address at the top of the syllabus.

Exams: Sept. 15; Oct. 6; Nov. 3; Dec. 12

You will have *four* exams. Each will count for *25 percent* of your course grade.

Point Scale: (A) 100 – 90; (B) 89 – 80; (C) 79 – 70; (D) 69 – 60; (F) 59 – 0

Exams will require you to: (1) identify and understand definitions, tests, theories, doctrines, standards, current trends and other facts about media law; and (2) apply to hypothetical situations what we have covered in class. The format will be multiple-choice and hypothetical questions. The *Final Exam’s* first 10 questions will be from the multiple-choice questions on your first three exams; the remainder of the Final Exam will be based on the new material.

Rules governing the classroom environment and activities during the exam are posted on the course home page under “Exam Etiquette.” Please read them. You are expected to abide by them.

Makeup exams may be given because of university- or military-required activities, but only if I am notified prior to the exam time. Makeup exams may also be given in the case of proven emergencies that prevent you from taking the scheduled exam, but only if I am notified immediately. Examples of such an emergency would a death in your immediate family, your own hospitalization or a traffic accident on the way to the exam. Oversleeping, confusing the date of the exam, or visits by out-of-town friends are not emergencies.

Documentation must be presented to me before a makeup exam will be scheduled. I reserve the right to check the authenticity of all documentation and the right to reject bogus documentation. Makeup exams consist of short-answer, essay and hypothetical questions, not multiple-choice questions.

Final exam schedules are available about eight months in advance of finals week. Therefore, you are expected to take the final exam for this course on the date and time scheduled by the university. If you have travel plans – even to go overseas or for a wedding – that conflict with the final exam, you have the option of changing your plans or taking the course in another semester. But you will not be able to take a makeup final exam because of those travel plans.

If you are **tardy for an exam**, you will be allowed to take it only if no one else has completed it and left the room. You will have only the remaining regular time allotted for the exam.

Students taking exams at the **Testing Center** are responsible for notifying me and for scheduling their exams. They must start their exams at the same times on the same days scheduled for the rest of the class. If a scheduling conflict with the Testing Center arises, contact me immediately.

QUIZZES: You must come to class prepared. If you have not thoroughly read the material, you will not be able to fully participate in the class discussion, and the law is best learned through an informed discussion of the cases, statutes and regulations. To encourage your preparation, you will be given unannounced quizzes based on the *reading/study guides* provided on the course home page.

These quizzes *can only help, not hurt*, your course grade. If your quiz average at the end of the semester is higher than your grade on *one of the four exams*, your quiz average will automatically replace that exam grade. Your *three lowest* quiz grades will be dropped automatically at the end of the semester. *Quizzes missed because of any absence or tardiness will be counted as zeroes.* See Attendance. You are responsible for keeping track of your quiz average.

Quizzes can include true/false, multiple-choice and short-answer questions. They typically will be given during the *first five minutes of class*; however, some quizzes will focus on material presented in the lecture and will be given near the end of class. Quizzes are CLOSED BOOK / OPEN NOTES. This means that during the quiz you may use typed or hand-written notes distilled from the readings. But the *textbooks and online readings themselves* may *NOT* be used during the quiz. Notes may *NOT* be shared during the quiz. *Cheating will NOT be tolerated, so keep your eyes on your own paper, not your neighbors.*

ACADEMIC INTEGRITY

While you are strongly encouraged to study with classmates, this does not mean copying someone else's answers during an exam or quiz. If your anxiety about this course is such that you feel pressured to cheat, please come see me instead so we can discuss what you don't understand and explore ways to improve your study habits. **Cheating will NOT be tolerated.**

You are expected to abide by the following university statement: "I will respect OSU's commitment to academic integrity and uphold the values of honesty and responsibility that preserve our academic community." OSU's policy regarding academic integrity applies equally to the student whose exam or quiz answers are being copied. Under the policy, students "must take reasonable care the examination answers are not seen by others." For example, during exams in this class, you should turn over your bubble-sheet after you have completed the multiple-choice questions. You also should keep your quiz answers covered.

OSU Statement: Oklahoma State University is committed to the maintenance of the highest standards of integrity and ethical conduct of its members. This level of ethical behavior and integrity will be maintained in this course. Participating in a behavior that violates academic integrity (e.g., unauthorized collaboration on homework or assignments, plagiarism, multiple submissions of the same assignment, cheating on examinations, fabricating information, helping another person cheat, having unauthorized advance access to examinations, altering or destroying the work of others, and fraudulently altering academic records) will result in your being sanctioned. Violations may subject you to disciplinary action including the following: receiving a failing grade on an assignment, examination or course, receiving a notation of a violation of academic integrity on your transcript, and being suspended from the University. You have the right to appeal the charge. Contact the Office of Academic Affairs, 101 Whitehurst, 405-744-5627, <<http://osu.okstate.edu/acadaffr/aa/academicintegrity.htm>>.

ATTENDANCE

This course will be a combination of lecture and discussion. The class periods are designed to highlight and explain the issues to be extracted from the cases, statutes and regulations. We will frequently apply the law to hypothetical situations just as you will be expected to do on the exams. Therefore, your attendance is necessary if you are to do your best in this course. Students who frequently miss class typically find themselves lost on exams. Neither of us wants that to happen.

By automatically dropping your three lowest quiz grades, I am giving you *three "personal days,"* just as you might receive on a job. In other words, you are being given three excused absences for the semester. These are the only excused absences you will receive during the semester. Use these days wisely. Save them for when you really need them. Before deciding to skip class because you just don't feel like attending, consider whether it's possible that you will be ill or need to attend a funeral or go to a job interview later in the semester. Remember: quizzes missed due to more than three absences will be counted as zeroes – regardless of the reason.

Exceptions to this policy are made for students **REQUIRED** by either the university or military to miss more than three classes and for students who are hospitalized for more than three classes. In these situations, the student's first three required absences will count as the three lowest quiz grades to be dropped. Only the required absences in excess of three will be excused. For a student to qualify for this exception, *I must be notified in writing by the appropriate university, military or medical official prior to the required absence.* Required means more than your participation in student organizations or university activities or even a university job on campus. Required means, for example, that your scholarship or course grade is jeopardized if you do not participate in a university-mandated activity. An example would be a field trip required in another class.

DAILY SCHEDULE

Complete all readings prior to the start of class.

Pember = *Mass Media Law*

Senat = *Mass Comm. Law in Oklahoma*

Home Page = Course Home Page

<u>Date</u>	<u>Subject</u>	<u>Readings</u>
8/18	Introduction	
8/20	Legal Basics	Pember: pp. 1-13 Senat: Preface Home Page: Methods of Judicial Interpretation
8/22	Judicial System	Pember: pp. 14-31 Senat: Preface Home Page: USSC Notes; Oklahoma Courts
8/25	First Amendment Theories	Pember: pp. 33-47 Senat: pp. 1-6 Home Page: First Amendment Theories
8/27	First Amendment Tests <i>Hit Man</i> discussion	Pember: pp. 48-62 Home Page: <i>Hit Man</i> and court excerpts
8/29	First Amendment: Incorporation; Prior Restraint	Pember: pp. 62-63, 65-71
9/1	LABOR DAY HOLIDAY	
9/3	Time, Place & Manner; Public Forums	Pember: pp. 106-13, 115-17
9/5	First Amendment for Print, Broadcast, Cable & Internet	Pember: pp. 46-47, 123-25, 584-85, 619-26 Home Page: Extending the First Amendment to the Internet; First Amendment for Print, Broadcast, Cable and the Internet
9/8	First Amendment for High School Students	Pember: pp. 85-97 Home Page: Home Page: First Amendment & Public Schools; Oklahoma Students & Free Expression
9/10	First Amendment for College Students	Pember: pp. 97-102, 117-21 Home Page: First Amendment & Public Schools; <i>Hosty v. Carter</i> (notes); 1st Amendment online: Do
9/12	First Amendment & Pornography	Pember: pp. Ch. 13 Senat: pp. 271-79 Home Page: Overview of How Courts Have Defined Obscenity; COPA Notes; CPPA Notes
9/15	FIRST EXAM	

9/17	Libel: Basics, Publication, Identification	Pember: pp. 131-49, 204-10 Senat: pp. 7-18
9/19	Libel: Defamatory Content, Constitutionalization of Libel	Pember: pp. 149-56, 163-67 Senat: pp. 18-28
9/22	Libel: Fault	Pember: pp. 167-199 Senat: pp. 28-46
9/24	Libel: Falsity, Damages, Oklahoma Retraction Statutes	Pember: pp. 158-61, 229-234 Senat: pp. 46-48, 76-82
9/26	Libel: Veggie Libel, Criminal Libel	Pember: pp. 156-58, 234-36 Senat: pp. 80-91
9/29	Libel: Defenses	Pember: pp. 143-45, 210-29 Senat: pp. 48-75
10/1	False Light	Pember: pp. 291-99 Senat: pp. 93-102
10/3	Emotional Distress	Pember: pp. 199-202 Senat: pp. 103-17
10/6	SECOND EXAM	
10/8	Privacy & Internet Privacy	Pember: pp. 239-42, 270-73, 289-90, 348-50 Home Page: How Privacy Is Regulated; How Internet Cookies Work; Internet Privacy Notes; Spyware Everywhere; COPPA Notes
10/10	FALL BREAK	
10/13	Intrusion	Pember: pp. 262-70, 309-17 Senat: pp. 119-132 Home Page: Intrusion
10/15	Public Disclosure of Private, Embarrassing Facts	Pember: pp. 276-91 Senat: pp. 133-43 Home Page: Public Disclosure
10/17	Rights of Privacy and Access To Government Information	Pember: pp. 318-39, 240, 351-53 Home Page: Informational Privacy Notes
10/20	Oklahoma Sunshine: Open Records	Pember: pp. 340, 343-48, 353-54 Senat: pp. 145-87
10/22	FIRST AMENDMENT CONGRESS: Class will <i>not</i> meet	
10/24	Oklahoma Sunshine: Open Meetings	Pember: pp. 340-42 Senat: pp. 189-223

10/27	Journalist's Privilege	Pember: Ch. 10 Senat: pp. 225-32 Home Page: <i>Branzburg</i> Notes
10/29	Free Press-Fair Trial Pt. 1	Pember: Ch. 11 Senat: pp. 233-44 Home Page: <i>Okla. Pub. Co.</i>
10/31	Free Press-Fair Trial Pts. 2 & 3: Closed Courts; Cameras in Courts	Pember: pp. Ch. 12 Senat: pp. 244-70
11/3	THIRD EXAM	
11/5	Appropriation	Pember: pp. 243-261 Senat: pp. 281-94 Home Page: Appropriation Overview
11/7	Commercial Speech Doctrine	Pember: pp. 539-543 Senat: p. 295-99 Home Page: <i>Nike v. Kasky</i> Excerpts; USSC & Commercial Speech
11/10	<i>Central Hudson</i> Test	Pember: pp. 543-47, 102-103 Senat: pp. 299 - 304 Home Page: <i>Thompson v. Western Medical</i> ; USSC & Commercial Speech
11/12	Regulating Deceptive Ads; Defenses; Liability	Pember: pp. 548-574, 577-79 Senat: pp. 304-16 Home Page: <i>In the matter of KFC Corp.</i>
11/14	Testimonials; Bait-and-Switch	Pember: pp. 574-77 Senat: p. 307 Home Page: FTC Guides Concerning Use of Endorsements and Testimonials in Advertising; FTC Guides Against Bait Advertising
11/17	FALL MEDIA MONDAY: Class will <i>not</i> meet	
11/19	Copyright: Proving Infringement	Pember: pp. 487 – 505, 519-36 Home Page: Copyright Basics
11/21	Copyright: Fair Use	Pember: pp. 506-19 Home Page: Fair Use
11/24	Copyright: Parody	Pember: pp. 514-15 Home Page: <i>Abilene Music Inc. v. Sony Music</i>
11/26-28	THANKSGIVING HOLIDAY	

12/1	Regulation of Broadcasting	Pember: pp. 584-95
12/3	Regulation of Broadcasting	Pember: pp. 595 – 618
12/5	Regulation of Broadcasting	Pember: pp. 618-19 Home Page: Video News Releases
12/12	FINAL EXAM (10 – 11:50 a.m.)	

No two groups of students are the same. Some take a particular interest in certain topics, or world and/or local events may necessitate discussions not listed in the syllabus. Therefore, I reserve the right to make changes in the syllabus to fit the needs of the class and to allow for the unscheduled arrival of guest speakers, etc.