

MASS MEDIA LAW

JOUR 302 – FALL 2007

Monday/Wednesday: 8:10AM – 10:00AM

Bldg. 34 - Rm. 228

CONTACT INFORMATION / OFFICE HOURS

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Monday 11:00am-12:30pm	Tuesday 10:00am-11:30pm	Wednesday 12:00pm-1:00pm
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▪ PURPOSE

As a media practitioner, you are truly a life-long student – the confluence of technology, techniques, and the law is directly proportional to how we choose, or not choose, to engage in expression with the potential of reaching an audience of billions or of one. The purpose of this course is to:

- a) develop a *working knowledge* of the legal component of that aforementioned equation;
- b) hone your critical thinking skills to enable a *proactive* application of sound legal reasoning in the use of media

You should look at laws as *tools* – each suited to a particular application. Therefore, we will study the First Amendment and the relevant statutes, case law and policies that expand and constrict the scope of our right to freedom of the press and freedom of speech.

▪ LEARNING OUTCOMES

Upon completing this course you should possess the following competencies in accordance with learning outcomes promulgated by the Association for Education in Journalism and Mass Communication:

1. Understand and apply First Amendment principles and the law appropriate to professional practice.
2. A demonstrable understanding of the history and role of professionals and institutions in shaping communications.
3. Conduct research, evaluate information, and methodically apply the skills, information, concepts, theories and ideas necessary to accomplish tasks in the communications venue in which you will participate.

▪ TEXT

Hopkins, W. Wat (Ed.) (2007). *Communications and the Law*. Northport: Vision Press

▪ READINGS

This instructor will distribute relevant essays and articles published in legal and professional journals. It will be your responsibility to read them prior to the class period where the material will be discussed.

- **CASES**

Much of this course revolves around *case law* – rulings from judicial proceedings that have been instrumental in construing the scope of free press and free speech rights we currently enjoy. While many of the cases are covered in the text, certain nuances relative to the case's *fact pattern* and *legal rationale* are glossed over because of the text's editorial constraints. Therefore you will be responsible for finding these cases and briefing them - a cogent method of reading a case and isolating its facts, rule of law, rationale, and conclusion. We will review and apply this method on all cases throughout the course.

- **GRADE DISTRIBUTION**

Participation	Exam #1	Exam #2	Final Exam
20%	20%	25%	35%

- **CLASS PARTICIPATION/ATTENDANCE**

So as to objectify class participation, you will be assigned cases during the semester from those listed in the syllabus to “brief” and serve as the active participant for its discussion in class. You will hand in a *copy* of your notes and other prepared materials used in your presentation at the beginning of class; they will be graded and returned the following class.

Grade A	Exceptional – recitation of facts in writer’s own words, clear understanding of how case made its way to final level of review, cogent analysis of court’s reasoning in decision.
Grade B	Above Average Work – good recitation of facts, basic understanding of procedural history, flashes of judicial analysis.
Grade C	Average Work – fair command of facts, some confusion of how case made its way to final review, regurgitation of judges words.
Grade D	Cut and paste job.

Along the lines of participation is attendance – you can’t contribute if you miss class. You will be permitted one unexcused absence this quarter. Any additional unexcused absences will result in a half-letter grade deduction for each successive absence. Excessive lateness will also result in a half-letter grade deduction.

- **EXAMINATIONS**

The exams will test your knowledge of the Black-letter law as well as your ability to apply legal rationale through analogy and distinction of case law precedent to hypothetical and sometimes not-so-hypothetical situations. The format for these examinations will be a combination of essay and short answer. Make-up examinations are only given in light of acceptably documented circumstances.

- **PLAGIARISM**

You will discover, if you haven't already noticed, that there are no absolutes in First Amendment law. There is, however, at least one absolute relative to this course - plagiarism shall not be tolerated. Cal Poly has put forth a comprehensive policy addressing this issue (§684 of the Campus Administrative Manual) and this class will adopt it. Please familiarize yourself with that policy. If you still have any questions relative to this issue, please see me. Failure to adhere to this tenet will earn the student a failing grade in this course and whatever ramifications deemed necessary by this institution at its discretion

* * * **CLASS CALENDAR** * * *

Class	Topics/Cases	Readings
September 17 & 19	American Legal System 1st Amendment Principles • Case Brief Student Press	Chapters 1, 2 & 13
September 24 & 26	PRIOR RESTRAINT/OBSCENITY & CONDUCT	Chapters 3, 4 & 5
<i>R.A.V. v. St. Paul</i> , 112 S.Ct. 2538 (1992) <i>Near v. Minnesota</i> , 283 U.S. 697 (1931) <i>New York Times Co. v. United States</i> , 403 U.S. 713 (1971) <i>Miller v. California</i> , 413 U.S. 15 (1973) <i>Reno v. ACLU</i> , 117 S.Ct. 2329 (1997) <i>Cohen v. California</i> , 403 U.S. 15 (1971)		
October 1	No Class Session	Chapters 16 & 17
October 3	FREE PRESS/FAIR TRIAL PUBLIC ACCESS	Chapters 16 & 17
<i>Cox Broadcasting Corp. v. Cohn</i> , 420 U.S. 469 (1975) <i>Florida Star v. B.J.F.</i> , 109 S.Ct. 2603 (1989) <i>Gannett Co. v. DePasquale</i> , 443 U.S. 368 (1979) <i>Press-Enterprise v. Riverside Superior Court</i> , 478 U.S.1 (1986) <i>Nebraska Press Association v. Stuart</i> , 427 U.S. 539 (1976) <i>Richmond Newspapers, Inc. v. Virginia</i> , 448 U.S. 555 (1980)		
October 8	COMMERCIAL SPEECH	Chapters 8 & 9
<i>Central Hudson v. Public Service Commission</i> , 447 U.S. 557 (1980) <i>Nike Inc., v Kasky</i> , 539 U.S. 654 (2003)		
October 10	MIDTERM EXAM #1	Exam Books Provided

Class	Topics/Cases	Readings
October 15 & 17	LIBEL: Establishing a Case & Proof of Fault	Chapter 6
<p><i>New York Times Co. v. Sullivan</i>, 376 U.S. 254 (1964) <i>Herbert v. Lando</i>, 441 U.S. 153 (1979) <i>Gertz v. Robert Welch, Inc.</i>, 418 U.S. 323 (1974) <i>Time, Inc. v. Firestone</i>, 424 U.S. 448 (1976)</p>		
October 22	LIBEL: Defenses & Damages	Chapter 6
<p><i>Masson v. New Yorker Magazine, Inc.</i>, 501 U.S. 496 (1991) <i>Milkovich v. Lorain Journal Co.</i>, 497 U.S. 1 (1990) <i>Ollman v. Evans</i>, 750 F.2d 970 (1984) <i>Hustler Magazine, Inc. v. Falwell</i>, 485 U.S. 46 (1988)</p>		
October 24	SOURCE CONFIDENTIALITY	Chapter 15
<p><i>Branzburg v. Hayes</i>, 408 U.S. 665 (1972) <i>In re Farber</i>, 394 A.2d 330 (N.J. 1978) <i>Zurcher v. Stanford Daily</i>, 436 U.S. 547 (1978) <i>Cohen v. Cowles Media</i>, 501 U.S. 663 (1991) <i>Outlet Communications, Inc. v. Rhode Island</i>, 588 A.2d 1050 (1991)</p>		
October 29 & 31	NEWSGATHERING: Permissible Scope	Chapter 18
<p><i>Pell v. Procunier</i>, 417 U.S. 817 (1974) <i>Saxbe v. Washington Post Co.</i>, 417 U.S. 843 (1974) <i>Houchins v KQED</i>, 438 U.S. 1 (1978) <i>United States v. Noriega</i>, 917 F.2d 1543 <i>Desnick v. American Broadcasting Companies, Inc.</i>, 44 F.2d 1345 (1995) <i>Dietmann v. Time</i> 499 F.2d 245 (1971) <i>Wolfson v. Lewis</i>, 924 F. Supp. 1413 (1996) <i>Food Lion, Inc. v. Capital Cities/ABC</i>, 194 F.3d 505 (1999)</p>		
November 5	PRIVACY Cases TBD	Chapter 14
November 7	MIDTERM EXAM #2	Exam Books Provided

Class	Topics/Cases	Readings
November 12 & 14	COPYRIGHT	Chapter 7
<p><i>Warner Bros. v. ABC</i>, 523 F. Supp. 611 (1981) <i>Berkic v. Chrichton</i>, 761 F.2d 1289 (1985) <i>Sony Corp. v. Universal City Studios, Inc.</i>, 464 U.S. 417 (1984) <i>Harper & Row Publishers, Inc v. Nation Enterprises</i>, 471 U.S. 539 (1985) <i>Campbell v. Acuff-Rose</i>, 972 F.2d 1429, rev'd 114 S.Ct. 1164 <i>New York Times Co. v. Tasini</i>, 121 S.Ct. 2381 (2001) <i>MGM Studios Inc. v. Grokster</i>, 125 S. Ct. 2764 (2005)</p>		

November 19 & 26	BROADCAST/CABLE REGULATIONS	Chapters 10 & 11
<p><i>Red Lion Broadcasting v. FCC</i>, 395 U.S. 367 (1969) <i>FCC v. Pacifica Foundation</i>, 438 U.S. 726 (1978) <i>Miami Herald Pub. Co. v. Tornillo</i>, 418 U.S. 241 (1974) <i>Syracuse Peace Council v FCC</i>, 867 F. 2d 654 (1989) <i>CBS v. FCC</i>, 453 U.S. 567 (1981)</p>		

FINAL EXAM
DECEMBER 5TH – 7:10AM-10:00AM