

JOU 4930
Social Media Law and Ethics
Spring 2018 Period 6-8 (12:50 p.m.-3:50 p.m.) Mondays
Prof. Frank LoMonte

The important stuff

I'm putting this part first, because it's the most important. I care, and this university cares, that you look after your own health, and always feel safe and welcome here. If there is anything that's interfering with your ability to get the most out of your UF experience – whether it has anything to do with this course or not – I want to know about it and help make it right. If I'm not the right person to help, there are plenty of resources available through the *U Matter, We Care* program that you should never be shy about using. You can ask for confidential help by emailing umatter@ufl.edu, by calling 352-294-2273 or by visiting the Care Area on the third floor of Peabody Hall. There are crisis counselors available, even on nights and weekends, at 352-392-1575.

Course description

Social media saturates America's culture, but the technology is just over a decade old, and the legal system continues evolving to adjust to a society in which life is lived – visibly – online. Social media influences, and is influenced by, the legal system. People are fired, and even arrested, for social-media postings. Their social-media profiles are harvested for evidence. And when the relationship with their social-media provider goes sour, they sue. This course will survey the intersections between old legal principles and new technologies, and how the law is adapting (or failing to adapt) to changing realities in the wired world. Through group discussion, we'll explore not just what the rules of the digital road are today, but what they will be – and should be – tomorrow.

Grading and class expectations

No textbook is required, and all course readings will be posted online. In addition to the assigned readings in the syllabus, I'll occasionally post news articles to Canvas that you'll be expected to keep up with and discuss online. Grading will be based on:

- (1) A take-home midterm essay exam (30%)
- (2) Participation in the Canvas online discussion forum (20%)
- (3) Participation in class discussion (20%)
- (4) A take-home final essay exam (30%).

Exams will be take-home and “open book,” with the only expectation being that you must do your own individual work and not collaborate. For each exam, you'll be asked to write two essays based on the readings and class discussions, with no additional outside research or footnoting required. Each essay will take about four double-spaced pages to answer, so each exam will require submitting about eight double-spaced pages. Exams can be submitted through the Canvas platform, but if you have any difficulty making the platform work, then you can (1) email your essays to flomonte@ufl.edu or (2) drop the paper responses by my office. “I couldn't get Canvas to work” will not be an excuse, since you have these backup methods. You will have plenty of time, so nobody should need to be late. For each 24-hour period you are late turning in the exam, you'll lose a full letter grade. If your exam is not turned in within 72 hours (3 days) of the deadline, it won't be accepted and that grade will be a zero.

Class participation grades will be primarily based on your presentation of a case you'll sign up for as "discussion leader." We'll ask everyone to sign up to present one side of a two-sided court case (for instance, in the case of *Smith v. United States*, one discussion leader would present Smith's perspective and the other would present the U.S. government's perspective). You'll earn 10 points by presenting your case in a well-prepared way. You'll earn the other 10 points by making a substantive contribution during the class discussions that indicates you've reviewed the readings, so don't just "check out" after your presentation day.

Online discussion grades will be based on your posting comments on Canvas, primarily in response to the articles I'll share, though you are invited to share your own as well. You'll earn full credit (20 points) by posting three substantive discussion comments (not just "I agree") over the course of the term, which might include introducing the class to an article you've found that is relevant to our current class topic or commenting on an article.

UF students are bound by the Honor Code pledge, which states: "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code." There's no reason to cheat in this class and the only thing you can do wrong is to copy someone else's exam or let someone copy your exam. So don't do that.

We have only 13 substantive class meetings (not counting the first introductory day) so it's especially important that you show up. Everyone can have one "free" unexcused absence, but after the first absence, I'll mark down one-half letter grade off your final grade (for example, B+ becomes B) unless presented with a documented excuse. You are unlikely to end up with a satisfying grade if you blow off class repeatedly and think you can get by just reading the assigned articles. The "connective tissue" making the readings meaningful will come out of our class discussion.

Students with disabilities requesting accommodations should register with the Disability Resource Center (352-392-8565) with appropriate documentation. Once registered, students will receive an accommodation letter to present to me, which ideally I hope you'll do as close to the start of the term as possible, so we can design accommodations that assist you in getting the maximum benefit out of the class.

Office hours and availability

My office is in 3208 Weimer, the Brechner Center space behind the AHA! Lab. I'm around a lot and I welcome drop-ins, but my official office hours for class-related visits will be:

Tuesdays, 2-4 p.m.

Wednesdays, 10:30-12:30 p.m.

I'm happy to make appointments at other times for anyone with scheduling issues.

CLASS SCHEDULE

CLASS 1 (Jan. 8): Introduction and overview

READING:

--Chris Taylor, "'Star Wars Kid Blasts Bullies, Jedi Knights Defend Him,'" *Mashable.com*, May 10, 2013

--Jon Ronson, "How One Stupid Tweet Blew Up Justine Sacco's Life," *The New York Times Magazine*, Feb. 12, 2015

NO CLASS JAN. 15 – King Day Holiday

CLASS 2 (Jan. 22): The First Amendment

READING:

- Packingham v. North Carolina*, 137 S.Ct. 1730 (2017)
- Venkat Balasubramani, "Deleting Comments to County Facebook Page May Violate First Amendment," *Technology & Marketing Law Blog*, Oct. 18, 2016
- Laura Sydell, "First Amendment Advocates Charge Trump Can't Block Critics on Twitter," NPR.org, Nov. 7, 2017

CLASS 3 (Jan. 29): Online threat speech

- Elonis v. United States*, 135 S.Ct 2001 (2015)
- Nicole Hong, "ISIS Retweet Arrest Raises Free Speech Issues," *The Wall Street Journal*, Aug. 12, 2016

CLASS 4 (Feb. 5): College student speech

READING:

- Tatro v. Univ. of Minn.*, 816 N.W.2d 509 (Minn. 2012)
- Keefe v. Adams*, 840 F.3d 523 (8th Cir. 2016)
- Josh Logue, "Who Should Prevent Social Media Harassment?" *Inside Higher Ed*, Oct. 22, 2015

CLASS 5 (Feb. 12): Cyberbullying and schools

READING:

- State v. Bishop*, 774 S.E.2d 337 (N.C. App. 2015)
- State v. Bishop*, 787 S.E.2d 814 (N.C. 2016)
- Doninger v. Niehoff*, 527 F.3d 41 (2d Cir. 2008)
- Bell v. Itawamba County School Board*, 799 F.3d 379 (5th Cir. 2015) (*en banc*)

CLASS 6 (Feb. 19): Government employee rights

READING:

- Bland v. Roberts*, 730 F.3d 368 (4th Cir. 2013)
- Christina Viega, "Miami-Dade schools remove principal after his post about police controversy," *The Miami Herald*, June 9, 2015
- David L. Hudson Jr., "Public Employees, Private Speech: 1st Amendment doesn't always protect government workers," *The ABA Journal*, May 2017

CLASS 7 (Feb. 26): Social media in the workplace

MIDTERM EXAMS DISTRIBUTED

READING:

- Hispanics United of Buffalo, Inc.*, NLRB Case 03-CA-027872 (Dec. 14, 2012)
- N.J. Stat. 34:6B-5 to 6B-10 (social media privacy)
- Mich. C.L.A. 37.271 to 37.268 (Internet Privacy Protection Act)

NO CLASS MARCH 5-SPRING BREAK

CLASS 8 (March 12): Privacy and libel issues

MIDTERM EXAMS DUE BACK

READING:

- Chaney v. Fayette County Sch. Dist.*, 2013 WL 5486829 (N.D. Ga. Sept. 30, 2013)
- Lacy Lett, "Victim's family sues newspaper for defamation," KFOR.com Dec. 22, 2017
- Ellyn Angelotti, "How Courtney Love and U.S.'s first Twitter libel trial could impact journalists," The Poynter Institute, Jan. 14, 2014

CLASS 9 (March 19): Consumer protection

READING:

- Federal Trade Commission, "Snapchat Settles FTC Charges That Promises of Disappearing Messages Were False," May 8, 2014
- Stephanie Strom, "When 'Liking' a Brand Online Voids the Right to Sue," *The New York Times*, April 16, 2014
- H.R. 5011, The Consumer Review Fairness Act of 2016
- Eric Goldman, "How Zappos' User Agreement Failed In Court and Left Zappos Legally Naked," *Forbes*, Oct. 10, 2012

CLASS 10 (March 26): User-generated content

READING:

- Reporters Committee for Freedom of the Press, "Anonymous speech online: When must the identity of a masked commenter be revealed?"
- Yelp, Inc. v. Hadeed*, 752 S.E.2d 554 (Va. Ct. App. 2014)
- Jones v. Dirty World Entertainment Recordings LLC*, 755 F. 3d 398 (6th Cir. 2014)

CLASS 11 (April 2): Copyright

READING:

- Liron Samuels, "How Richard Prince Sells Other People's Instagram Photos for \$100,000," *DIYPhotography.net*, May 21, 2015
- Caitlin Dewey, "How Copyright is Killing Your Favorite Memes," *The Washington Post*, Sept. 18, 2015
- Jacob Brogan, "Facebook Live's Big Problem Isn't Porn. It's Copyright," *Slate*, April 12, 2016

CLASS 12 (April 9): Ownership issues

READING:

- Eriq Gardner, "How BET's 'The Game' Launched a Legal War over a Facebook Page," *The Hollywood Reporter*, July 23, 2013
- Colin Moynihan, "Occupy Wall Street Activists File Suit Over Control of Twitter Account," *The New York Times*, Sept. 17, 2014
- Phonedog v. Kravitz*, 2011 WL 5415612 (N.D. Cal. Nov. 8, 2011)
- Maeve Duggan, "What happens to your digital life after death," *Pew Research Center* (Dec. 2, 2013)

CLASS 13 (April 16): Social media as evidence

READING:

- Nucci v. Target Corp.*, 162 So.3d 146 (Fla. App. 2015)
- Lorne Manly, "Legal Debate on Using Boastful Rap Lyrics as a Smoking Gun," *The New York Times*, March 26, 2014
- Amanda Hess, "Exhibit A: ;-)," *Slate*, Oct. 26, 2015

CLASS 14 (April 23): Social media ethics

FINAL EXAM DISTRIBUTED

READING:

--Mark Memmott, Wright Bryan & Lori Todd, *The NPR Way: Social Media* (updated July 2017)

--Joshua Benton, "The New York Times released new staff social media guidelines, so phew, thankfully that's settled," Nieman Lab, Oct. 13, 2017

--Nabiha Syed & Ben Smith, "A First Amendment For Social Platforms," *Medium*, June 2, 2016

FINAL EXAM DUE BACK: May 3, 5 p.m. Eastern

*This course is built around evolving news events. As such, the reading assignment schedule may be updated based on "breaking news" and/or based on our progress.

Contact information:
Prof. Frank LoMonte
3208 Weimer Hall
flomonte@ufl.edu
Office: (352) 392-2273
Cell: (404) 545-1195