



## **MMC 5206**

**Advanced Law of Mass Communications  
College of Journalism and Mass Communications  
University of Florida  
Fall 2012**

**Professor Sandra F. Chance**

**Course Schedule:** Wed. – 6-8<sup>th</sup> period (12:50-3:50 p.m.)

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**Office Hrs:**

Tuesday – 10 a.m.–11:30 a.m.

Wednesday – 4 – 5 p.m.

Available by appointment, too.

### **Required Texts:**

***The Law of Public Communication 2013 Update, Eighth Edition***

(Look in MMC 5206 or MMC 4200 book section.)

***Cases in Communication Law (info to come)***

### **Recommended Text:**

***The Bluebook:*** A Uniform System of Citation, 18<sup>th</sup> Ed. Can be purchased at Wilbert's, across from the Law School.

Check out the online version at: <http://www.legalbluebook.com/>

### **Course Content:**

Advanced Law of Mass Communication is a graduate level survey course. We'll be focusing on media law and its impact on the various media professions. We'll study the laws governing the media and analyze legal cases and problems. You must have a basic understanding of American government and the American legal system.

During the first part of the semester we'll examine the First Amendment, what it means and why it's important not only to members of the media, but to all citizens. Following this overview, we'll focus on freedom of expression and the issue of censorship.

Next we'll study the areas of defamation, privacy, copyright and corporate speech and advertising. We'll also examine the law and regulations affecting the broadcasting and cable industries.

Finally, we'll learn about access to government documents and meetings, the constitutional protections for newsgathering and the proposed restrictions following the death of Princess Diana, fair trial and free press issues, including new laws restricting cameras in the courts following the O.J. Simpson trial. Time permitting, we'll also look at the constitutional protections afforded sexually explicit, or obscene, speech and the ability of journalists to protect confidential sources.

**Course Objectives:** By the end of the semester, you will:

(1) understand the many legal questions and issues faced by media professionals in disseminating news and information to the public.

(2) understand how to do basic legal research, write a case brief and analyze legal issues and problems you will face as media professionals.

(3) understand the legal issues surrounding new technologies, including the new Telecommunications Act, the Communications Decency Act and the Child Online Protection Act.

(4) be knowledgeable about legal resources on the Internet and how to use Lexis/Nexis databases for effective legal research.

### **How Will We Do This?**

You'll be assigned readings in the texts, legal opinions and other relevant outside readings. With the knowledge you've gleaned from the readings, you'll have an opportunity to engage in class discussion and expand your critical thinking skills and ability to critically analyze and problem-solve.

In addition, you'll be assigned two short research/position papers and a final project, all designed to increase your understanding and appreciation for the importance of legal issues and protections for the media.

Ultimately, you'll learn how to read a case opinion, where to find cases, how to analyze cases, and why these cases are important. You'll use the skills you've learned to understand and analyze critical legal issues facing the communications industry.

## **How Grades Will Be Determined:**

**My grading policy:** Grades in this course are awarded solely on the basis of your performance. No credit or grades will be awarded based on need or on your status as a graduate student. (Translation: No guaranteed grades. You can earn and will receive a C, D or E if you fail to meet the course requirements.)

## **Assignments and Percentage of Final Grade:**

Class Preparation and Participation	25
Discussion Leader	10
Discussion/Position/Research Papers 2 @ 20 pts each	40
Final Paper/Project	<u>25</u>
	100

## **Details:**

**Class preparation and participation:** These grades will be based on quality (NOT quantity) of class discussion, case briefs, and other class preparatory assignments. If you are tardy three times (more than 10 minutes late), this will count as one hour of missed class. If you miss 3 hours of class, your class participation will go down one letter grade. If you miss six hours of class, your grade will go down two letter grades. If you miss more than six hours of class, your class participation grade will be an E.

**Discussion/Position Papers:** These papers will be limited to 6-12 typed, double-spaced pages. These papers will require you to read and **analyze** cases and apply your understanding of the appropriate law and legal precedents discussed in the texts and in class to a hypothetical. You need to outline the legal arguments the parties will likely present, explain the legal reasoning the court will engage in, based on assigned court decisions. Finally, take the position you believe the court deciding this case should follow. Most importantly, explain and support your position fully. An important part of this assignment will be the extent to which you demonstrate your ability to engage in **critical analysis and thinking**. You'll also be graded on your understanding of and use of your **legal research skills** to bring in additional and relevant legal information to your discussion. While I will not expect you to master the Blue Book style of footnoting, I will expect you to begin to understand and use it.

**Discussion Leader:** Each student will be assigned to lead class discussions this semester. Discussion leaders will be expected to be the experts on these subjects during the class discussions. Students must turn in copies of preparatory materials, including overheads and handouts to instructor at the beginning of the discussion session. If you are absent on the day you are leading the discussion, you will receive a 0 for that assignment.

**Final Project/Final Paper:**

The options for the final project will be determined by the number of students in the class. I'll explain the project as soon as possible, once the semester begins. You will have a choice between the project and a major research project.

**Grade Point Equivalencies:**

UF has adopted a new grading system, which includes plus and minus grades. I will be using this new system this semester. For more information on how this may affect your GPA, please see the University's official policy at: <http://www.registrar.ufl.edu/catalog/policies/regulationgrades.html>

**About Your Professor:**

This is my 19th year as a faculty member at the University of Florida's College of Journalism and Communications. I joined the faculty in 1993, after practicing media law with the one of the country's largest law firm, Holland & Knight. I was honored as the 1997 College of Journalism and Communications' Teacher of the Year and received a TIP award for teaching excellence in 1998. I was named the 2004 National Journalism Teacher of the Year by the Scripps Howard Foundation. The award is co-sponsored by the Freedom Forum, the Knight Foundation and the Association for Education in Journalism and Mass Communication. I am also the McClatchy Professor in Freedom of Information.

I earned my law degree from the University of Florida with honors in 1990, and was chosen Order of the Coif. I earned my Master's Degree with distinction in 1985 from UF's College of Journalism and Communications, and my B.S. degree with high honors from UF's College of Journalism and Communications in 1975. In addition, I have 15 years of corporate communications experience. I am on the board of the First Amendment Foundation and Sunshine Chair for the Society of Professional Journalists. I've served on the Association for Education in Journalism and Mass Communication's national Board of Directors and chaired the national Professional Freedom and Responsibility Committee. I am an active member of the Florida Bar's Media and Communications Law Committee and the American Bar Association's Communications Forum. I am admitted to practice before the U.S. Supreme Court.

I have been invited by the U.S. State Department to present FOI seminars in Brazil, Jamaica, China and Columbia and have been asked by the Mozambique government to review their press law.

I have published research in the *University of North Carolina's First Amendment Law Review*, *Fordham Intellectual Property, Media and Entertainment Law Review*, the *Communications Law and Policy* journal, the *Florida State Law Review*, the *Journal of Law and Public Policy*, the *Journal of Broadcasting and Electronic Media*, *Journalism Educator*, *UALR Law Review*, the *International Journal of Technology, Knowledge and Society* and *Journalism Studies*, presented numerous conference papers, written 20 book chapters, *Journal of Communications and Mass Communication Quarterly*, *Quill*, *Editor & Publisher*, *The Gainesville Sun*, *The Sun-Sentinel* and *The Palm Beach Post*.

I am supervising several thesis committees and serving on a number of others. I have also chaired and served on dissertation committees I am happy to discuss thesis ideas with you.

### **Access to Your Professor:**

My office is located on the third floor, Room 3208 in the Brechner Center, in the Flanagan Wing of the building. If you would like to discuss anything about this course, a career as a media lawyer, admission to law schools, media-related professional career choices, or personal views and questions, please feel free to come by. My office is a little out of the way, but don't let that stop you. I will be available to talk to you during my office hours. If these times are not convenient, stop by and we can set something else up. I'm looking forward to getting to know you.

In addition to my faculty duties and responsibilities, I am also the executive director of the Brechner Center for Freedom of Information. As a result, I am frequently in my office working on Center-related projects. If there is an emergency or a problem that can be handled quickly, I will generally be available to help at almost any time you can catch me in my office or the building.

### **My Position on Academic Honesty:**

Academic honesty and integrity are fundamental values of the university community. Students who enroll at the university commit to holding themselves and their peers to the high standard of honor required by the Honor Code. Any individual who becomes aware of a violation of the Honor Code is bound by honor to take corrective action.

No work required or prepared for this class may be submitted for credit in another class. Likewise, no material prepared for any other class will be accepted for credit in this class.

In addition, the following requirements from the Master's Handbook are effective in this class.

All graduate students in the College of Journalism and Communications are expected to conduct themselves with the highest degree of integrity. It is the students' responsibility to ensure that they know and understand the requirements of every assignment. At a minimum, this includes avoiding the following:

**Plagiarism:** Plagiarism occurs when an individual presents the ideas or expressions of another as his or her own. Students must always credit others' ideas with accurate citations and must use quotation marks and citations when presenting the words of others. A thorough understanding of plagiarism is a precondition for admittance to graduate studies in the college.

**Cheating:** Cheating occurs when a student circumvents or ignores the rules that govern an academic assignment such as an exam or class paper. It can include using notes, in physical or electronic form, in an exam, submitting the work of another as one's own, or reusing a paper a student has composed for one class in another class. If a student is not sure about the rules that govern an assignment, it is the student's responsibility to ask for clarification from his instructor.

**Research integrity:** The integrity of data in mass communication research is a paramount issue for advancing knowledge and the credibility of our professions. For this reason any intentional misrepresentation of data, or misrepresentation of the conditions or circumstances of data collection, is considered a violation of academic integrity.

Misrepresenting data reported in a thesis or dissertation is a clear violation of the rules and requirements of academic integrity and honesty.

**Any violation of the above stated conditions is grounds for immediate dismissal from the program and will result in revocation of the degree if the degree previously has been awarded.**

By your continued presence in the class, you agree to abide by the College's and my positions on academic honesty and agree to be bound by the University's Honor Code, which reads: "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honest and integrity. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied. 'On my honor, I have neither given nor received unauthorized aid in doing this assignment.'"

If you are aware of plagiarism, cheating, or questionable research integrity, please contact me immediately and proper action will be taken.

### **Students with Disabilities:**

The Office of Student Services had indicated that students with disabilities should contact their instructors at the beginning of the term. Individual arrangements will be made through that office to provide special services required to deal with problems arising from disabilities. Hearing or vision impairment and other disabilities should be called to the instructor's attention.

## **My Expectations:**

To avoid any misunderstandings, let me state a few obvious guidelines for class and class assignments. This information is intended to inform you fully of my expectations and avoid problems later in the semester.

**Attendance:** You are graduate students and I expect you to be **ON TIME, PREPARED** and **PARTICIPATE** in class discussion. Participate in an informed, intelligent way. Express yourself thoughtfully and respect your peers.

Obviously, if you are not in class, your class participation and preparation grades will be dramatically affected. (See earlier discussion.)

You are responsible for all material covered in class. That means it's up to you to talk to your colleagues and get copies of handouts and notes. In addition, I will ask you (and usually without warning) to summarize and discuss the assigned readings. You will get an excused absence in the event of illness, serious family emergencies, and/or religious holidays. However, if you miss all or part of more than three (3) classes, you will fail the class. If you are more than 10 minutes late, you will be marked absent, even if you show up after that.

Finally, I reserve the right to adjust a final grade based on superlative class attendance and participation.

**Quality of Submissions:** Everything turned in **MUST BE TYPED**. Spelling, grammar and typographical errors will count against your grade. You must use footnotes, in *The Bluebook* style. If you are using a computer printer, you must insure the printing is legible. If I can't read it, I can't grade it. It must be in 12 pt. type, with 1-inch margins, double-spaced.

**Method of Submissions:** You **MUST TURN IN ONE HARD COPY** of your assignments by the deadline. I cannot accept electronic submissions.

**Deadlines: Papers must be turned in by the deadline. You will receive an automatic letter grade deduction for each day the assignment is late. I will not accept any assignment that is more than 48 hours late.**

**Important:** Please consider the course requirements and the schedule now. Students often sign up for too many classes, commit to numerous outside activities, have difficult work schedules or need to be away for any number of reasons during the semester. PLEASE, DO NOT ask me for extensions or make-ups for these reasons. In fairness to all the students in the class, I cannot accommodate these requests.

So, give serious thought to these course requirements. I estimate that the class readings and assignments will probably take between 10 and 15 hours a

week. If you cannot make the necessary time commitment this semester, we'll be offering the class again next Fall.

### **Your Responsibilities**

1. Come to class, on time and prepared.
2. Read the assignments and think about what you've read and what it means.
3. Participate thoughtfully and respectfully in the class discussion.
4. Turn in written assignments on time.
5. Come see me at least once during the semester to "check in."
6. See me with any concerns or questions you have about this class, assignments or grades.

### **My Responsibilities**

1. Establish a challenging, rewarding learning environment.
2. Be prepared to lead discussions. Involve everyone in the discussion, whenever possible.
3. Ensure high-quality learning opportunities by holding students accountable for participating in classroom dialogues.
4. Grade written assignments and give feedback and suggestions for improvements.
5. Meet with each of you at least once during the semester to "check in."
6. Answer any concerns or questions you have about this class, assignments or grades.

**I take my responsibilities seriously.**  
**I expect the same of you.**

**Best advice for doing well in MMC 5206:** Keep up with the readings, use critical thinking skills, turn in assignments on time and participate fully in this educational process.

**Informed Consent:** By remaining in the class, you agree to meet the course expectations, requirements and deadlines.

**Reservation of Rights:** I reserve the right to change this syllabus depending on the make-up, participation and experience of the class.

## **Week 1: Aug. 22, 2012**

Drop-Add period

### **Introduction to Law of Mass Communication**

Introduction to Advanced Law of Mass Communications, detailed review of syllabus, course expectations, assignments and grading policies.

## **Week 2: Aug. 29, 2012**

### **Readings:**

Text: Chapter 1: The American Legal System

Handouts: *Marbury v. Madison* (handout)

## **Week 3: Sept. 5, 2012**

### **The First Amendment and Freedom of Expression.**

What is freedom of expression? Where did it originate in this country? What are its limitations? The First Amendment begins “Congress shall make no law ...” What does this mean? Is it an absolute declarative? We will look at the First Amendment doctrine and try to get a handle on the scope of its protections.

### **Readings:**

Text: Chapter 2: The First Amendment, pp. 27-46.

Case: *Miami Herald v. Tornillo*, 418 U.S. 241 (1974)

First Amendment Survey 2012 (handout)

Assignments:

First Amendment Reaction paper

*Miami Herald v. Tornillo* brief (USE “HOW TO BRIEF A CASE”  
HANDOUT)

## **Week 4: Sept. 12, 2012**

### **The First Amendment and Freedom of Expression, con't.**

What is freedom of expression? Where did it originate in this country? What are its limitations? The First Amendment begins “Congress shall make no law ...” What does this mean? Is it an absolute declarative? We will look at the First Amendment doctrine and try to get a handle on the scope of its protections.

### **Readings:**

Text: Chapter 2, pp,47-69.

Cases: *Hazelwood v. Kuhlmeier*, 484 U.S. 260 (1988)  
[http://www.splc.org/law\\_library.asp?id=1](http://www.splc.org/law_library.asp?id=1)

*Kincaid v. Gibson*, 236 F. 3d 342 (6<sup>th</sup> Cir. 2001) Read only  
[http://www.splc.org/law\\_library.asp?id=3](http://www.splc.org/law_library.asp?id=3)

*Hosty v. Carter*, 412 F. 3d 731 (7<sup>th</sup> Cir. 2005) Read only  
<http://www.ca7.uscourts.gov/tmp/GN1FGG94.pdf>

*Morse v. Frederick*, 127 S.Ct. 2618 (2007)

Brief: *Morse v. Frederick* <http://www.law.cornell.edu/supct/html/06-278.ZO.html>

## **Week 5: Sept. 19, 2012**

### **Methods of Control**

What are prior restraints? What are the appropriate tests for determining their constitutionality? How much and what kinds of speech should be allowed during wartime? Should anyone ever be punished for expressing ideas? What are content-neutral regulations? What standards must these regulations meet?

### **Readings:**

Text: Chapter 3: Methods of Control – pp. 70-96.

Cases: *Smith v. Daily Mail Publishing Co.*, 443 U.S. 97 (1979)  
*Simon & Schuster v. New York State Crime Victims Board*, 502 U.S. 105 (1991)

Brief: *New York Times v. United States*, 403 U.S. 713 (1971) (BRIEF due)

Be prepared to discuss the text readings AND the cases I've assigned.

Handout: Materials for Paper 1.

## **Week 6: Sept. 26, 2012**

### **Methods of Control, con't.**

## **Week 7: Oct. 3, 2012**

### **Libel**

Defamation or libel has been defined as a printed or written article which has the tendency to expose one to public contempt, scorn, ridicule, or shame or disgrace, or tending to induce an evil opinion of that person in the community, or the

person in their profession, occupation or trade. We will study the elements of libel in some depth. We will also scrutinize how the rules differ for libelous statements, depending on the status of the plaintiff. We will also discuss how you and your newspaper can protect yourselves from libel without sacrificing editorial integrity.

**Readings:**

Text: Chapter 4, pp. 99-149.

Cases: *Zeran v. America Online, Inc.*, 129 F.3d 327 (4<sup>th</sup> Cir. 1997)  
*N.Y. Times v. Sullivan*, 376 U.S. 254 (**BRIEF** Due)

**Week 8: Oct. 10, 2012**

**Libel, continued.**

Even if the plaintiff in a libel action is able to meet its burden in court of coming forward with proof that the elements of libel have been met, there are several defenses that the defendant has at his disposal. We will look at those defenses and try to gauge their effectiveness against large libel judgments. Whether someone can be libeled in an editorial has been settled by the Supreme Court, but other related issues remain unsettled. Additionally, we will study what damages may be assessed against a defendant as well as some mitigating factors that might come into play in lessening the harm, and hence the damages paid, to libel plaintiffs.

**Readings:**

Text: Chapter 4, 152-178.

Case: *Gertz v. Welch*, 418 U.S. 323 (1974) (**BRIEF** due)

<b><i>PAPER 1 DUE: Beginning of class, Oct. 10, 2012</i></b>
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**Week 9: Oct. 17, 2012**

**Obscenity and Indecency**

The U.S. Supreme Court has approved a different First Amendment analysis for content regulation for the electronic media. We'll study the differences and the Court's reasoning and discussing the appropriateness of the different standards given new technology. We'll look at the area of indecency and the First Amendment parameters surrounding this controversial and evolving area of the law.

We'll also cover the Telecommunications Act of 1996, and the Cable Acts of 1984 and 1992.

Text: Chapter 9, pp. 408-466  
 Case: *FCC v. Pacifica* (**BRIEF** due)

### **Week 10: Oct. 24, 2012**

#### **Invasion of Privacy: Private Facts and Intrusion**

One of the most important and troublesome topics for professional communicators is the issue of the right to privacy. What is it? What does it cover? Where does it come from? Is there a constitutional protection to protect individuals from the government's snooping? Are there civil remedies to protect people from other individuals or the media who want to peek into their private lives? We'll focus on the four privacy torts, starting with publication of private information and intrusion.

Text: Chapter 5, pp. 179—209

Case: *Florida Star v. B.J.F.*, 491 U.S. 524 (1989) (**BRIEF** due)

### **Week 11: Oct. 31, 2012**

#### **Invasion of Privacy: False Light, Commercialization, Emotional Distress**

How much privacy can we expect, given the amount of information that is already known about us and the media's interest in covering newsworthy events? Where do the lines get drawn and how much protection does the First Amendment provide? We'll also study one of the most controversial areas in privacy and learn how different states are handling the tort of false light invasion of privacy.

Text: Chapter 5, pp. 209-238

Case: *Hustler Magazine, Inc. v. Falwell* (**BRIEF** due)

### **Week 12: Nov. 7, 2012**

#### **Intellectual Property**

##### **Copyright, Fair Use and Unfair Competition.**

The origins, protections and importance of copyrights will be discussed. What is copyright? Who can own a copyright? What rights come with a copyright? What are the defenses to copyright infringement? What constitutes a fair use? We'll study the U.S. Supreme Court's newest decision on copyright and what it means for the future of copyright holders. Also, we'll look at copyright and the Internet, the latest battleground over copyrights.

##### Readings:

Text: Chap. 6 Intellectual Property, pp. 239-286.

***PAPER 2 DUE: Nov. 16, 2012 by NOON***

**Week 13: Nov. 14, 2012**

**The Legal Landscape and New Media**

**Readings to be assigned.**

**Week 14: Nov. 21, 2012**

Thanksgiving Holiday

**Week 15: Nov. 28, 2012**

Class presentations.

**Week 16: Dec. 5, 2012**

Final Project presentations