

MASS COMMUNICATION LAW

MC 4163 Summer 2013 12 – 3:20 p.m., MTR (Rm. 208, Paul Miller)

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Office: 314 Paul Miller
Hours: 3:30 – 4:30 p.m., MTR
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 offensive material on your Facebook profile?

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 Media & Strategic Communications 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.

NO Cell Phones: Set your cell phone to vibrate. Don't answer your cell phone during class. Don't text during class. This rule is based on simple courtesy. Using your cell phone is a distraction to others. It's also a distraction for you. If you're on the phone, you're not paying attention to what's going on in class. If you cannot abide by this rule, you will be removed from the course.

Use Laptops ONLY for TAKING NOTES: Laptops may be used only to take notes and to refer to reading notes. Extraneous uses, such as email and Facebook, are prohibited. This rule is based on simple courtesy. Playing on your laptop is

a distraction to others. It's also a distraction for you. If you're playing on the laptop, you're not paying attention to what's going on in class. *If you cannot abide by this rule, you will lose the privilege of using a laptop in class.*

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, 18th edition (2013)
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 & D2L Email 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 email address you actually use is the one on file with OSU. Please remember that a "reply all" to the email list would send your response to everyone in the class. If you want to send a confidential message to me, use my OSU email address at the top of the syllabus.

Exams:

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.

No cell phones or other electronic devices may be used during an exam. All phones must be set to vibrate and/or silent. Cell phones and other electronic devices must be KEPT IN YOUR POCKET, PURSE OR BACKPACK. *Any cell phone or electronic device visible during an exam will be confiscated along with the student's exam.* You may discuss the return of your phone with our school's director and your exam grade with Academic Affairs.

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.*

The university does not provide an extra day for **final exams** during summer sessions. According to OSU policy, "Final exams are given during the last week of the Summer Session or short course and are held during the regularly scheduled class time." That policy and the relevant course schedules are made available several months in advance. *Therefore, you are expected to take the final exam for this course on the date and time scheduled here in the syllabus.* 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, using your quiz average for the final exam grade, 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 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. This means that you do not have to take the final exam if you are satisfied with your first three exam grades and your quiz average, which would be used as your final 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.

Quizzes can include true/false, multiple-choice and short-answer questions.

If you show up to take the quiz, you are expected to stay until the next break in class. If you leave before then, you will earn a zero on that quiz. See Attendance.

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 paper, not your neighbor's. You also are responsible for shielding your quiz from your neighbors.*

Quiz grades will be posted to D2L. If you notice a discrepancy in the recorded grade, please notify me immediately. Provide me the quiz, so I can verify the discrepancy.

Academic Integrity

Honesty has a special meaning for professional communicators because our credibility depends upon truthfulness in dealing with people each day. Academic honesty also is fundamental to the activities and principles of a university. Members of the university community must be confident that each person's work has been responsibly and honorably acquired, developed and presented.

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.

You are expected to stay for the entire class. If you are too ill to stay in class or have an appointment scheduled during class time, then do not come to class. As noted earlier, if you leave early after taking a quiz, you will receive a zero for that quiz.

By automatically dropping your three lowest quiz grades, I am giving you *three excused quizzes*. 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* quizzes and for students who are hospitalized for more than *three* quizzes. In these situations, quizzes given on 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 those *three* will be excused.

For a student to qualify for this exception, *I must be notified in writing by the appropriate university or military official prior to the required absence or from the appropriate medical official as soon as possible.*

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.

Digital Portfolio Requirements for Graduation

To comply with the assessment requirements of Oklahoma State University and the Accrediting Council on Education in Journalism and Mass Communication, the School of Media and Strategic Communications requires all undergraduate students

majoring in the School to develop and maintain a digital portfolio exhibiting specific and appropriate assignments or projects from SMSC classes and internships. It is the responsibility of the students to assemble and update their portfolios during each semester's coursework.

Capstone professors will review each graduating senior's portfolio during the student's capstone course, making sure each student complies with this requirement. Failure to turn in a digital portfolio to the capstone professor during the capstone class will result in an incomplete grade until the portfolio assignment is complete and turned in to the capstone professor. Students can ask capstone professors and industry professionals to evaluate these portfolios periodically and offer guidance and constructive criticism.

It is expected that the digital portfolios will be helpful in showcasing students' talent, competencies and performance when they apply for internships or jobs.

Senior Portfolios must include:

- Current resume in digital format that can be sent and viewed online
- Statement of goals
- At least five of the following in digital format: class projects, assignments and internship work samples.

DAILY SCHEDULE

Complete all readings prior to the start of class.

Pember = *Mass Media Law* Senat = *Mass Comm. Law in Oklahoma* Online = Course Home Page

<u>Date</u>	<u>Subject</u>	<u>Readings</u>
7.1	Internships & the Law	Online: <i>Fact Sheet #71: Internship Programs Under the FLSA</i> , WHD, April 2010
	Legal Basics	Pember: pp. 1-15 Senat: Preface Home Page: Methods of Judicial Interpretation
	Judicial Systems	Pember: pp. 15-32 Senat: Preface Home Page: USSC Notes; Oklahoma Courts
	Freedoms of Speech & Press	Pember: pp. 33-50 Senat: pp. 1-6 Online: First Amendment Theories
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7.2	First Amendment Tests <i>Hit Man</i> discussion	Pember: pp. 50-68 Home Page: <i>Hit Man</i> and court excerpts
	Incorporation Prior Restraint	Pember: pp. 68-77
	Time, Place & Manner Public Forums	Pember: pp. 115-26
	First Amendment for Print, Broadcast, Cable & Internet	Pember: pp. 49-50, 138-43, 610-11 Online: Extending the First Amendment to the Internet; First Amendment for Print, Broadcast, Cable and the Internet

7.4 FOURTH OF JULY HOLIDAY

7.8 FIRST EXAM (Noon – 12:50 p.m.)

(Class lecture begins at 1:20 p.m.)

Libel: Basics, Publication Identification Pember: pp. 147-65, 220-24
Senat: pp. 7-18

Libel: Defamatory Content Constitutionalizing Libel Pember: pp. 166-72, 179-83
Senat: pp. 18-28

7.9 Libel: Fault Pember: pp. 183-212
Senat: pp. 28-46

Libel: Falsity, Damages Retraction Statutes Veggie Libel, Criminal Libel Pember: pp. 172-77, 244-51
Senat: pp. 46-48, 76-91

Libel: Defenses Pember: pp. 159-62, 218-20, 224-44
Senat: pp. 48-75

7.11 Libel: Defenses Pember: pp. 159-62, 218-20, 224-44
Senat: pp. 48-75

False Light Pember: pp. 308-15
Senat: pp. 93-102

Emotional Distress Pember: pp. 212-15
Senat: pp. 103-17

7.15 SECOND EXAM (Noon – 12:50 p.m.)

(Class lecture begins at 1:20 p.m.)

Rights of Privacy & Access Pember: pp. 253-58, 285-89, 318-28, 335-60, 372-80
Online: How Privacy Is Regulated; Informational Privacy Notes

Privacy and the Internet Pember: pp. 285-89
Online: How Internet Cookies Work; Internet Privacy Notes; Spyware Everywhere; Informational Privacy Notes

7.16 Intrusion Pember: pp. 277-85, 328-35
Senat: pp. 119-32

Public Disclosure of Private, Embarrassing Facts Pember: pp. 291-307
Senat: pp. 133-43

- 7.18 Open Records Pember: pp. 363, 365-72
Senat: pp. 145-87
Online: FOI Oklahoma; FOI Oklahoma Blog
- Open Meetings Pember: pp. 361-65
Senat: pp. 189-223
Online: FOI Oklahoma; FOI Oklahoma Blog
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7.22 THIRD EXAM (Noon – 12:50 p.m.)

(Class lecture begins at 1:20 p.m.)

- Appropriation Pember: pp. 258-76
Senat: pp. 281-94
Online: Appropriation Overview
- Commercial Speech Doctrine Pember: pp. 569-577
Central Hudson Test Senat: pp. 295-304
Online: *Thompson v. Western Medical*;
USSC & Commercial Speech
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- 7.23 *Central Hudson Test* Pember: pp. 569-577
Senat: pp. 295-304
Online: *Thompson v. Western Medical*;
USSC & Commercial Speech
- Regulating Deceptive Ads Pember: pp. 577-84, 589-603, 605-07
Defenses; Liability Senat: pp. 304-16
Online: In the matter of KFC Corp.; Lanham Act
also applies to false advertising claims
- Copyright Pember: pp. 517-65
Online: Copyright Basics; Fair Use; *Abilene
Music Inc. v. Sony Music*; *The Satire/Parody
Distinction in Copyright and Trademark Law –
Can Satire Ever Be a Fair Use?*
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7.25 FINAL EXAM: 1:30 – 3:20 p.m.

The university does not provide an extra day for final exams during summer sessions. According to OSU policy, "Final exams are given during the last week of the Summer Session or short course and are held during the regularly scheduled class time."

That policy and the relevant course schedules are made available several months in advance. Therefore, you are expected to take the final exam for this course on the date and time scheduled here in the syllabus. 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.

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.