

Summer 2019 – Tuesdays – 1-4:40 p.m.

Section: 773-21039D

Location: ANN L116

Instructor: Susan P. Gavigan

Office Hours: By appointment

Contact Info: coronalawyer@gmail.com

I. Course Description

The touchstone of all mass communications law in this country is the First Amendment to the Constitution of the United States, a “living document” now entering its third century of existence. It is virtually impossible to have any rational understanding of the law governing the press without at least a working knowledge of the First Amendment and how it is related to the other laws and legal theories with which the media must deal on an ongoing basis.

Furthermore, in recent years, partly as a result of increased press conduct and partly as a result of increased government secrecy (mixed liberally, especially in the past few years with pathological doses of paranoia and partisan politics), there have been spawned numerous judicial decisions, as well as legislative reaction to media (especially the new digital and broadcast media) which seem as intent on making the news as reporting it.

The focus of this semester, therefore, will be to examine various aspects of the conflict (to the extent there is one) between the First Amendment, on the one hand, and other competing societal interests, on the other. Our road map for this examination will be court decisions that have spoken on the issue of these competing interests. The format for this examination will be a series of lectures based on discrete areas of the law that affect the way in which journalists seek to do their work, concurrent with the preparation of term project topics, based on major First Amendment cases of the past and present. At the conclusion of the semester, seminar participants will be asked to argue for and predict the outcome of a hypothetical United States Supreme Court case based on today’s realities, but taking into consideration key legal precedents of the past.

II. Overall Learning Objectives and Assessment

There are two.

First, to enable each of you to understand what your rights are as journalists (and as Americans) under our system of laws, and especially under the First Amendment to the Constitution of the United States, while recognizing that to the rest of the world, these things are no more than local ordinances, if that.

Secondly, to keep you out of trouble; that is, to recognize the limits of your legal rights and to recognize, as well, the many ethical dilemmas presented to members of the media when they seek to exercise their

legal rights. Unfortunately, there is oftentimes a conflict between what is legally possible and what is ethically permissible.

III. Description of Assignments

This is a seminar organized along traditional graduate school seminar lines, but in a truncated time frame. Hence, there will be no in-class examinations. Instead, there will be one comprehensive take home examination that will cover the material discussed during the course lectures, and, an in-class oral presentation followed by a short, pre-assigned research paper. In other words, your course grade will be based in part on the fruits of your research and, in part, on your ability to communicate to your classmates and to your instructor what you have learned.

More specifically, your oral presentation on will be worth 100 points or 20% of your grade and will take place on the last scheduled class day (August 13).

The take home examination, which is worth 200 points or 40% of your grade, will be assigned late in the semester and will be due either in hard copy or by email to: coronalawyer@gmail.com or before your scheduled class on August 6.

And, finally, your written research paper will be worth an additional 200 points or 40% of your semester grade. Please note that these will be due by email to coronalawyer@gmail.com on or before Monday, August 13.

Please note that any assignment turned in late will be subject to a penalty of one grade for each day or portion thereof late beyond the due date and time.

IV. Grading

a. Breakdown of Grade

Assignment	Points	% of Grade
Oral presentation	150	30
Research paper	150	30
Take home exam	150	30
Participation	50	10
TOTAL	500	100%

b. Grading Scale and Standards

This is a seminar organized along traditional graduate school seminar lines, but in a truncated time frame. Hence, there will be no in-class examinations. Rather, your course grade will be based on the fruits of your research and your ability to communicate to your classmates and to your instructor what you have learned. More specifically, your oral presentation on your semester research topic (see above) will be worth 100 points or 20% of your grade and your written presentation of same an additional 200 points or 40% of your semester grade. Furthermore, there will be a single take home examination, worth 200 points or 40% of your course grade.

Total number of points available: 500.

To earn a grade of “A” in this course, you will have to amass a total of 450 points (90% of the 500 points available); an “A-”, 440 points; a “B+”, 425 points; a “B”, 400 points; a “B-”, 390 points; a “C+”, 375 points; a “C”, 350 points; a “C-”, 340 points. Anything less than 340 points = a grade of “F” for the course.

Please note that any assignment turned in late will be subject to a penalty of one grade for each day or portion thereof late beyond the due date and time.

V. Assignment Submission Policy

A. Please note that any assignment turned in late will be subject to a penalty of one grade for each day or portion thereof late beyond the due date and time.

B. Assignments must be submitted via email to coronalawyer@gmail.com.

VI. Required Readings and Supplementary Materials

The Law of Journalism and Mass Communication, by Trager, Ross and Reynolds, Sage Pub. Co. 6th Edition
Digital version may be used.

VII. Laptop Policy

All undergraduate and graduate Annenberg majors and minors are required to have a PC or Apple laptop that can be used in Annenberg classes. Please refer to the [Annenberg Digital Lounge](#) for more information. To connect to USC’s Secure Wireless network, please visit USC’s [Information Technology Services](#) website.

VIII. Session Dates (session code 773)

First day of classes:

Monday, July 1, 2019

Last day to add:

Tuesday, July 9, 2019

Last day to drop without a mark of "W" and receive a refund:

Tuesday, July 9, 2019

Last day to withdraw without a “W” on transcript or change pass/no pass to letter grade:

Friday, July 19, 2019

Last day to drop with a mark of "W":

Wednesday, August 7, 2019

End of session:

Friday, August 16, 2019

IX. Course Schedule: A Weekly Breakdown

(Note that all “Chapter” references below are to your course text. It is expected that students will have familiarized themselves with the referenced course text material in advance of each week’s discussion of same.)

Tentatively (and recognizing that schedules are always subject to change due to unforeseen circumstances), the semester should proceed as follows:

	Topics/Daily Activities	Readings and Homework	Deliverable/Due Dates
Week 1 7/2	The American court system, federal and state; differences and similarities. The First Amendment.	Chapter 1	Research project assigned. Oral presentation discussed and assigned.
Week 2 7/9	Us and them: The law of prior restraints	Chapters 2-3	

	on publication, in the United States and abroad. The Minnesota Rag and the Pentagon Papers. Introduction to Defamation.		
Week 3 7/16	Defamation (continued). It's different in the USA: The lasting legacy of New York Times v. Sullivan and Gertz v. Welch.	Chapters 4-5	
Week 4 7/23	Privacy. The four types of civil actions. 911 and the end of privacy. Orwell's 1984: Are we there yet? Civil liberty v. national security. The USA Patriot Act. FISA and secret courts, secret wiretaps, and warrantless searches. Facebook and their Silicon Valley ilk.	Chapter 6	
Week 5 7/30	Practical Problems: Free Press v. Fair Trial (the 1st Amendment vs. the 6th Amendment?); Bruno Richard Hauptmann, Dr. Sam and O.J.: What did they have in common? The protection of sources and work product ("Shield Laws") The Branzburg trilogy: Wishing doesn't make it so.	Chapters 9-10	Take Home Examination assigned. Due by email to coronalawyer@gmail.com, by start of your class on August 6.
Week 6 8/6	Practical Problems: Access to Government (FOIA, state and federal public records and open meetings laws); The regulation of electronic media. The Communications	Chapters 8, 11, 12	Take Home Examination due at start of class.

	Act of 1934 and The Telecommunications Act of 1996. It's a whole new ballgame. Who is a "journalist" and what is the "press"? The protection of intellectual property in a digital age.		
Week 7 8/13	Oral presentations		Research papers due by email to: coronalawyer@gmail.com by 12 p.m. on August 13.

X. Policies and Procedures

Additional Policies

A few words about class attendance and cell phone and in-class computer use:

It is never acceptable to miss class because you have a conflict with an assignment or obligation in another class (or with a student activity). As soon as such a conflict becomes apparent, it is incumbent upon the student to inform the professor, instructor or adviser in the course or activity who/that has created the conflict that you have an academic obligation elsewhere. Thereafter, it is the professional responsibility of the said professor/instructor/adviser to respect your prior obligation and to take whatever steps are necessary to ameliorate the conflict which his/her course or activity assignment created. These conflicts, created by others, are not your problem. Do not make it one by remaining silent, attempting to be two places at once, or worse, cutting class. These are bad, unprofessional work habits, and surely will catch up with you in the future. (In the unlikely event that you are unable to resolve the time conflict, as aforesaid, immediately notify the professor in THIS class so that you are not caught in the middle of a situation for which you are not responsible.)

If, however, you ARE going to miss class (for some reason other than an academic/activity conflict, as aforesaid), prior notification (that is, prior to the start of class you intend to miss) is both the courteous thing to do, and is expected.

And finally, this class is a "phubbing" free zone.

The use of cell phones during class (including consulting same to receive messages or sending text messages) is strictly prohibited. When class begins your cell phones should be turned off and should remain that way (except during the official class break, if you so choose). Serial violators of this rule will be asked to leave class for the duration of the session during which they are in violation of this rule. As for computer usage, of course you may use them to take notes during class. However, using them to send or receive personal messages or to surf the Web is likewise forbidden.

David Carr, the late New York Times journalist and part-time journalism instructor, used to include the following in his course syllabi: "If you text or email during class, I will ignore you as you ignore me. It won't go well."

Consider his words as if they were mine.

Internships

The value of professional internships as part of the overall educational experience of our students has long been recognized by the School of Journalism. Accordingly, while internships are not required for successful completion of this course, any student enrolled in this course that undertakes and completes an approved, non-paid internship

during this semester shall earn academic extra credit herein of an amount equal to 1 percent of the total available semester points for this course. To receive instructor approval, a student must request an internship letter from the Annenberg Career Development Office and bring it to the instructor to sign by the end of the third week of classes. The student must submit the signed letter to the media organization, along with the evaluation form provided by the Career Development Office. The form should be filled out by the intern supervisor and returned to the instructor at the end of the semester. No credit will be given if an evaluation form is not turned into the instructor by the last day of class. Note: The internship must be unpaid and can only be applied to one journalism class.

Statement on Academic Conduct and Support Systems

a. Academic Conduct

Plagiarism

Presenting someone else's ideas as your own, either verbatim or recast in your own words - is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Section 11, *Behavior Violating University Standards* (<https://policy.usc.edu/scampus-part-b/>). Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct (<http://policy.usc.edu/scientific-misconduct/>).

USC School of Journalism Policy on Academic Integrity

The following is the USC Annenberg School of Journalism's policy on academic integrity and repeated in the syllabus for every course in the school:

"Since its founding, the USC School of Journalism has maintained a commitment to the highest standards of ethical conduct and academic excellence. Any student found plagiarizing, fabricating, cheating on examinations, and/or purchasing papers or other assignments faces sanctions ranging from an 'F' on the assignment to dismissal from the School of Journalism. All academic integrity violations will be reported to the office of Student Judicial Affairs & Community Standards (SJACS), as per university policy, as well as journalism school administrators."

In addition, it is assumed that the work you submit for this course is work you have produced entirely by yourself, and has not been previously produced by you for submission in another course or Learning Lab, without approval of the instructor.

b. Support Systems

Student Health Counseling Services - (213) 740-7711 – 24/7 on call
engemannshc.usc.edu/counseling

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call
suicidepreventionlifeline.org

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Relationship and Sexual Violence Prevention Services (RSVP) - (213) 740-4900 – 24/7 on call
engemannshc.usc.edu/rsvp

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

Office of Equity and Diversity (OED) | Title IX - (213) 740-5086
equity.usc.edu, titleix.usc.edu

Information about how to get help or help a survivor of harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following protected characteristics: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical

disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations.

Bias Assessment Response and Support - (213) 740-2421
studentaffairs.usc.edu/bias-assessment-response-support

Avenue to report incidents of bias, hate crimes, and microaggressions for appropriate investigation and response.

The Office of Disability Services and Programs - (213) 740-0776
dsp.usc.edu

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.

USC Support and Advocacy - (213) 821-4710
studentaffairs.usc.edu/ssa

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

Diversity at USC - (213) 740-2101
diversity.usc.edu

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

USC Emergency - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call
dps.usc.edu, emergency.usc.edu

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

USC Department of Public Safety - UPC: (213) 740-6000, HSC: (323) 442-120 – 24/7 on call
dps.usc.edu

Non-emergency assistance or information.

Annenberg Student Success Fund

<https://annenberg.usc.edu/current-students/resources/additional-funding-resources>

The Annenberg Student Success Fund is a donor-funded financial aid account available to USC Annenberg undergraduate and graduate students for non-tuition expenses related to extra- and co-curricular programs and opportunities.

XI. About Your Instructor

Susan P. Gavigan has been an attorney since 1990 and has handled hundreds of contested and uncontested cases, prepared and argued motions on a variety of family and criminal law issues and has represented many clients in protracted litigation. She has written appellate briefs and has argued before the California Court of Appeals. She has served as judge pro temp as needed in the Family law Court.

She has prepared and delivered many lectures regarding a variety of legal issues and has served as a panelist at various student law events. She has developed curriculum for and has taught business law. She currently teaches Media Law and Ethics JOUR 208 and 408 and PR 428 Social, Legal and Ethical Foundations at University of Southern California. She holds a B.A. in Journalism from San Diego State University and a Juris Doctorate from Western State University College of Law.