



## **JOUR 408: Advanced Media Law 2 Units**

**Fall 2020 – Thursdays – 12-1:40 p.m.**

**Section:** 21121D

**Location:** Online

**Instructor:** Susan P. Gavigan

**Office:** Online

**Office Hours:** By appointment

**Contact Info:** [sgavigan@usc.edu](mailto:sgavigan@usc.edu)

### **I. Course Description**

The U.S. news media has seldom been held in lower esteem by the public. This partly comes from a sense that professional standards have dropped. The digital age, where publishing and broadcasting information have proliferated far beyond daily newspapers and radio and television stations, only complicates these dynamics of mistrust. Corrupted information and half-truths seem to be everywhere, many citizens sense, and news media outlets — like almost all large institutions in today's society — face increasing skepticism.

Against the backdrop of the evolving digital space, the course will explore the legal and ethical framework in which today's journalist's work, the impact of the Web on the practice of journalism and other creative fields and how internet communications will be policed, regulated and possibly litigated. A crucial question, then, looms for those studying journalism and the ethics and laws that guide the training and practice of journalists: What distinguishes the professional journalist's approach to information amid vast other digital streams of videos, photos, data and text? In large part, the answer must be the highest of ethical standards, adherence to the law and a commitment to the uncorrupted pursuit of truth based on verifiable facts and knowledge.

Preserving an ethical core — complimented by the study of seminal court rulings that speak to press freedom and behavior -- is no sure or easy thing for a profession that has never required a license to practice. The course will teach you how to navigate the digital space of contemporary journalism and offer a deep dive into complicated questions regarding copyright laws, policies and best practices for the use of photographs, trademarks, film clips and other works without being sued for infringement. The course also will educate you on how, among other things, to publish information without being sued for defamation and invasion of privacy, how to gather information without getting into legal and/or ethical trouble and how to deal with subpoenas. Overall, this course will give students the essential legal framework of their rights and responsibilities as journalists. Come prepared to think, discuss and participate.

### **II. Overall Learning Objectives and Assessment**

At the conclusion of this course, students will:

- Define basic legal terminology and the workings of the civil and criminal justice system.
- Articulate and apply legal rights and ethical values, practices and responsibilities for journalists under U.S. law, especially the First Amendment.
- Identify the need to seek legal counsel in publishing or gathering information. Identify characteristics of defamation and invasion of privacy.
- Use copyrighted works and trademarks in accordance with legal and ethical standards.
- Access court records and resources.

### **III. Description of Assignments**

Students will be graded on two exams and one oral presentation. The midterm and final examinations may present you with one or more complex fact patterns and you will be required to discuss the legal and ethical issues that arise from those facts. The purpose of the examinations is to evaluate your knowledge and understanding clearly,

precisely and succinctly. The oral presentation is a group project to be assigned and discussed in detail in the later part of the semester. The homework assignments will be assigned readings with a prompt and will be assigned in detail a week before the due date.

#### IV. Grading

##### a. Breakdown of Grade

Assignment	% of Grade
Participation- oral participation in class (asking questions/answering questions, sharing thoughts/opinion)	15%
Homework-TBA	20%
Midterm	20%
Group Presentation	25%
Final	20%
<b>TOTAL</b>	<b>100%</b>

##### b. Grading Scale

95% to 100%: A	80% to 83%: B-	67% to 69%: D+
90% to 94%: A-	77% to 79%: C+	64% to 66%: D
87% to 89%: B+	74% to 76%: C	60% to 63%: D-
84% to 86%: B	70% to 73%: C-	0% to 59%: F

##### c. Grading Standards

All assignments will be edited on a professional basis and you will be judged first on the accuracy, fairness and completeness of your stories. You will then be evaluated for broadcast style, editing, production value, originality and the ability to meet deadlines.

**“A” stories** are accurate, clear, comprehensive stories that are well written and require only minor copyediting (i.e., they would be aired or published). Video work must also be shot and edited creatively, be well paced and include good sound bites and natural sound that add flavor, color or emotion to the story.

**“B” stories** require more than minor editing and have a few style or spelling errors or one significant error of omission. For video, there may be minor flaws in the composition of some shots or in the editing. Good use of available sound bites is required.

**“C” stories** need considerable editing or rewriting and/or have many spelling, style or omission errors. Camera work and editing techniques in video stories are mediocre or unimaginative, but passable. Sound bites add little or no color - only information that could be better told in the reporter’s narration.

**“D” stories** require excessive rewriting, have numerous errors and should not have been submitted. Camera work is unsatisfactory or fails to show important elements.

**“F” stories** have failed to meet the major criteria of the assignment, are late, have numerous errors or both. Your copy should not contain any errors in spelling, style, grammar and facts. Any misspelled or mispronounced proper noun will result in an automatic “F” on that assignment. Any factual error will also result in an automatic “F” on the assignment. Accuracy is the first law of journalism. The following are some other circumstances that would warrant a grade of “F” and potential USC/Annenberg disciplinary action:

- Fabricating a story or making up quotes or information.
- Plagiarizing a script/article, part of a script/article or information from any source.
- Staging video or telling interview subjects what to say.
- Using video shot by someone else and presenting it as original work.
- Shooting video in one location and presenting it as another location.
- Using the camcorder to intentionally intimidate, provoke or incite a person or a group of people to elicit more “dramatic” video.
- Promising, paying or giving someone something in exchange for doing an interview either on or off camera.
- Missing a deadline.

## V. Assignment Submission Policy

- A. All assignments are due on the dates specified. Lacking prior discussion and agreement with the instructor, late assignments will automatically be given a grade of F.
- B. Assignments must be submitted via email.

## VI. Required Readings and Supplementary Materials

Textbook: A Practical Guide to Media Law, Ashley Messenger (Pearson 2015).

## 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. Add/Drop Dates for Session 001 (13 weeks: 8/17/20 – 11/13/20)

Friday, September 4: Last day to register and add classes for Session 001

Friday, September 4: Last day to change enrollment option to Pass/No Pass or Audit for Session 001

Friday, September 4: Last day to drop a class and receive a refund to avoid a mark of “W” on student record and STARS report

Friday, September 4: Last day to purchase or waive tuition refund insurance for fall

Friday, October 2: Last day to drop a course without a mark of “W” on the transcript only. Mark of “W” will still appear on student record and STARS report and tuition charges still apply. [Please drop any course by the end of week three for session 001 (or the 20 percent mark of the session in which the course is offered) to avoid tuition charges.]

Friday, October 2: Last day to change a Pass/No Pass course to letter grade

Friday, November 6: Last day to drop a class with a mark of “W” for Session 001

## IX. Course Schedule: A Weekly Breakdown

Most class sessions will be a short lecture on the reading scheduled for that day. This is your opportunity for questions and class discussion. The assigned reading will provide the background necessary for class preparation. The lectures, however, may not cover precisely the same material as the text or other readings. For this reason, attendance is very important. Students are expected to have completed the relevant readings prior to class and to ***participate in classroom discussion***. If you do not understand any portions of the materials or the lectures, *you are expected to seek clarification in class* or by contacting me.

**Important note to students:** Be advised that this syllabus is subject to change - and probably will change - based on the progress of the class, news events, and/or guest speaker availability.

	<b>Topics/Daily Activities</b>	<b>Readings and Homework</b>	<b>Deliverable/Due Dates</b>
<b>Week 1</b> <b>Date: 8/20</b>	<p><b>Class Topic:</b> Discuss syllabus, course expectations and class policies.</p> <p>Review of US and CA court systems; types of laws and where to find them.</p> <p><b>Class Activity:</b> Be prepared to discuss reading.</p>	Messenger Book Chapters 1-2	Read assignment before class.
<b>Week 2</b> <b>Date: 8/27</b>	<p><b>Class Topic:</b> First Amendment Rights; Constitutional principles.</p> <p><b>Class Activity:</b> Be prepared to discuss reading</p>	Messenger Book Chapters 1-2	Read assignment before class.
<b>Week 3</b> <b>Date: 9/3</b>	<p><b>Class Topic:</b> Watch movie "Big Boys Gone Bananas" and discuss defamation law, anti-SLAPP statutes and the reality of how the law affects documentary films</p> <p><b>Class Activity:</b> Be prepared to discuss reading</p>	Readings: Bananas Anti-SLAPP motion	Read assignment before class.
<b>Week 4</b> <b>Date: 9/10</b>	<p><b>Class Topic:</b> Defamation law</p> <p>Learn advanced defamation principles such as opinion defense, fair and true report privilege and CDA immunity.</p>	Messenger Book: Chapter 3	Homework #1 Due. Read assignment before class.
<b>Week 5</b> <b>Date: 9/17</b>	<p><b>Class Topic:</b> Watch film "Shattered</p>		

	Glass” about Stephen Glass controversy.		
<b>Week 6</b> <b>Date: 9/24</b>	<b>Class Topic:</b> Truth and Transparency in journalism. We revisit some of the most high-profile scandals and controversial stories involving unethical or questionable journalistic practice, including the cases of Rolling Stone and Brian Williams	<a href="https://www.nytimes.com/2015/06/22/business/media/brian-williams-scandal-shows-power-of-social-media.html">https://www.nytimes.com/2015/06/22/business/media/brian-williams-scandal-shows-power-of-social-media.html</a>  <a href="https://www.nytimes.com/2015/02/11/business/media/brian-williams-suspended-by-nbc-news-for-six-months.html">https://www.nytimes.com/2015/02/11/business/media/brian-williams-suspended-by-nbc-news-for-six-months.html</a>  <a href="https://www.cjr.org/investigation/rolling_stone_investigation.php">https://www.cjr.org/investigation/rolling_stone_investigation.php</a>  <a href="https://www.theguardian.com/society/2019/dec/29/rolling-stone-rape-story-uva-five-years">https://www.theguardian.com/society/2019/dec/29/rolling-stone-rape-story-uva-five-years</a>  Hanna Rosin, <a href="#">“Hello, My Name is Stephen Glass, and I’m Sorry,”</a> The New Republic, Nov. 2014.  Dan Barry, et al, <a href="#">“Times Reporter Who Resigned Leaves Long Trail of Deception,”</a> New York Times, May 2003.	Homework #2 Due. Read assignment before class.
<b>Week 7</b> <b>Date: 10/1</b>	<b>Class Topic:</b> Invasion of Privacy and focus on Newsgathering law.  Dive into advanced issues surrounding privacy torts with focus on	Messenger Book: Chapters 4-5	Read assignment before class.

	<p>newsgathering torts of intrusion, breach of contract, fraud, intentional interference with contract, intentional infliction of emotional distress and other torts that arise out of the ways journalists go about gathering information, such as trespass, false pretenses, and recording phone calls.</p> <p><b>Class Activity:</b> Be prepared to discuss reading.</p>		
<p><b>Week 8</b> <b>Date: 10/8</b></p>	<p><b>Class Topic:</b> Invasion of Privacy continued.</p> <p>Focus on the other privacy torts of Private Facts, False Light and Right of Publicity.</p> <p><b>Class Activity:</b> Be prepared to discuss reading.</p>	<p>Messenger Book: Chapters 4-5</p>	<p><b>MIDTERM DUE</b> Read assignment before class.</p>
<p><b>Week 9</b> <b>Date: 10/15</b></p>	<p><b>Class Topic:</b> Non-biased writing; ethical considerations for journalists.</p> <p><b>Class Activity:</b> Be prepared to discuss reading.</p> <p><b>We also discuss the parameters – the length, topics, among other details -- of the final group project due at the end of the semester.</b></p>		<p>Read assignment before class.</p>
<p><b>Week 10</b> <b>Date: 10/22</b></p>	<p><b>Class Topic:</b> Access to Trials and</p>	<p>Messenger Book: Chapters 11, 13</p>	<p>Read assignment before class.</p>

	<p>Government Records, Reporter's Privilege Learn how to get access to court trials, government documents, and cameras in courts. Also the Reporter's privilege and subpoenas.</p> <p><b>Class Activity:</b> Be prepared to discuss reading. Watch episode of Mary Tyler Moore show regarding journalist privilege.</p>		
<p><b>Week 11</b> <b>Date: 10/29</b></p>	<p><b>Class Topic:</b> Whistleblowers and sources. Is there a difference between Ellsberg, Assange and Snowden?</p> <p><b>Class Activity:</b> Be prepared to discuss reading; oral presentations</p>	<p>Malcolm Gladwell, "Daniel Ellsberg, Edward Snowden and the Modern Whistle-Blower" (The New Yorker, Dec. 19-26, 2016)</p>	<p>Read assignment before class.</p>
<p><b>Week 12</b> <b>Date: 11/5</b></p>	<p><b>Class Topic:</b> Copyright and Trademark</p> <p>Learn how to use snippets of copyrighted works and trademarks for commentary, news without seeking permission. Learn steps to take for fuller use of copyrighted material. Also, the DMCA and takedown notices. Also- <b>Regulation of obscene and indecent speech and commercial speech.</b></p>	<p>Messenger Book: Chapters 6-8</p> <p><a href="#">The First Amendment Handbook</a>, Reporter's Committee for Freedom of the Press. Copyright, Chapter 10. [Find the chapter in the PDF accessible through this link.]</p>	<p>Read assignment before class.</p>

	<b>Class Activity:</b> Be prepared to discuss reading; group presentations start.		
<b>Week 13</b> <b>Date: 11/12</b>	Group presentations		
<b>FINAL EXAM</b> <b>Date: 11/19</b> <b>11 a.m.-1 p.m.</b>	<b>Exam</b>		

## X. Policies and Procedures

### Additional Policies

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 advisor in the course of 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/advisor 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 in 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 the 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 strict prohibited. When class begins, your cell phones should be turned off and should remain that way (except during the office 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 Internet is likewise forbidden.

### 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 or public relations 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 you, 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](http://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](http://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](http://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](http://equity.usc.edu), [titleix.usc.edu](http://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](http://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](http://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](http://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](http://dps.usc.edu), [emergency.usc.edu](http://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](http://dps.usc.edu)

Non-emergency assistance or information.

Annenberg Student Success Fund

<https://annenbergsuccessfund.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.

Breaking Bread Program [undergraduate students only]

<https://undergrad.usc.edu/faculty/bread/>

The Breaking Bread Program is designed to provide individual undergraduate students with an opportunity to meet and have scholarly discussions with faculty members outside of the normal classroom setting. Through this program, students and faculty enjoy good company and great conversation by literally "breaking bread" over a meal together and USC will pick up the tab! Your meal event can take place anywhere outside of the normal classroom setting. Your venue can be a restaurant or eatery on or off-campus.

## **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, Seminar in Mass Communication Law, and Social, Legal and Ethical Foundations of Public Relations at the 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.