

Fall 2020 – Wednesdays – 6-7:40 p.m.

Section: 21122D

Location: Online

**Instructor: Selina MacLaren**

**Office:** Virtual only

**Office Hours:** By appointment; virtual only.

**Contact Info:**

### I. Course Description

The U.S. news media has seldom been held in lower esteem by the public. The digital age only complicates these dynamics of mistrust. Accusations of “Fake News!” seem to be everywhere, and news media outlets face increasing skepticism.

Against the backdrop of the evolving digital space, the course will explore the legal and ethical framework in which today’s journalists work, the impact of the Web on the practice of journalism and how internet communications are policed, regulated and possibly litigated. In a world saturated with online content, today’s journalist stands out among the crowd by demonstrating a commitment to the legal and ethical pursuit of verifiable truth.

Understanding the legal framework in which today’s journalists work is important for two independent reasons. *First*, the lower public esteem and higher public criticism faced by journalists makes today’s reporter more vulnerable than ever to certain types of litigation. This course will help you to understand legal pitfalls and avoid potential lawsuits. *Second*, the law can be used as a journalistic tool. Understanding the legal right to access information – and how to enforce that right – will open doors in your journalistic practice and deepen your ability to report truthfully on matters of utmost public concern.

This course will educate you on how to publish information without being sued for defamation and invasion of privacy, how to use legal tools to gather information and how to deal with subpoenas. The course will also teach you how to navigate the digital space of contemporary journalism and use musical and audiovisual works without being sued for copyright infringement. Overall, this course give students the essential legal framework of their rights and responsibilities as journalists. Come prepared to think, discuss and participate.

### II. Student Learning Outcomes

At the conclusion of this course, students will:

- Avoid claims of defamation and invasion of privacy.
- Understand how to use legal tools to gather news and protect sources .
- Recognize best contemporary ethical practices in the digital space for journalists.
- Define basic legal terminology.
- Understand the workings of the civil and criminal justice systems.
- Articulate and defend legal rights under U.S. law, especially the First Amendment.

Recognize the limits of legal rights. And understand when to seek legal counsel.

- Properly use copyrighted works and trademarks.
- Discuss and think about how to reduce biases in reporting.
- Examine how contemporary events, such as COVID-19 and the Black Lives Matter movement, implicate legal issues such as privacy rights and the right to record protests.

**Prerequisite(s):** JOUR 208 and JOUR 307 and JOUR 320

### III. Course Notes

This is an online course. On Saturdays, two important things will be posted to Blackboard: the lecture slides and a reflection essay prompt. Please review the lecture slides before class. See below for more information on the weekly reflection.

#### **Special instruction for online learning:**

-You are strongly encouraged to have your camera on at all times during the lecture. If you have circumstances that make that difficult, please reach out.

-The live Zoom lecture is a critical part of learning the material in this class, as it goes beyond the information available in the reading assignments. If you must miss class, please watch the recording of the class to catch up.

-If you are having technical difficulties or having trouble hearing me, please text me ASAP at (818) 943-2497.

### IV. Description and Assessment of Assignments

Students will be graded on one take-home midterm exam, one final presentation, reflection essays, quizzes, and class participation.

- A. The midterm examination will present you with complex fact patterns and you will be required to discuss the legal and ethical issues that arise from those facts. The examination is take-home and has a word limit.
- B. The reflection essays are an opportunity for you to tell me your unique thoughts about a topic before we discuss it. These are informal essays; you will be graded on the substance of your thoughts, not the quality of your writing. They will inform my lecture and I may call on you to discuss your essay during class. They are limited to 250 words and should be submitted to me in the body of an email **by midnight before class**.
- C. The quizzes will test your knowledge and understanding of the reading and the lectures. These quizzes will be posted to Blackboard and will be timed. When you begin the quiz, you will have 15 minutes to finish it. They are due before class.
- D. The final presentation will be a story “pitch” where you explain the background of your topic and how you will use the law to help you create the story. You should also convince me, your newsroom lawyer, why your story won’t land us in court.
- E. Class participation is based on your attendance for the weekly Zoom lecture, as well as your engagement in breakout sessions and your questions and comments during the lecture. Please note that I may call on you during the lecture.

### V. Grading

#### a. Breakdown of Grade

Assignment	% of Grade
Class Participation	10%
Midterm Examination	30%
Reflection Essays	15%
Quizzes	15%
Final Presentation	30%

Assignment	% of Grade
<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 and objectivity of your assignments. You will then be evaluated for style, editing, originality and the ability to meet deadlines.

**“A” assignments** are accurate, clear, comprehensive stories that are well written and require only minor copyediting (i.e., they would be published). They demonstrate mastery of the legal topics, including their nuances.

**“B” assignments** require more than minor editing and have a few style or spelling errors or one significant error of omission. They demonstrate full understanding of the legal topics.

**“C” assignments** need considerable editing or rewriting and/or have many spelling, style or omission errors. They demonstrate familiarity with the legal topics.

**“D” assignments** require excessive rewriting, have numerous errors and should not have been submitted. They demonstrate miscomprehension of the legal topics.

**“F” assignments** 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 factual error will result in an automatic “F” on the assignment. Accuracy is the first law of journalism. The following is a list of 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.
- Using interviews or research to intentionally intimidate, provoke or incite a person or a group of people to elicit a more “dramatic” story.
- Promising, paying or giving someone something in exchange for doing an interview.
- Missing a deadline.

## VI. 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.
- C. The midterm examination must be in Word format — not PDF.
- D. The weekly reflection essays must be submitted in the body of an email.

Students are encouraged to submit their work for consideration to Annenberg Media or the Daily Trojan, or pitch it to mainstream media outlets. Visit <http://bit.ly/SubmitAnnenbergMedia> for more information about that submission and review process and email Daily Trojan news editors at [dt.city@gmail.com](mailto:dt.city@gmail.com) for more on how to pitch your work to the campus newspaper.

**VII. Required Readings and Supplementary Materials**

- A. Textbook: A Practical Guide to Media Law, Ashley Messenger (Pearson 2015).
- B. Supplemental materials such as cases, articles, and videos posted to Blackboard

**VIII. 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.

**IX. 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

**X. Course Schedule: A Weekly Breakdown**

Most class sessions will be a short lecture on the reading scheduled for that day and the reflection topic, followed by break-out sessions for small group discussion. This is your opportunity for questions and class discussion. The assigned reading and reflection essay prompt 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.*

	Topics/Daily Activities	Readings and Homework	Deliverable/Due Dates
<b>Week 1</b> <b>Date: 8/19</b>	<b>Class Topic:</b> Discuss syllabus, course expectations and class policies.  Constitutional principles The structure of the legal system	Messenger Book Chapter 1	-“Familiarity” Survey on Blackboard due before class, 8/19 at 6 p.m.
<b>Week 2</b> <b>Date: 8/26</b>	<b>Class Topic:</b> First Amendment Rights	Messenger Book Chapter 2 and pp. 218-224 (on hate speech)	-Reflection Essay due 8/25 midnight

	<p>Introduction to the history of the First Amendment and theories of First Amendment protection. Discuss how these theories can or should apply in the context of hate speech and internet speech.</p>	<p>Excerpts from case <i>New York Times Co. v. United States</i> – see Blackboard</p>	
<p><b>Week 3</b> <b>Date: 9/2</b></p>	<p><b>Class Topic:</b> Defamation law and anti-SLAPP statutes</p>	<p>Messenger Book: Chapter 3</p> <p>Anti-SLAPP motion posted on Blackboard</p> <p>John Oliver’s episode on SLAPP suits available <a href="#">here</a></p>	<p>-Quiz 1 on the judicial system and First Amendment due before class</p>
<p><b>Week 4</b> <b>Date: 9/9</b></p>	<p><b>Class Topic:</b> Defamation law continued</p> <p>Learn advanced defamation principles such as opinion defense, fair report privilege and CDA immunity.</p> <p>Discuss recent controversies involving unethical or questionable journalistic practices resulting in defamation suits.</p>	<p>The retracted “<a href="#">A Rape on Campus</a>” by Sabrina Rubin Erdely</p> <p>Excerpts of the Second Circuit <a href="#">opinion</a> in <i>Elias v. Rolling Stone</i></p>	<p>-Reflection Essay due 9/8 midnight</p>
<p><b>Week 5</b> <b>Date: 9/16</b></p>	<p><b>Class Topic:</b> Invasion of privacy and newsgathering law</p> <p>Dive into advanced issues surrounding privacy torts with focus on 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>Messenger Book: Chapters 4-5</p>	<p>--Quiz 2 on defamation and SLAPP suits due before class</p>
<p><b>Week 6</b> <b>Date: 9/23</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>Discuss recent cases involving privacy claims, including <i>Bollea v. Gawker</i> (the Hulk Hogan case).</p>	<p>Messenger Book: Chapters 4-5</p> <p>NYT’s “<a href="#">Hulk Hogan v. Gawker: A Guide to the Trial</a>”</p>	<p>-Reflection Essay due 9/22 midnight</p>

	Discuss how invasion of privacy issues arise in the context of reporting on COVID-19.		
<b>Week 7</b> <b>Date: 9/30</b>	<b>Class Topic:</b> Copyright and Trademark  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.	Messenger Book: Chapters 6-7	-Quiz 3 on privacy law due before class
<b>Week 8</b> <b>Date: 10/7</b>	<b>Class Topic:</b> Idea theft  Learn about Desny claims in California and how contract law can protect media content	No reading – students will work on midterm assignment this week	<b>MIDTERM DUE AT 6 p.m. on 10/7</b>
<b>Week 9</b> <b>Date: 10/14</b>	<b>Class Topic:</b> Newsgathering: Government transparency and the rights of access to government information  Learn about the common law and constitutional rights of access to government information, as well as FOIA  Guest lecture on FOIA  We will also discuss the parameters of the final presentations due at the end of the semester.	Messenger Book: Chapter 11  Excerpts of case <i>Richmond Newspapers v. Virginia</i> , on Blackboard	-Quiz 4 on copyright, trademark, and idea theft due before class
<b>Week 10</b> <b>Date: 10/21</b>	<b>Class Topic:</b> Newsgathering, cont'd: Exceptions to government transparency and obstacles to gathering information in 2020  Learn whether the government can restrict protests and other public speech. Discover tools for covering protests. Discuss whether there is or should be a right to access police bodycam footage.	Messenger Book: Chapter 14  RCFP June 2020 Guide on "Police, Protestors and the Press" available <a href="#">here</a>	-Reflection Essay due 10/20 midnight
<b>Week 11</b> <b>Date: 10/28</b>	<b>Class Topic:</b> Reporter's privilege; defending against subpoenas and protecting confidential sources	Messenger Book: Chapter 13	-Quiz 5 on newsgathering rights and risks due before class
<b>Week 12</b> <b>Date: 11/4</b>	<b>Class Topic:</b> National security, whistleblowers and "so-called	Messenger Book: Chapter 15	-Reflection Essay due 11/3 midnight

	leaks." Is there a difference between Ellsberg, Assange and Snowden?		
<b>Week 13</b> <b>Date: 11/11</b>	USC Course Evaluation Student Presentations		Final presentation due
<b>FINAL EXAM PERIOD</b> <b>Date: 11/18, 7-9 p.m.</b>	Students Presentations cont'd		Final presentation due

## **XI. 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 strictly 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.

### **Communication**

I encourage you to reach out to me to discuss class material or any other matters you are dealing with. You can email me at [smaclare@usc.edu](mailto:smaclare@usc.edu). For time-sensitive matters, you can text me at (818) 943-2497. We can also set up a time to talk.

If you don't hear from me within 24 hours, please follow up with a reminder.

### **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*

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 Part B, Section 11, “Behavior Violating University Standards” [policy.usc.edu/scampus-part-b](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, [policy.usc.edu/scientific-misconduct](https://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**

#### *Counseling and Mental Health - (213) 740-9355 – 24/7 on call*

[studenthealth.usc.edu/counseling](https://studenthealth.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](https://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 and Services (RSVP) - (213) 740-9355(WELL), press “0” after hours – 24/7 on call*

[studenthealth.usc.edu/sexual-assault](https://studenthealth.usc.edu/sexual-assault)

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

#### *Office of Equity and Diversity (OED)- (213) 740-5086 | Title IX – (213) 821-8298*

[equity.usc.edu](https://equity.usc.edu), [titleix.usc.edu](https://titleix.usc.edu)

Information about how to get help or help someone affected by 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. The university also prohibits sexual assault, non-consensual sexual contact, sexual misconduct, intimate partner violence, stalking, malicious dissuasion, retaliation, and violation of interim measures.

*Reporting Incidents of Bias or Harassment - (213) 740-5086 or (213) 821-8298*

[usc-advocate.symplicity.com/care\\_report](https://usc-advocate.symplicity.com/care_report)

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office of Equity and Diversity | Title IX for appropriate investigation, supportive measures, and response.

*The Office of Disability Services and Programs - (213) 740-0776*

[dsp.usc.edu](https://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*

[uscsa.usc.edu](https://uscsa.usc.edu)

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](https://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](https://dps.usc.edu), [emergency.usc.edu](https://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](https://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.

*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.

## **XII. About Your Instructor**

Selina MacLaren is a media litigation associate at the law firm Davis Wright Tremaine LLP. In that role, she helps media clients create and defend their content. Her practice covers a wide range of speech- and press-related litigation, including defamation, copyright, Section 230, reporters' subpoena defense, idea submission claims, internet speech, prior restraint, UK press law, and SLAPP.

She speaks and writes publicly on First Amendment trends. Before joining DWT, Selina was the Stanton Foundation Free Press/National Security Legal Fellow at the Reporters Committee for Freedom of the Press in Washington, D.C., where she focused on national security, data privacy, and free expression issues. She also has experience in commercial and white-collar litigation. She holds a J.D. from the University of Chicago Law School, where she was a Rubenstein Scholar, and a B.A. in Political Economy from U.C. Berkeley, where she graduated with highest honors.