



JOUR 462: Law of Mass Communication **4 units**

Fall 2021 – Thursdays – 6-9:20 p.m.

Section: 21227D

Location: ASC 228

Instructor: Selina MacLaren

Office: Virtual only

Office Hours: By appointment; virtual only.

Contact Info: smaclare@usc.edu

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, many Americans turn to unreliable internet posts as their primary source of information, and mainstream news media outlets face increasing skepticism, if not downright rejection.

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 internet on the practice of journalism and how online communications are policed, regulated and possibly litigated. In a world saturated with online content, the ideal journalist today 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 make 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. It will teach you how to review your content quickly but thoroughly for legal risk before clicking “publish,” which is an invaluable skill for today’s reporters, editors, film directors, TV producers, and really anyone who uses the internet. Overall, this course gives students the essential legal framework of their rights and responsibilities as journalists. Come prepared to think, discuss and participate.

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 U.S. courts and civil justice system.
- 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 recent events, such as the COVID-19 pandemic and the Black Lives Matter movement,

implicate legal issues like privacy rights and the right to record in public places.

Description and Assessment of Assignments

Students will be graded on two open-book midterm exams, one final article and presentation on a media law topic, quizzes and class participation.

- A. The first 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, open-book, and has a word limit. You will have three weekdays to complete it, but we will reserve class time for you to work on it.
- B. The second midterm examination will consist of a single news article you will read in class and “vet” for legal issues as part of a prepublication process. You will write an email to me, your “editor,” explaining whether you think we should or should not publish the article, and any legal risks of publishing. This is also open-book.
- C. The quizzes will test your knowledge and understanding of the reading and the lectures. These quizzes will be administered roughly every other week at the beginning of class and will be timed (10 minutes). These are “closed-book.” The lowest quiz grade will be “dropped”; if you have to miss a quiz, that will be the one we drop.
- D. The final will be an 800-word article of publishable quality about a current trend or topic in media law, and a presentation on your topic to your peers.
- E. Class participation is based on your attendance for the weekly lecture, as well as your engagement in breakout sessions and during the lecture. Each week, a couple students will be assigned the task of briefly summarizing for the class a media law news story from the previous week – this will also inform the class participation grade. Please note that I may call on you during the lecture, and breakout exercises will be frequent.

Grading

a. Breakdown of Grade

Assignment	% of Grade
Class Participation	15%
Midterm Examination I	20%
Midterm Examination II	20%
Quizzes	20%
Article & Presentation on Media Law Topic	25%
TOTAL	100%

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.

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 for more on how to pitch your work to the campus newspaper.

Required Readings and Supplementary Materials

- A. Textbook: The Law of Journalism and Mass Communication (7th edition), by Dente Ross, Reynolds, Trager
- B. Supplemental materials such as cases, articles, and videos posted to Blackboard

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.

Add/Drop Dates for Session 001 (15 weeks: 8/23/21 – 12/3/21)

Link: <https://classes.usc.edu/term-20213/calendar/>

Friday, September 10: Last day to register and add classes for Session 001

Friday, September 10: Last day to change enrollment option to Pass/No Pass or Audit for Session 001

Friday, September 10: Last day to purchase or waive tuition refund insurance for fall

Tuesday, September 14: Last day to add or drop a Monday-only class without a mark of "W" and receive a refund or change to Pass/No Pass or Audit for Session 001

Friday, October 8: Last day to drop a course without a mark of "W" on the transcript for Session 001. 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 (or the 20 percent mark of the session) to avoid tuition charges.]

Friday, October 8: Last day to change pass/no pass to letter grade for Session 001. [All major and minor courses must be taken for a letter grade.]

Friday, November 12: Last day to drop a class with a mark of "W" for Session 001

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
Week 1 Date: 8/26	Class Topic: Discuss syllabus, course expectations and class policies. Constitutional principles The structure of the legal system	Trager, Chapter 1	-“Familiarity” Survey to be taken in class
Week 2 Date: 9/2	Class Topic: First Amendment Rights 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 internet speech.	Trager, Chapter 2 Excerpts from case <i>New York Times Co. v. United States</i> – see Blackboard	
Week 3 Date: 9/9	Class Topic: Defamation law and anti-SLAPP statutes	Trager, Chapters 4-5	-Quiz 1 on the judicial system and First Amendment

		Anti-SLAPP motion posted on Blackboard John Oliver's episode on SLAPP suits available here	
Week 4 Date: 9/16	Class Topic: Defamation law continued Learn advanced defamation principles such as opinion defense, fair report privilege and CDA immunity. Learn how Section 230 of the Communications Decency Act changes the legal considerations for online speech. Discuss recent controversies involving unethical or questionable journalistic practices resulting in defamation suits.	Trager, Chapters 4-5 Section 230 of the Communications Decency Act, on Blackboard The retracted " A Rape on Campus " by Sabrina Rubin Erdely Excerpts of the Second Circuit opinion in <i>Elias v. Rolling Stone</i>	
Week 5 Date: 9/23	Class Topic: Invasion of privacy and newsgathering law 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.	Trager, Chapters 6-7	-Quiz 2 on defamation and SLAPP suits -Midterm I will be available on Blackboard
Week 6 Date: 9/30	Class Topic: Invasion of privacy continued Focus on the other privacy torts of Private Facts, False Light and Right of Publicity. Discuss recent cases involving privacy claims, including <i>Bollea v. Gawker</i> (the Hulk Hogan case).	Trager, Chapters 6-7 NYT's " Hulk Hogan v. Gawker: A Guide to the Trial "	
Week 7 Date: 10/7	Class Topic: Guest lecture – "You Better Believe It," Intro to Music Copyright Class will include time to work on take-home midterm exam.	No reading – work on midterm	-MIDTERM I DISTRIBUTED ON BLACKBOARD ON WED 10/6, and DUE FRI 10/8 at 6 p.m. PT

Week 8 Date: 10/14	No class – Fall recess		
Week 9 Date: 10/21	Class Topic: Copyright and Trademark, cont'd 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	Trager, Chapter 11	-Quiz 3 on privacy law and beginning of copyright
Week 10 Date: 10/28	Class Topic: Idea theft Learn about Desny claims in California and how contract law can protect media content Newsgathering: Access to courts We will also discuss the parameters of the final presentations due at the end of the semester.	Trager, Chapter 8 News articles about idea theft on Blackboard	
Week 11 Date: 11/4	Class Topic: 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	Trager, Chapter 7 FOIA.wiki Excerpts of case <i>Richmond Newspapers v. Virginia</i> , on Blackboard	-Quiz 4 on copyright, trademark, and idea theft
Week 12 Date: 11/11	MIDTERM II ADMINISTERED IN CLASS Class Topic: 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. Discuss ethics of using police brutality video and crime coverage.	Trager, Chapter 7 RCFP June 2020 Guide on "Police, Protestors and the Press" available here <u>Allissa V. Richardson, The Problem with Police Shooting Videos and Biasotti, Tony, Why Journalists Shouldn't Profile Mass Shooters.</u>	-MIDTERM II administered in class

Week 13 Date: 11/18	Class Topic: Reporter's privilege; defending against subpoenas and protecting confidential sources National security, whistleblowers and "so-called leaks." Is there a difference between Ellsberg, Assange and Snowden?	Trager, Chapter 8 Sample subpoenas and objections posted on Blackboard	-Quiz 5 on newsgathering rights and risks
Week 14 Date: 11/25	No class – Thanksgiving		
Week 15 Date: 12/2	USC Course Evaluations Student Presentations		Final presentations and articles due
Final Exam Period Date: 12/9, 7-9 p.m.	Summative experience		

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, put your phone away.

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. 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. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, 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

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 and Services (RSVP) - (213) 740-9355(WELL), press “0” after hours – 24/7 on call

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, 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

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

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

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.

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.