

## **COURSE SYLLABUS**

Comm 325

Spring Semester 2017

### **Professor Mark Tolstedt**

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Office Hours:

M + TH:: 9-10:30AM

T + W: by appointment

### **Course Description:**

This course examines the regulatory structures and various rules and processes under which the media industries operate. Although this course looks at all the regulatory bodies and policies affecting **content** creation, distribution, and exhibition, special emphasis is placed on the relationship between the courts and federal, state, local, and industry regulatory bodies governing the content process.

This is a predominately online class. You are expected/required to be in class every Wednesday (9-9:50AM, CAC 300).

I reserve the right to make changes to the syllabus and course requirements as needed. If this happens, you will be notified by email, in class, and through D2L where appropriate.

### **Course Objectives:**

--to understand the basic legal principles applicable to producers of content

--to understand regulatory relationships in, over and among media participants

### **Textbooks:**

Miller, P. (2003) Media Law for Producers, (4<sup>th</sup>. Ed). New York: Focal Press.  
(textbook purchase)

Note: this book is available online through Electronic Reserve.

Pember, D. and Calvert, C. *CourseSmart eBook Online Access for Mass Media Law 19e*: McGraw-Hill: 2015.

To gain access to this book, you need purchase access from McGraw-Hill. Follow this link and use the Class name and student sign up code provided below.

<https://connect.mheducation.com/class/m-tolstedt-springsemester-2017>

You will need the following information for access:

Section: Spring 2017

Class Name: COMM 325 Media Law with LearnSmart

### **Grading:**

Grades for this course are based on student performance on a series of online examinations, SmartBook Practice sessions, online discussion forum activity, content questions, and case review activities.

**SmartBook engagement:** You are required to use the SmartBook Griffin, W., Ledbetter, A., and Sparks, G. (2014). *A First Look at Communication Theory Ninth Edition*. McGraw-Hill. The SmartBook allows you to read through the material in which key portions/concepts/ideas have been highlighted. It also allows you to “practice” what you have learned by asking questions and guiding you through the answers. Book chapters have been assigned and scheduled (see Course Schedule below). You must complete the reading, the practice sessions for each assigned chapter.

--The SmartBook allows me to monitor your progress with the chapter readings and practice. There are 32 points (2 per chapter) assigned to this--points will be awarded accordingly, depending on your progress through the chapters. In other words, if you don't use the SmartBook, you don't earn points. If you complete the Practices Sessions by the due date and times, you earn points.

--In each chapter, you will find Read--Practice--Recharge options. Access the Read when you are ready to read the text. **Print off the PowerPoint presentation for the chapter you are about to read.** **As you read, take notes onto the printed PPT slides** (you will find this in the content area of D2L). After you have read the chapter, access Practice and the questions/review session starts. Recharge allows you to go back and review, from a slightly different perspective. When you have finished working in each chapter, **make certain to log out...**this will preserve your completion percentages which will be accessed and used to assign points per chapter earned. You can expect that each chapter will take between 20 and 30 minutes to read and each practice session should take another 20 minutes. If you are finding that it is taking significantly longer for you, please let me know and we can talk about the process. A final note concerning the SmartBook assignments in this class: these activities are a precursor/set-up for your examinations. Completing the Read and Practice for each chapter, will help you significantly on the unit examinations.

**D2L Quizzes:** There are 16 exams covering the materials from the Pember book and one exam (the final exam) covering the materials from the Miller book. Please refer to the course schedule included in this syllabus as well as the exam and online quizzes schedule posted to the content area of D2L. Each of these exams is worth 15 points, are open book AND must be completed by the scheduled times (again, please refer to the exam and online quizzes schedule posted to the content area of D2L). The last examination is on the materials in the Miller textbook and is worth 20 point. It is OK to work ahead.

**Discussion Forum:** Over the course of the semester, students are expected to participate in an online group activity. Students are assigned to a group and by 5PM on the date indicated in the course schedule, each student must post information (please attach it to your post as a PDF) about a current case that you think illustrates/demonstrates (pro or con) Pember's discussion those particular points of law. Each student is also expected to respond at least once, to the postings of the other group members. Points are assigned to students for the postings and for the individual responses to the other group members' postings. (30 points total—article posted and comments. Please see content area of D2L for some samples of articles and responses).

Each Wednesday, you are to prepare answers to a series of "Content Questions" or complete a set of "Case Profiles." These are listed in the Course Schedule below. When you come to class, you will be asked to either answer the assigned questions for present your case profiles. Combined, the questions and profiles total 100 points. Please note: these points can not be made up. If you miss class and don't participate in the discussion, you will lose those points.

### **Grading and Point Totals:**

Point totals:

|                                      |            |
|--------------------------------------|------------|
| Exams (16 @ 15 points):              | 240        |
| Exams (1 @ 20)                       | 20         |
| Discussion Forums (1 @ 40)           | 30         |
| Posting: 1 at 20                     |            |
| Response: 1 at 10                    |            |
| Content Questions and Case Profiles: | 100        |
| SmartBook Practice Sessions:         | 32         |
| <b>Total Points:</b>                 | <b>300</b> |

### **Grading Scale:**

| <b>Grading Scale:</b> |      | <b>Point Totals:</b> |
|-----------------------|------|----------------------|
| 95%+                  | = A  | 285-300              |
| 94%                   | = A- | 282-284              |
| 93%                   | = B+ | 279-281              |
| 87%-92%               | = B  | 261-278              |
| 86%                   | = B- | 258-260              |
| 85%                   | = C+ | 255-257              |
| 77%-84%               | = C  | 231-254              |
| 76%                   | = C- | 228-230              |
| 75%                   | = D+ | 225-227              |
| 71%-74%               | = D  | 210-224              |
| 0%-70%                | = F  | 0-209                |

### **Other Relevant Information:**

I will be using email to contact you individually as needed. I will be posting updates and other information to the news item area of the D2L site for this class

on a regular basis. It is expected that you monitor this class on a regular, if not daily, basis.

Dates due are deadlines.

-**The discussion forum activity is based on group participation...** I will not allow any extensions to the deadlines for postings FOR ANY REASON because the rest of the group is dependent upon your work to be there when required.

-The online exams are scheduled to close at a specific time on the due date. I will allow you to **reschedule the date and time ONLY for reasons consistent with the UWSP policy on attendance**. In all cases, you must inform me in a timely fashion, in advance of the scheduled exam. Please note: I may very well refuse to allow you to reschedule the date and/or time.

-**Attendance is required**. If you miss, for any reason, you will lose points from the content questions/case review points possible. If your absence is excused for reasons consistent with the UWSP policy on attendance, you will be given the opportunity to make up those points through an additional examination.

*Academic dishonesty:* Using material from another source (book, journal, internet site, a faculty member, another student, etc.) without proper acknowledgment is not acceptable. Period. The University has policies that govern academic dishonesty. You should be familiar with them. You will find a statement of my views on plagiarism appended to this course syllabus. If you violate these policies on any of your course work, you will receive a grade of **Fail** for that assignment/exam. You may also receive a grade of **Fail** for the class and be subject to University procedures on academic dishonesty.

#### *Community Bill of Rights and Responsibilities*

UW-Stevens Point values a safe, honest, respectful, and inviting learning environment. In order to ensure that each student has the opportunity to success, we have developed a set of expectations for all students and instructors. This set of expectations is known as the *Rights and Responsibilities* document, and it is intended to help establish a positive living and learning environment at UWSP. Read more here: <http://www.uwsp.edu/stuaffairs/Pages/rightsandresponsibilities.aspx>

Academic integrity is central to the mission of higher education in general and UWSP in particular. Academic dishonesty (cheating, plagiarism, etc.) is taken very seriously. Don't do it! The minimum penalty for a violation of academic integrity is a failure (zero) for the assignment. For more information, see the UWSP "Student Academic Standards and Disciplinary Procedures" section of the *Rights and Responsibilities* document, Chapter 14, which can be accessed here: <http://www.uwsp.edu/stuaffairs/Documents/RightsRespons/SRR-2010/rightsChap14.pdf>

### *Assistive Accommodations*

The Americans with Disabilities Act (ADA) is a federal law requiring educational institutions to provide reasonable accommodations for students with disabilities.

For more information about UWSP's policies, check here:

<http://www.uwsp.edu/stuaffairs/Documents/RightsRespons/ADA/rightsADAPolicyInfo.pdf>

If you have a disability and require classroom and/or exam accommodations, please register with the Disability and Assistive Technology Center and then contact me at the beginning of the course. I am happy to help in any way that I can. For more information, please visit the Disability and Assistive Technology Center, located on the 6th floor of the Learning Resource Center (the Library). You can also

find more information here: <http://www4.uwsp.edu/special/disability/>

### *FERPA Disclaimer*

This course requires posting of work online, that is viewable only by your classmates. None of the work submitted online will be shared publicly. Your academic records (grades, student IDs, personal identification information) will not be shared by the instructor of this course. Confidentiality of student work is imperative, so you should not share the work of your peers publicly without their permission. By participating in these assignments you are giving consent to sharing of your work with others in this class and you recognize there is a small risk of your work being shared online beyond the purposes of this course. If you elect to not participate in these online assignments due to confidentiality concerns, then an alternate assignment will be offered to you.

### *Netiquette*

Netiquette is a set of rules for behaving properly online. Your instructor and fellow students wish to foster a safe online learning environment. All opinions and experiences, no matter how different or controversial they may be perceived, must be respected in the tolerant spirit of academic discourse. You are encouraged to comment, question, or critique an idea but you are not to attack an individual. Working as a community of learners, we can build a polite and respectful course community.

--The following netiquette tips will enhance the learning experience for everyone in the course:

- Do not dominate any discussion.
- Give other students the opportunity to join in the discussion.
- Do not use offensive language. Present ideas appropriately.
- Be cautious in using Internet language. For example, do not capitalize all letters since this suggests shouting.
- Popular emoticons such as ☺ or / can be helpful to convey your tone but do not overdo or overuse them.

- Avoid using vernacular and/or slang language. This could possibly lead to misinterpretation.
- Never make fun of someone's ability to read or write.
- Share tips with other students.
- Keep an "open-mind" and be willing to express even your minority opinion. Minority opinions have to be respected.
- Think and edit before you push the "Send" button.
- Do not hesitate to ask for feedback.
- Using humor is acceptable

### **Course Schedule:**

--I reserve the right to make changes to the syllabus and course requirements as needed. If this happens, you will be notified by email, in class, and through D2L when and where appropriate.

#### Week 1:

Wednesday, January 25<sup>th</sup>: Course Introduction

Friday, January 27<sup>th</sup>: **Access to Connect/SmartBook Required by 5PM**

#### Week 2:

Wednesday, February 1<sup>st</sup>: **Content Questions Chapter 1**

-Explain what the concept of "narrowing construction" means and the circumstances under which courts might use it.

-List the four different options that courts have when offered a case as precedent by an attorney for one of the parties in a lawsuit.

-List three typical forms of judicial decrees in equity law.

-In addition to naming the parties in a case, identify three things that a complaint filed in a civil law case will include.

-What is the legal test or rule for determining when a statute will be declared void -for vagueness?

Friday, February 3<sup>rd</sup>: **Chapter 1 SmartBook Practice and Online Quiz Due 5PM**

#### Week 3:

Wednesday, February 8<sup>th</sup>: **Case Review, Chapters 1 + 2**

-Abrams v. United States

-Gitlow v. People of the State of New York

-Chaplinsky v. New Hampshire

-Village of Skokie v. National Socialist Party

-Near v. Minnesota

-New York Times v. United States (Pentagon Papers)

-United States v. Progressive

Friday, February 10<sup>th</sup>: **Chapter 2 SmartBook Practice and Online Quiz Due 5PM**

#### Week 4:

Wednesday, February 15<sup>th</sup>: **Content Questions Chapter 3**

-Set forth completely and accurately the rule created by the United States Supreme Court for determining when public school administrators may

permissibly censor speech that appears in a school-sponsored newspaper.

-Identify any two of the 10 “most challenged” books of 2012 identified by the American Library Association and named in Chapter 3.

-According to the textbook, what is the issue regarding student speech rights that the U.S. Supreme Court has not yet considered but that it should address?

-Identify three things that the Clery Act requires of all colleges and universities that participate in federal student-aid programs.

-As discussed in the textbook, what is a major problem that occurs each year on college campuses across the country affecting student newspapers that only a few states have laws designed to address it?

-Identify the four criteria that must be satisfied for a time, place and manner regulation to pass constitutional muster under the intermediate scrutiny standard of judicial review.

-What is a “Son of Sam” law?

Friday, February 17<sup>th</sup>: [Chapter 3 SmartBook Practice and Online Quiz Due 5PM](#)

Week 5:

Wednesday, February 22<sup>nd</sup>: [Case Review, Chapters 4, 5, + 6](#)

-Cubby Inc. v. CompuServe Inc/

-Guccione v. Hustler

-Pring v. Penthouse

-Fallwell v. Penthouse

-New York Times v. Sullivan

-Gertz v. Robert Welch Inc.,

-Condit v. Dunne

-Ollman v. Evans

Friday, February 24<sup>th</sup>: [Chapters 4, 5, + 6 SmartBook Practice and Online Quizzes Due 5PM](#)

Week 6:

Wednesday, March 1<sup>st</sup>: [Content Questions Chapters 7 + 8](#)

-Discuss briefly whether American courts consider it possible for a well-known person to pass his or her right of publicity on to an heir.

-What are the circumstances in which written consent may not suffice as a defense in an appropriation case?

-What must a plaintiff, who is suing for the publication of private facts, prove to the court to win his or her suit?

-Most persons think of the publication of private facts about a person when they think of the right to privacy, yet this variety of the tort has been the least accepted by the courts. Why?

Friday, March 3<sup>rd</sup>: [Chapters 7 + 8 SmartBook Practice and Online Quizzes Due 5PM](#)

Week 7:

Monday, March 6<sup>th</sup>: [Discussion forum POINT of LAW posting Due 5PM](#)

Wednesday, March 8<sup>th</sup>: [Case Review, Chapters 9 + 10](#)

- Pell v. Proconier
- Richmond Newspapers v. Virginia
- WJW v. Cleveland, 686 F. Supp. 177 (1988)
- U.S. v. Matthews
- Desnick v. American Broadcasting Companies., Inc.
- Berger v. Hanlon
- Smith v. Daily Mail
- United States v. Corbitt
- United States v. Lindh
- New York Times v. NASA
- New York Times Co. v. City of New York Fire Department
- Gonzaga University v. Doe
- In re Grand Jury Subpoena : Judith Miller
- Cervantes v. Time
- Herbert v. Lando
- Titan Sports Inc. v. Turner Broadcasting Systems Inc.,
- Craig v. Harney

Friday, March 10<sup>th</sup>: [Chapter 9 + 10 SmartBook Practice and Online Quizzes Due 5PM](#)

Week 8:

Wednesday, March 15<sup>th</sup>: [Content Questions Chapters 11 + 12](#)

- What are three processes or legal devices a trial judge can use to try to ameliorate or remedy the effects of mass media publicity about a case?
- What must a trial judge do before he or she can issue a restrictive order against the press during a criminal proceeding?
- In determining whether a judicial proceeding should be presumed to be open, a judge must consider what two factors?
- What are the three reasons that out-of-court settlement agreements are usually sealed?
- What are the steps taken to successfully close a presumptively open pretrial hearing?

Friday, March 17<sup>th</sup>: [Chapters 11 + 12 SmartBook Practice and Online Quizzes Due 5PM](#)

March 17<sup>th</sup>-March 28<sup>th</sup>: SPRING BREAK No ClassActivities:

Week 9:

Wednesday, March 29<sup>th</sup>: [Case Review, Chapter 13](#)

- Miller v. California
- Ashcroft v. Free Speech
- Sonderling Broadcasting Corp.
- Luke Records Inc., v. Navarro
- Skywalker Records v. Navarro
- DeFilippo v. NBC

Friday, March 31<sup>st</sup>: [Chapter 13 SmartBook Practice and Online Quiz Due 5PM](#)



Week 10:

Wednesday, April 5<sup>th</sup>: **Content Questions Chapter 14**

- What is the “sweat of the brow” doctrine, and why has the Supreme Court rejected it?
- Briefly describe the four criteria that courts use to determine whether a use is a fair use.

Friday, April 7<sup>th</sup>: **Chapters 14 SmartBook Practice and Online Quiz Due 5PM**

Week 11:

Monday, April 10<sup>th</sup>: **Discussion forum RESPONSES Due 5PM**

Wednesday, April 12<sup>th</sup>: **Case Review, Chapter 15**

- Valentine v. Chrestensen
- Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.
- Central Hudson Gas & Electric Gas Corp. v. Public Service Commission of New York,
- Anheuser-Busch Inc. v. Schmoke
- Illinois v. Telemarketing Associates, Inc.)
- Mainstream Marketing Services, Inc. v. Federal trade Commission
- Giant Food, Inc. v. FTC
- FTC v. Colgate-Palmolive Co.

Friday, April 14<sup>th</sup>: **Chapter 15 SmartBook Practice and Online Quiz Due 5PM**

Week 12:

Wednesday, April 19<sup>th</sup>: **Content Questions Chapter 16**

Describe any four (4) of the conditions that the FCC imposed in 2011 on Comcast when the FCC approved that same year a 51 percent ownership stake by Comcast in NBC Universal, owner of TV channels such as NBC and Spanish-language giant Telemundo and cable channels including CNBC and Bravo.

-Briefly describe the legal controversy in 2012 and 2013 involving the service called “Aereo,” including what Aereo is, how it works, who objects to it, and why it is objected to.

-Set forth the three things that a viewer or listener must include in a properly filed complaint alleging that a broadcast was indecent.

-Identify the four types of TV or radio appearances by a candidate for political office that are not governed by the Equal Opportunity Rule.

Friday, April 21<sup>st</sup>: **Chapter 16 SmartBook Practice and Online Quiz Due 5PM**

Week 13:

Wednesday, April 26<sup>th</sup>: **Content Questions Miller**

- What should a producer know about the law?
- Media producers are most often involved in what types of wrong?
- What types of relationships does a media producer have to manage?
- Simply put, what is a contract?

- What is a sunset provision? When would a producer want one in a contract?
  - In a typical media production contract, what terms and provision should be considered?
  - What is a justification clause?
  - What is a termination clause?
  - What four factors determine whether an unauthorized use is a fair use?
  - When does an infringement occur?
  - How can a release protect a producer against a privacy lawsuit?
  - What types of permits might a producer encounter?
  - Who requires permits and what do they usually require?
  - What is production insurance and why would a producer want it?
  - What is a completion bond?
  - What does a music library give producers?
  - What is the music rights checklist?
  - What are the advantages of working with unions/guilds?
  - What are the disadvantages of working with unions/guilds?
  - What is the AMPTP?
  - What legal issues are unique to digital, multi-media, and website development?
- Are the liability issues involved with posting statements/content on the web?

Week 14:

Wednesday, May 3<sup>rd</sup>:      **Social Media concerns**

- Can I be fired for making a Facebook post?
- Who has the right to demand access to my social media accounts, either by making me friend them or give them my password?
- What kinds of statements on social media could get me arrested or charged with a crime?
- How are American laws and policies about social media different than the rules in other countries?
- Are social media sites private or public spaces?
- Can I get in trouble for posting a vicious lie about somebody on Facebook?
- If I repeat something I thought was true but turned out to be wrong on Twitter, will I be responsible for it?
- Is it libelous to record something in public and post it on Youtube?
- What should I do if somebody sues me for libel for posting an opinion on a site such as Yelp?
- Why don't anonymous gossip sites such as JuicyCampus or CollegeACB get in trouble for libel?
- If a social media user posts information to their profile, can I assume that it is not private information and thus free to use?
- If someone posts an embarrassing picture of me on a social network site, what are my legal rights to remove it or collect damages?
- Am I bound by terms of use and privacy policies if I don't read them?

- Are all terms of use agreements enforceable? What about if I am just browsing a website? Is each term within the agreement enforceable?
- Can I use a photo I find on Facebook?
- Can I embed a video from someone else's website on my Facebook page?
- Can I be sued if someone posts a copyrighted photo on my blog?
- Can I be sued for trademark infringement for creating a parody Twitter account?
- What is a Creative Common license?
- Can bloggers and Twitter users endorse products?
- Does engaging in behavioral targeting online run afoul of FTC regulations?
- Are pharmaceutical companies liable for third-party comments on Facebook about off-label uses of drugs?
- Do twitter posts, and other interactive social media posts, trigger SEC scrutiny?
- Can companies use online websites and social media platforms to seek investments for startup companies?
- Are citizens entitled to see text messages and emails sent by public officials?
- Are government Facebook pages and their posts subject to public record laws and required to be made public?
- How does a journalist or citizen get to see text messages, emails, or Facebook posts written by government officials?
- Are my emails, texts, and Facebook posts subject to public record laws?
- Can the government prosecute a journalist or anyone else for posting classified documents online?
- Can k-12 public schools ban students' social media use at school?
- Can schools punish students for speech they create using social media off campus, away from school?
- Is a college student's off-campus, social media speech treated with a different legal standard than speech from a middle or high school student?
- Can schools ban student athletes from using social media entirely?
- What will take to resolve the confusion and uncertainty?
- Can I get in trouble for posting sexually explicit photographs on a social media site?
- Does the First Amendment protect use of foul language on Twitter?
- Can my employer examine my mobile device or email for indecent or obscene materials?
- If a user makes an offensive post about me or tags me in an inappropriate photograph on Facebook, can I demand that the post or photograph be removed?
- What kinds of social media activities are most likely to lead to criminal charges?

-Can judges forbid citizens or journalists from bringing smartphones or computers into courthouses or courtrooms? If people are allowed to bring their communication devices into the courtroom, does that mean they can use them there?

-Don't these restrictions violate the First Amendment?

-Is "friending" a juror on Facebook during a trial a good newsgathering strategy?

-Can I tweet from my smartphone if the judge can't see me? Then what should I do?

Friday, May 5<sup>th</sup>:

[Quiz on Miller book Due 5PM](#)

Week 15:

Wednesday, May 10<sup>th</sup>:

NO CLASS

## Plagiarism

A major problem facing both professors and students is the practice of plagiarism, which is defined as “the deliberate or accidental use of ideas, research, or words of another person without fully attributing them to their original sources.” As a student in this course, it is your responsibility to know what constitutes plagiarism. A student who plagiarizes work in my class will receive a failing grade for that assignment, possibly for the course and may be subject to additional academic misconduct sanctions.

The following paragraph offers advice on paraphrasing, a major aspect of plagiarism: Clearly attribute ideas that you have paraphrased to their authors, both directly in your text and by providing reference citations. Do not try to paraphrase by changing just a few of the author’s words (that’s plagiarizing): paraphrasing involves substantial change in the order of words and ideas, usually to condense them. Paraphrasing, in other words, involves putting someone else’s thoughts into your own words, not just rearranging the words and ideas or combining, but shortening, someone else’s sentences. To avoid unintentionally writing a plagiaristic paraphrase, carefully mark the notes that you take on your references where you use exact or nearly exact words of the source.

The following guidelines are offered as additional hints on what plagiarism is:

--Every paper or report submitted for credit is accepted as the student’s own work. It may not, therefore, have been composed, wholly or partially, by another person.

--The wording of a student’s paper is taken as his or her own. Thus he or she may not submit work that has been copied, wholly or partially, from a book, article, essay, newspaper or another student’s paper or notebook, or any other written or printed source (including speeches, WWW sites, news reports, etc.). Direct quotes or ideas from outside sources may be used, but they must be properly cited. Thus, do not simply change a few words within a sentence from a source, put it in your paper, and drop a footnote by it without using quotation marks. Doing so represents the sentence as your own, when it is not, and this is plagiarism!

--As a student, you may incorporate in your paper ideas that have arisen from discussion or lectures when you incorporated these ideas into your own thinking. However, be careful to either cite properly the source of the ideas or cite other sources that reinforce the ideas you are using.

--You may, as a part of the good writing process, give your work to someone else for suggestions. However, having someone else totally correct and revise your work constitutes that person’s work, not your own, and thus constitutes plagiarism.

--You may of course submit a paper to be typed by another person, provided that typist has not sought to change the wording, ideas, organization, or any significant aspect of the paper in any way. If you submit such a paper, be sure to proofread carefully.

--No paper may be submitted for credit that has been or is being used to fulfill the requirements of another course, in whatever department, unless permission to coordinate work has been granted by both professors.

--Students in my courses are expected to utilize the APA stylebook, which provides guidelines for proper citation.