OUTLINE OF THE COURSE

The course contains fourteen lessons, organized into four modules. There is a midterm project following lesson 7 and a final exam following lesson 14. There will be a discussion requiring each student’s participation over the weekend following each of the first three modules.

MODULE 1
The Constitution and the Sources of Media Law
Lessons 1, 2, and 3

The course first provides a broad survey of how law originates in the three branches of government, the legislative branch (Article I of the U.S. Constitution), the executive branch (Article II of the U.S. Constitution), and the judicial branch (Article III of the U.S. Constitution). State constitutions have similar structures. In Lesson 1, students will become familiar with the sources of law which govern the mass media: federal and state constitutions, particularly the First and Fourteenth Amendments to the U.S. Constitution; federal and state statutes, originating in the legislative branch; federal and state administrative regulations, originating in the executive branch; and federal and state case law, originating in the judicial branch. The module will then focus on the First Amendment freedoms of speech and of the press. Lesson 2 will delve into the historical development of First Amendment issues, mostly through cases from the U.S. Supreme Court, while Lesson 3 will discuss contemporary issues involving the First Amendment.

Lesson 1, August 29 [Monday] - September 11 [Sunday]: The American Legal System
Text, chapter 1 (“The American Legal System”)
Instructor Notes (posted on Blackboard), “Outline of the Federal and Alaska Court Systems”
Instructor Notes (posted on Blackboard), “Trial Courts (facts) vs. Appellate Courts (law)”

Lesson 2, September 12 [Monday] - September 18 [Sunday]: The First Amendment, Part 1, Historical Development
Text, chapter 2. “The First Amendment: The Meaning of Freedom.” Focus on:
- Access Theory, print media vs. broadcast media
- Reconciling the First Amendment with Sedition Law
  - Schenck v. U.S. (1919)
  - Whitney v. California (1927)
  - Dennis v. U.S. (1951)
  - Brandenburg v. Ohio (1969)
- Prior Restraint / Censorship
  - Near v. Minnesota (1931)
- Nationalization of the Bill of Rights
  - Gitlow v. New York
Lesson 3, September 19 [Monday] - September 25 [Sunday]; The First Amendment, Part 2, Contemporary Issues
Text, chapter 3. "The First Amendment: Contemporary Problems." Focus on:
- U.S. v. Alvarez (2012, the “stolen valor” decision)
- Picketing as Expression: Snyder v. Phelps (2011, the dead soldier’s funeral)
- National Defense; Press Controls during Wartime
- Hate Crimes
- Flag Desecration
- Highway Beautification
- Book Banning in School Libraries
- Limiting Forms of Expression in High School vs. College: Morse v. Frederick (2007)
- Picturing Violence to Minors
- Publisher Liability
- Fighting Words
- Jury Tampering
- Criticism of Public Officials
- Pornography

MODULE 1 MUST BE COMPLETED ON OR BEFORE SUNDAY, SEPTEMBER 25

Discussion Group 1: Thursday, September 22 - Monday, September 26.

MODULE 2
Defamation and Invasion of Privacy
Lessons 4, 5, 6 and 7

This module contains four lessons which cover the potential liability faced by journalists for acts which constitute defamation and invasion of privacy.

Lesson 4, September 26 [Monday] - October 2 [Sunday]; Defamation, Part 1, The Elements of a Defamation (Libel) Case
Text, chapter 4. “Libel: Establishing a Case”
- Defamatory Expression
- Expression Must be False
- Identification
- Publication
- No Privilege Applies

Text, chapter 5. “Libel: Proof of Fault” Focus on:
- Rosenblatt v. Baer (1966)
- Rosenbloom v. Metromedia (1971)
Lesson 6, **October 10** [Monday] - **October 16** [Sunday]: Defamation, Part 3, Defenses and Damages  
Text, chapter 6. “Libel: Defenses and Damages”

Lesson 7, **October 17** [Monday] - **October 23** [Sunday]: Invasion of Privacy (combine two chapters)  
Text, chapter 7. “Invasion of Privacy: Appropriation and Intrusion”  
Text, chapter 8. “Invasion of Privacy: Publication of Private Information and False Light”

**MODULE 2 MUST BE COMPLETED ON OR BEFORE SUNDAY, OCTOBER 23**

**Discussion Group 2: Thursday, October 20 - Monday, October 24.**

**Midterm Project.** Instead of a midterm exam, there is a "project" which involves listening to an oral argument before the U. S. Supreme Court and writing an outline of what the lawyers argued on each side of the case, incorporating discussion of issues in the first seven lessons. The project is explained in the “Assignments” section on Blackboard.

**MODULE 3**  
*Newsgathering*  
Lessons 8, 9, and 10

This group of lessons covers one of the most important functions of a journalist, news gathering.

Lesson 8, **October 24** [Monday] - **October 30** [Sunday]: The first lesson in this module covers news gathering in general and the access provided by open records statutes, open meeting statutes, and the Freedom of Information Act (FOIA).  
Text, chapter 9. “Gathering Information: Records and Meetings”

Lesson 9, **October 31** [Monday] - **November 6** [Sunday]:  
Text, chapter 10. “Protection of News Sources/Contempt Power”

Lesson 10, **November 7** [Monday] - **November 13** [Sunday]: This lesson combines two chapters in the text. It first covers the limitations placed on news gathering by the conflict between the First Amendment freedom of the press and the Sixth Amendment guarantee that persons charged with crime will have a fair trial by an impartial jury. The lesson then continues by exploring the rare instances when a judge can close judicial proceedings, excluding everyone but the litigants.  
Text, chapter 11. “Free Press-Fair Trial: Trial-Level Remedies and Restrictive Orders”  

**MODULE 3 MUST BE COMPLETED ON OR BEFORE SUNDAY, NOVEMBER 13.**

**Discussion Group 3: Thursday, November 10 - Monday, November 14.**
This final group of lessons covers four areas in which government regulation is important to understand. (Notice that I have juggled the chapters, with chapter 16 coming first, followed by chapters 15, 13, and 14).

Lesson 11, **November 14** [Monday] - **November 20** [Sunday]. The first lesson will cover the regulation of the broadcast media by the Federal Communications Commission.  
Text, chapter 16. “Telecommunications Regulation”

Lesson 12, **November 21** [Monday] - **November 27** [Sunday]. Next we will study the regulation of advertising, primarily by the Federal Trade Commission.  
Text, chapter 15. “Regulation of Advertising”

Lesson 13, **November 28** [Monday] - **December 4** [Sunday]. This lesson covers the regulation of obscene materials, primarily by state and federal statutes and state and federal court case law.  
Text, chapter 13. “Regulation of Obscene and Other Erotic Material.”

Lesson 14, **December 5** [Monday] - **December 11** [Sunday]. Finally, we will engage in a brief study of intellectual property law, issues concerning copyright law which are relevant to journalists.  
Text, chapter 14. “Copyright”

**MODULE 4 MUST BE COMPLETED ON OR BEFORE SUNDAY, DECEMBER 11**

**Final Exam.** There will be a final exam on Blackboard which will consist of true/false and multiple choice questions covering the last half of the course, modules 3 and 4. The final exam must be completed no later than **Sunday, December 18**.

**COURSE OBJECTIVES**

Throughout the course students will read about definitive court decisions, particularly those of the U. S. Supreme Court, so that by the end of the course students will have acquired familiarity with the major court cases that have shaped mass media law and will be knowledgeable concerning relevant statutes and regulations. These skills will help prepare students for careers as professional journalists in three ways: 1) students will develop an ability to understand and intelligently discuss constitutional and other legal issues; 2) students will gain enough knowledge of media law to have a basic understanding of their rights as newsgatherers; and 3) students will gain enough knowledge of media law to have a basic understanding of how they may become liable for damages or other sanctions based on violations of the law while functioning as a professional journalist.

**COURSE TEXT**

HOW TO PREPARE EACH LESSON

In order to successfully complete the course in a timely fashion, the instructor has provided recommended dates for studying and completing each lesson. Obviously, the best plan will be to follow this schedule. However, the instructor will not strictly enforce the suggested completion dates for each lesson, allowing students with some flexibility as they work their way through the course. However, there are mandatory completion dates for each module which will be strictly enforced. In other words, while there will be no penalty for not strictly complying with the suggested completion dates posted for each lesson, any lesson or lessons filed after the due date for a module, as listed below, will be reduced by one letter grade.

Module 1 must be completed by Sunday, September 25
Module 2 must be completed by Sunday, October 23
Module 3 must be completed by Sunday, November 13
Module 4 must be completed by Sunday, December 11

The final exam must be completed by Sunday, December 18

Each lesson should be completed using the same four-step sequence:

1. **First**, the instructor has provided an introduction to each lesson, labeled "Instructor’s Notes." The introduction to the first lesson is several pages long; however, the introduction to all of the following lessons will be no more than three pages long, often only a single page. In any event, read the "Instructor’s Notes" first.

2. **Second**, read the assigned chapter or chapters in the text. One feature of the text which I like is the authors' frequent gray-shaded "summaries" at the end of each major section of the text. These provide an excellent review of what you have just read; or perhaps by reading the "summaries" first, you can gain an initial outline of the topic being discussed.

3. **Third**, take the quiz for the lesson on Blackboard. The quizzes all contain ten questions, a mixture of true/false and multiple choice. All of the questions are taken from material in the text reading assignment for the lesson, or the Instructor’s Notes, and often are presented as verbatim quotes from the text. The quizzes will be taken and graded using Blackboard. I will have access to your quizzes and can see if you missed any quiz questions. For any question you answer incorrectly, I have provided on Blackboard the correct answer and its source. However, if that information does not adequately explain why you missed a question, please feel free to send me an email and ask for a more detailed explanation. If you think your answer was correct, I invite you to present a logical argument in your email and cite some portion of the text or other authority supporting your answer. If your argument and supporting authority are well-stated, I can change your quiz grade from this end.

   The quizzes are all "open book." You should feel free to have the text beside you as you take the quiz and should feel free to refer to the text as often as needed. The quizzes are programmed for 30 minutes, but if you are almost finished with a quiz, you may take a bit more time to complete all ten questions. Blackboard will not shut you down at exactly 30 minutes. It will simply tell me the exact amount of time you required to finish the quiz. Of course, if you regularly exceed the allotted time or exceed it by an excessive amount, I will likely converse with you regarding the quizzes. Otherwise, don’t panic if you think you are running out of time. I want you to complete the quiz and you should normally have sufficient time left over to go back and double-check any answers you have given against the text which you have just read.
As noted above, I have written many of the questions, especially the true/false questions, by using the exact same language as is used in the text. As a result, it will be of great benefit to you if you allot enough time to read the instructor’s notes, the entire text assignment, and then take the quiz, all at the same time. This should guarantee that when you take the quiz you will readily recall approximately where in the text the correct answer can be obtained.

4. Finally, each lesson ends with one or two essay questions. I expect each essay to contain roughly 250 words. But I am looking for quality, not quantity. Most students will be journalists rather than lawyers or paralegals, and may not be used to citing case law or statutory precedent in support of answers they provide. However, I would like students to cite specific court opinions or statutes referred to in the instructor’s notes or text reading assignment when such authorities clearly support the student's answer to an essay question. In the alternative, at least cite the page(s) of the text reading assignment from which you derived your answer. I am attaching a sample essay question and answer at the end of this syllabus to provide some guidance on how I would like you to complete the essay questions.

**PLEASE NOTICE**

While Blackboard has an "assignment" function which allows students to write their essays and forward them to me using Blackboard, I prefer that you prepare your essays as a separate document and forward them to me as an email attachment. I can receive attachments in either Word, WordPerfect or as a PDF document. My email is eshusted@alaska.edu. I will acknowledge receipt of your lesson essays immediately and will review them within two days. I will send back to you my comments on your essays along with a grade for the lesson based on the rubrics stated below. This method allows me to keep up-to-date much better. I check my email several times a day, but am only teaching this one course online this semester. As a result, I don’t regularly check Blackboard until I receive an essay as an email attachment which signals me that there is a student’s quiz and essay(s) to be graded.

If, however, you prefer to send me your essays using Blackboard please feel free to do so. There won’t be a penalty of any sort. I simply may not respond to you as quickly as I like to do. While this is not an English grammar course, I can be easily offended by a student who forwards 400-level college work which reads as if it had been prepared by a seventh grader. Please check your essays for spelling and grammar errors before sending them to me.

**MIDTERM and FINAL**

**Midterm.** Instead of an exam, I have designed a project for you to complete using an interesting website. I have designated a specific time for you to complete this project. It is listed after lesson 7, which is halfway through the course. The project is most relevant to the constitutional issues covered in the first few lessons; however, you may complete the project at a time most convenient for you by simply working it into your regular schedule. The project is explained in detail in the “Assignments” section on Blackboard.

**Final.** There will be a final exam taken on Blackboard at the end of the course; that is, after lesson 14. It must be completed on or before Sunday, December 18, since I must file final grades by noon on December 21. The exam will be a collection of true/false and multiple choice questions which will be graded by Blackboard. The final exam will cover only the material covered in the second half of the course; that is, lessons 8 through 14.
DISCUSSIONS

The course has 14 lessons, a midterm project, and a final exam. In addition, I have added to that three weekend “discussions” which will be conducted on Blackboard.

Discussion No. 1: Thursday, September 22 through Monday, September 26.

Discussion No. 2: Thursday, October 20 through Monday, October 24.

Discussion No. 3: Thursday, November 10 through Monday, November 14.

By noon on each of the three Thursdays, I will post a question based on a fact situation that is relevant to the issues studied during the previous module. I will notify students that the discussion question has been posted by placing a notice in Blackboard’s “Announcements” section for the course. Each student will be expected to provide both an online response to my question and at least one online response to another student’s answer or discussion. 10% of the grade for the course will be based on each student’s participation, and the quality thereof, in the three discussions. In other words, participation in the discussions is mandatory and failure to participate will reduce a student’s final grade by 10%, or one letter grade. I am aware that some of the students are not at UAF and may not be familiar with Blackboard. I will provide specific instructions on how to participate in the discussions using Blackboard.

Since this is an effort to simulate a “discussion,” you need to respond to my initial question fairly quickly, no later than Thursday or Friday. Then after reviewing other students’ responses, you should “discuss” with at least one other student her or his initial response. Do not wait until Monday to simply post both your initial response to my posting and, at the same time, offer one response to another student. That obviously would not be participating in a “discussion.”

GRADING

LESSONS = 50% of final grade

QUIZZES. 25% of lesson grade. Blackboard will grade the quiz and assign a grade based on ten points per correct answer. I will then assign a letter grade for each quiz based on: A, no incorrect answers, or one incorrect answer; B, two incorrect answers; C, three incorrect answers; D, four incorrect answers; F, five or more incorrect answers.

ESSAYS. 25% of lesson grade. I will provide you by return email with written comments on your essays and assign a letter grade for the essays and for the lesson. The lesson’s letter grade will also be posted on Blackboard. Correct answers with correct analysis, such as citing a good authority (state, regulation, court case, or a page from the text) = A. Incorrect answers but with well-written analysis and logical reliance on authority can also qualify for an A. Correct answer but without any analysis or citation of authority = B. In other words, I need good quality writing and analysis. While the essay question will often ask what you think the result will be, you need to provide an answer based on some legal authority you have encountered in your reading. Do not base your answer on some personal idea you might have as to the difference between right and wrong, or some personal opinion that is only tangentially related to a legal principle.

Each lesson will be assigned a letter grade. The grade for each lesson will be divided evenly between the quiz and the essay questions, with the quality of the essay answers controlling in the event of a "tie" between A and B, etc.
MIDTERM PROJECT = 20% of final grade
FINAL EXAM = 20% of final grade
DISCUSSIONS = 10% of final grade.

INCOMPLETE GRADE POLICY

The letter grade "I" (Incomplete) is a temporary grade used to indicate that the student has satisfactorily completed, with a grade of "C" or better, a substantial portion of the work in the course but for reasons beyond the student's control, has not been able to complete the course during the regular semester. When a student requests additional time to complete the course, the instructor must file a form with the university which states the number of lessons the student has completed and the grade earned to date. Obviously, neither of these requirements can be met if only a few lessons have been completed. In this event, the student will receive a grade of "NB," ("no basis"), which is a neutral grade that does not impact the student's grade point average. However, the student must re-enroll in the course and complete it in the required time in order to receive a grade.

The instructor's policy in this course is that a grade of "I" will not be granted to a student who has not at least progressed through lesson 10 and the midterm project. In addition, if a student then fails to complete the course at the end of the extended time, a grade of "NB" can no longer be granted. Instead, a grade based on the student's total course work will be given, which in most instances will be an "F."

SAMPLE ESSAY QUESTION

The restaurant critic for a large metropolitan newspaper added the following item at the end of her weekly restaurant review: "The county health department has locked the doors at Chopstix City, the Chinese-American eatery in the Periwinkle Mall. Health inspectors found evidence of a variety of vermin in the kitchen. It's no surprise that rats and cats and roaches and spiders were found running through the bistro. The chef must surely have been flavoring his pork chow mein with these spicy tidbits since the restaurant opened last May. At least that is my opinion."

The restaurant critic based this closing paragraph in her column on a single sentence in the health department's report, which was a public record: "Inspectors found evidence of rodent hairs and insect parts in the storeroom next to the kitchen."

The owner of Chopstix City sued the newspaper for defamation. A) Discuss the elements of a successful defamation (libel) suit; B) whether or not Chopstix City will likely be able to prove them; C) discuss the defense or defenses on which the newspaper will likely rely; and D) conclude your discussion with a prediction of who will probably win the case.

SAMPLE ESSAY ANSWER

A) The elements the restaurant will need to prove are: 1) a defamatory statement; 2) which is false; 3) which identifies the plaintiff; 4) which was published; 5) which damaged the plaintiff; 6) that the defendant was at fault; and 7) and for which no privilege applies. (See chart in text which outlines what is needed to prevail in a defamatory claim).

B) Chopstix City can prove all of the criteria. The statement was defamatory, it was false or at least grossly over-exaggerated, it identified the restaurant by name, it was published, and it presumably caused damage to the restaurant's business.

C) If the newspaper can eliminate any one of these criteria it will prevail. However, it is more likely defenses will be based on either privilege, or opinion, or both. 1) The reporter has a qualified
privilege, often referred to as the "reporter's privilege," to report on a government proceeding or document by providing a fair and accurate summary. (Cite appropriate page(s) from the text). The health department's report qualifies as a government document which the reporter was entitled to summarize. In addition, the reporter can argue it was in the public interest to know about the poor health conditions at Chopstix City. But the reporter's summary was hardly "fair and accurate." Rats, cats, roaches and spiders" running through the kitchen is a far cry from insect parts and rodent hairs in the store room. 2) The newspaper will also argue that since the article appeared in a weekly restaurant column and was written by the paper's restaurant critic it qualified as pure opinion, which cannot be defamatory because readers understand it as simply one person's idea. This defense is best presented by the case of Ollman v. Evans, which provided four guidelines to help determine whether a statement should be regarded as a statement of fact or as simply the writer's opinion. Under this "Ollman Test," the defense will likely fail. The reporter peppered his "opinion" with factual assertions, that animals and bugs were running through the kitchen and that the restaurant owners were adding these animals and bugs to the food. The fact the reporter concluded with, "at least that's my opinion" doesn't overcome the assertions which most readers will understand as reported facts.

D) The restaurant should win. The reporter's sloppy reporting did not fairly and accurately relate the true contents of the health department's report of which the reporter had a copy.

(This fact situation is taken almost verbatim from Journal-Gazette Co. v. Bandido's, Inc., discussed in the text. Your author used it to discuss the potential liability of inaccurate headlines to a news article. Actually, the newspaper won in the end. The court held that the plaintiff restaurant, under the cases beginning with New York Times v. Sullivan, must prove actual malice when a newspaper defendant has reported on a matter of public interest or concern and that the plaintiff failed in that proof. Thus, a sound defense might also be based on the failure to prove actual malice.)

INFORMATION REGARDING THE INSTRUCTOR

Instructor: Ed Husted
UAF Position: UAF Professor Emeritus
Office Address: I do not have an office at CTC. However, upon request I will make arrangements to meet with a student at CTC.
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I graduated from Carleton College (B.A.) at Northfield, Minnesota in 1959 and from Indiana University Law School (L.L.B.) at Bloomington, Indiana in 1962. I served as a Deputy Attorney General for the State of Indiana from 1962 to 1964. Thereafter, I engaged in the general practice of law in Indiana until 1981. During this time, I also served as a Deputy Prosecuting Attorney from 1966 to 1970.

I came to Alaska in 1981 and worked for seven years as a paralegal in two Fairbanks law offices engaged exclusively in workers' compensation law. Beginning in 1988, I formed a business, Lawyer Support Services (LSS), and worked on contract for Alaska lawyers performing legal research and writing. My work through LSS has evolved primarily to writing and publishing weekly summaries of the opinions of the Alaska Supreme Court, a project which I began in 1990. Copies of my weekly summaries are kept in the UAF paralegal law library. My wife also owns a law-related business, LSS Court Reporting. I am not admitted to the practice of law in Alaska.
I taught the first "Introduction to Paralegal Studies" class (PLS 101) offered at UAF in the fall semester of 1992 and taught the same course during each succeeding semester up to the fall of 2007, when the course was renumbered as PLS 102. I then taught PLS 102 through the spring semester of 2015. In addition, I have taught the Torts course (PLS 203), Contracts and Real Estate (PLS 215), Advanced Legal Writing (PLS 285), and the Paralegal Internship (PLS 299). I also still teach “Mass Media Law” (JRN 413) for the UAF journalism department and have recently taught “Introduction to Justice (JUST 110) and “Criminal Law” (JUST 3520 for the UAF justice department.

In the fall of 1997, I became the first full-time coordinator of the UAF paralegal studies program, a position I held until I retired in May 2015. In February 2001, the UAF paralegal studies program was approved by the American Bar Association, a level of credibility achieved by fewer than 25% of the paralegal training programs in the United States. The program was reapproved for an additional seven years in February 2008 and February 2015.