

MEDIA LAW AND ETHICS: COMM 3404

Learn to Think-Think to Learn

Monday | 6:00-8:45 p.m. | DE 253 | P: 216.280.9715

Class Blog: u.osu.edu/milano.35

MEET THE PROFESSOR:

Jay Milano, Esq. | Milano Attorneys at Law | milano.35@osu.edu |
Office Hours by Appointment – 3107 Derby Hall

For over 30 years, I have practiced law with a concentration in litigation (trying cases), criminal and civil.

For over 25 years I have taught at the university level, at Case Western Reserve University School of Law and now at The Ohio State University.

I have represented and worked with journalists my entire career.

My work and my interests have been built upon an understanding of the ethical obligations of professionals - lawyers, doctors, and journalists. In my opinion, a common set of ethical principles can be applied to all professions, only adapted to the idiosyncrasies of each.

See www.milanolaw.com for more background.

COURSE DESCRIPTION:

Communications 3404 will examine how the media (from social media to international news organizations) deals with the most important issues - race, religion, politics, sexual assault, etc. See the Assignment Syllabus, attached, for more details.

The purpose of this class to provide you with a model by which to analyze, understand, and act upon the law and ethical considerations which journalists face. We will use the writings of the Supreme Court, the ethical considerations of the profession, and actual events to build an analytical model. You will compile a “Reporter’s Notebook” of what we learn. The purpose of the notebook is to give you a living reference, which you can use and add to as you pursue your career.

There is no profession more important to a democracy than journalism - when vigilant and diligent and resolute. In order to perform that role, you will need to understand both the law and the ethics that govern it.

As long as you are willing to do the work, this class will provide you a foundation upon which to build.

RULES:

You will be treated as professionals. That means:

1. You will need to put forth a professional effort.
 - a. Read and understand the assignments.
 - b. Participate in class discussion.
2. This class will be built upon the ideas and concepts fleshed out in our classroom discussions. You will need to speak fearlessly and argue zealously for your point of view.
 - a. We will respect the right of each of us to have an individual opinion (that does not mean we all need to agree).
 - b. We will treat each other with the respect due a colleague.
 - c. “The essence of the independent mind lies not in what it thinks. But in how it thinks.” – Christopher Hitchens
3. You need to show up to each and every class. If you miss, you need to email in advance of class with the reason.
 - a. If the reason is legitimate and the occurrences are few (very few) we will be fine.
 - b. You need to stay until the end of the class period.
4. There are no facts- there is only evidence.
5. There is no syllabus for life.

REQUIRED TEXT:

Instead of requiring a textbook for this course, I have selected a number of relevant articles which deal with the topics under consideration. It is the design of the course that the content will be as fresh as the weekly news.

In addition to the weekly readings, you will be responsible for purchasing and reading “The Journalist and the Murderer” by Janet Malcom. It is available for purchase on Amazon for approximately \$9. While I will not assign specific pages to be read for particular class days, we will discuss and analyze the book; it is in your best interest to finish it.

ADDITIONAL RESPONSIBILITIES:

Reporter’s Notebook (RN):

Students must create a course blog at u.osu.edu. Each student’s blog will be linked to the class blog. Before class each week you will be responsible for posting a synopsis of the assigned material. The writing need not be exhaustive, but should answer the question “What’s the point?” After class, and before the next class, each of you must re-visit your blogs and “comment” on your original post with something new you learned during class. This need not be much longer than a paragraph or 2.

In other words, every week you have two mandatory assignments: analyzing the assigned material for the upcoming Monday, and commenting upon what you learned after our class discussion. While these are two assignments, students need only develop one blog post for each week.

You must keep up with timely postings in the RN.

With some thought you will note that the RN allows me to see, in real time, that you are preparing for class, attending class, and paying attention in class. Those are the reasons it so heavily weighted in the grading.

Before the second class, after you have created your individual blogs, please email me the link so that I can group and link your blogs to the class blog page.

A Model of Ethical and Case Analysis

This is the Method of Analysis that we will use for Ethical and Legal Questions:

- For an ethical situation:
- What do I have in front of me?
 - What is the evidence?
 - How reliable is the evidence?
 - What follow-up do I need?

- For a case:
- What are the facts?
- What are the issues?
- Are there extrinsic factors?
 - What weight do I give them?
- Is there a rule or a precedent that applies?
- What are the arguments regarding the issues?
- What is the rule of the case?
- What is my position?

Hot Topics:

Hot topics are issues in the news about ethics, law, society, journalism, or anything else interesting that relates to our discussions. Individuals or groups will be responsible for presenting and explaining the topic to the class.

Each group will be assigned a particular topic by the professor and will have one to two weeks to prepare the analysis for class.

Your group will present the issue and an analysis to the class. Your analysis should be focused on identifying the particular issue, the evidence or facts that pertain to that issue, extrinsic factors (i.e. why did the reporter publish the story? Why was a particular source sensitive about what was published?), the relevant Code section, and your overall conclusion. During the last 5 minutes you will need to stimulate class discussion, answer questions, and ask questions of your peers. You will be responsible for meeting with your group outside of class throughout the course of the two-week period to organize your presentation.

While the hot topics are not specifically graded, an exceptional presentation, positive or negative, can raise or lower your final grade by 1/3.

CLASS PARTICIPATION:

This course will be structured based upon lively and compelling class discussions. Each student must come to class prepared to ask questions and offer points of discussion based upon the assigned readings. You are all professionals. You will not be graded based upon the “correctness” of your answer, but your participation grade will be based on your ability to give a thought out and individualized answer.

Open discussion and the Socratic method are beneficial to both the classroom experience and the way that you will all learn. This method is employed universally throughout law schools. It involves the professor calling a random student’s name from the roster after asking the class a question or upon beginning the discussion for that day.

An article in the Stanford University Newsletter distributed in the fall of 2003 is posted on the website. Read it. It is summarized as follows.

“In the Socratic method, the classroom experience is a shared dialogue between teacher and students in which both are responsible for pushing the dialogue forward through questioning. The ‘teacher,’ or leader of the dialogue, asks probing questions in an effort to expose the values and beliefs which frame and support the thoughts and statements of the participants in the inquiry. The students ask questions as well, both of the teacher and each other.”

Class participation is not included in the overall grade distribution. You can achieve an A in this class and never say a word. However, I will mark your participation and it can raise your grade as much as a full letter grade -based upon quality.

GRADE DISTRIBUTION:

Reporter’s Notebook Assignments	300
Midterm	100
Final	200

ACADEMIC MISCONDUCT:

All forms of conduct prohibited by the Code of Student Conduct are likewise prohibited in this classroom and course. Detailed information, including a list of specifically prohibited conduct, can be found in Section 3335-23-04 of the Code of Student Conduct. The online version of the Code can be found at: <http://studentaffairs.osu.edu/csc/>.

SPECIAL ACCOMODATIONS:

Any student in need of special accommodations due to a disability should contact me via phone, email, or before/after class to discuss your needs. Students with disabilities should call the Office for Disability Services at 614.292.3307 or visit the office at 150 Pomerene Hall to document those disabilities and coordinate reasonable accommodations.

**ASSIGNMENT SYLLABUS
FALL 2016**

Date	Topic	Assignments
Class 1: August 29	Introduction to the Course	<p>Introduction to the class; Merchants of Doubt</p> <p>Required readings: -The Rolling Stones: <i>A Rape on Campus: A Brutal Assault and Struggle for Justice at UVA</i> (available on the course website) -SPJ Code of Ethics (link available on the course website) -Stanford University Newsletter on Teaching: The Socratic Method (available on the course website)</p>
Class 2: September 12	Sexual Assault on Campus	<p>Required readings: -Columbia Journalism Review: <i>Rolling Stones Investigation: ‘A Failure that was Avoidable’</i>: http://www.cjr.org/investigation/rolling_stone_investigation.php -Writing Rape: Women’s Media Center Study Finds Crucian Gap in Coverage by Gender: http://www.womensmediacenter.com/press/entry/writing-rape-womens-media-center-study-finds-crucial-gap-in-coverage-gender - <i>All-American Swimmer Found Guilty of Sexually Assaulting Unconscious Woman on Stanford Campus</i>: http://washingtonpost.com/news/morning-mix/wp/2016/03/31/all-american-swimmer-found-guilty-of-sexually-assaulting-unconscious-woman-on-stanford-campus/</p>
Class 3: September 19	The Courts, First Amendment, and Defamation	<p>Overview of the state and federal court systems</p> <p>Required readings: -<i>New York Times v. Sullivan</i> – all cases available on www.oyez.org -<i>Curtis Publishing Co. v. Butts</i> -<i>Hustler Magazine v. Falwell</i></p>

		<p>-<i>Zacchini v. Scripps-Howard Broadcasting Co.</i> -<i>Snyder v. Phelps</i> -The Atlantic: Today is the 50th Anniversary of the Re-Birth of the First Amendment: http://www.theatlantic.com/national/archive/2014/03/today-is-the-50th-anniversary-of-the-re-birth-of-the-first-amendment/284311/ -Free speech is precious. What's happening with Gawker and Facebook threaten it.: https://www.washingtonpost.com/lifestyle/style/free-speech-is-precious-whats-happening-with-gawker-and-facebook-threaten-it/2016/05/27/13014418-21ea-11e6-8690-f14ca9de2972_story.html -<i>Why Hogan vs. Gawker Shows Journalism at its Worst</i>: http://www.thedailybeast.com/articles/2016/03/14/why-hogan-vs-gawker-shows-journalism-at-its-worst.html</p>
Class 4: September 26	Media Coverage of Politics	<p>Where do people get their news? Polling and the Horse Race</p> <p>Required readings: -New York Times: Standards & Ethics: http://www.nytc.com/who-we-are/culture/standards-and-ethics/ -The 2016 Presidential Campaign – a News Event That's Hard to Miss: http://www.journalism.org/2016/02/04/the-2016-presidential-campaign-a-news-event-thats-hard-to-miss/ -News Coverage of the 2016 Presidential Primaries: Horse Race Reporting Has Consequences: http://shorensteincenter.org/news-coverage-2016-presidential-primaries/#The_Full_Primary_Season_January_1-June_7_2016</p>
Class 5: October 3	Media Coverage of the Presidential Election	<p>The media & Trump; The media & Hillary</p> <p>Required readings: -<i>Texas v. Johnson</i> -RNC Protests: <i>Attorneys say arrests after flag burning should have never happened</i>: http://www.cleveland.com/rnc-2016/index.ssf/2016/07/rnc_protests_attorneys_say_arr.html</p>

Class 6: October 10	First Amendment Law in Schools & Political Correctness	Required readings: - <i>Tinker v. Des Moines School District</i> - <i>Board of Education v. Pico</i> - <i>Bethel School Dist. No 403 v. Fraser</i> - <i>Hazelwood School District v. Kuhlmeier</i> -The Atlantic: <i>The Coddling of the American Mind</i> : http://www.theatlantic.com/magazine/archive/2015/09/the-coddling-of-the-american-mind/399356/
Class 7: October 17	Midterm	
Class 8: October 24	Guest Speakers: Would you go to jail to protect the First Amendment?	Today will be one of the most interesting classes to attend. Lisa Abraham will be coming to speak to the class. Required readings: http://www.dmlp.org/legal-guide/ohio/ohio-protections-sources-and-source-material
Class 9: October 31	Undercover Reporting & Anonymous Sources	Required readings: - <i>ABC v. Food Lion</i> -The Ethics of Undercover Journalism: http://www.cjr.org/campaign_desk/the_ethics_of_undercover_journalism.php
Class 10: November 7	Religion & Charlie Hebdo	Required readings: -Religion Used to Mask Racism: http://thinkprogress.org/justice/2014/02/26/3333161/religious-liberty-racist-anti-gay/ -I am not Charlie Hebdo: www.nytimes.com/2015/01/09/opinion/david-brooks-i-am-not-charlie-hebdo.html
Class 11: November 14	Facebook & Other Social Media	Required readings: -Facebook is Eating the World: http://www.cjr.org/analysis/facebook_and_media.php -Watch MSNBC's Rachel Maddow Blast Media Coverage of Anti-Choice Politicians: http://mediamatters.org/video/2016/03/31/watch-msnbcs-rachel-maddow-blast-media-coverage/209676

Class 12 November 21	Race	Required readings: -If Bill O'Reilly said it, it must be true: 5 times he clearly said racist things while claiming he's not racist: www.salon.com/2016/07/21/bill_oreilly_said_it_so_it_must_be_true_5_times_he_clearly_said_racist_things_while_claiming_he's_not_racist_partner/ -Four Lessons from the Media's Conflicted Coverage of Race: http://www.npr.org/sections/codeswitch/2014/12/06/368713550/four-lessons-from-the-medias-conflicted-coverage-of-race
Class 13: November 28	Freedom of Information	Bring to class: http://www.ohioattorneygeneral.gov/YellowBook
Class 14 – The Journalist and the Murderer Book Review December 5		
December 9, 2014 – Final exam from 8:00-9:45		