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Fall 2013

MEDIA LAW NOTES

AEJMC Law & Policy Division

HEAD NOTES: THOUGHTS FROM DIVISION HEAD



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As the Law and Policy Division finishes celebrating its 40th anniversary, the division is in great shape, thanks to a long history of outstanding leadership and a great group of current officers who have a lot planned for the upcoming year. I cannot thank our current and previous officers enough for their service and commitment to our division.

We currently have a number of projects in various stages. Vice Chair Daxton “Chip” Stewart has already put together some great proposals for the 2014 AEJMC Conference. Chip is working with a wide variety of divisions including several we haven’t co-sponsored a panel with for numerous years. Thanks to everyone who submitted a proposal for the conference to Chip. Remember that the conference is in Montreal, and you will need your passport.

In addition to our regular panels, we are working on two separate pre-conference sessions, one looking forward and one looking back. The first panel will feature authors whose articles have been accepted for Communication Law and Policy’s special edition, Communication Law and Technology: The Next Twenty Years. (See included call.) Please circulate the call for papers as wide as possible and encourage colleagues at your university in law, engineering, computer science, philosophy, and political science to consider submitting an article or consider co-authoring a paper with someone from one of these fields. It would be great to see some new faces at our conference.

Our second pre-conference event will feature three panels dedicated to the 50th anniversary of New York Times Co. v. Sullivan. I have asked three division members to work on putting together panels that will explore different areas of this landmark decision. We will announce the themes and composition of these panels as we receive confirmations from panelists. If you have ideas on commemorating this historic decision, please email me.

Also be on the lookout for our new division website. Erin Coyle, now entering her third year as our division’s Webmaster, has been hard at work creating a new site that should be launching soon.

I also encourage you to watch for the call for the division’s teaching competition. As discussed at our annual business meeting in August, submissions were down this year. For the 2013-14 competition our Teaching Chair, Jason Martin, has decided to return to a general call for teaching ideas. In the last few years we have selected a special theme for the competition. I also encourage division members who have submitted in the past but who did not win to re-submit their ideas. For years this competition was a great source of creative ideas and we hope to feature winners at a conference panel at the 2015 AEJMC conference in San Francisco.

Finally, please note the call for submissions for the 2014 Southeastern Colloquium to be held in beautiful Gainesville, Florida. The Colloquium has always been a great place for graduate students to launch their academic presentation careers and an excellent place for faculty to present their latest research before sending it off to our conference competition or for publication. Gainesville has its own airport and isn’t too far from airports in Jacksonville, Orlando, and Tampa. I hope to see many of you there.

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CALIFORNIA ERASER LAW

FAILS TO ERASE

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California is, and continues to be a leader in creating policy on digital issues. It only makes sense that the home of Internet giants like Facebook, Google, and Apple would be one of the firsts, if not the first state to create law attempting to tackle pressing online issues. Its new “eraser button” law, requiring all web sites, ISPs, and mobile application providers to provide California users under the age of 18 with notice that they have the right, under the law, to remove the information that they have posted.

Signed into the law in September of this year, but not taking affect until January 1, 2015, the law formerly known as SB 568

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39th Annual AEJMC Southeast Colloquium Call for Papers

The Law and Policy Division of AEJMC invites scholars to submit original papers for the annual AEJMC Southeast Colloquium, which is scheduled to take place March 20-22 at the University of Florida in Gainesville, Florida. Papers may focus on any topic related to communications law and/or policy, including defamation, privacy, freedom of information, commercial speech, Federal Communications Commission issues, copyright, obscenity and other issues regarding freedom of speech and press. A panel of judges will blind referee all submissions, and selection will be based strictly on merit. Authors need not be AEJMC or Law and Policy Division members, but they must attend the colloquium to present accepted papers.

Law and Policy Division papers must be no longer than 50 double-spaced pages (including appendices, tables, notes and bibliography). Although Bluebook citation format is preferred, authors may employ any recognized and uniform format for referencing authorities. There is no limit on the number of submissions authors may make to the Division. The top three faculty papers and top three student papers in the Law and Policy Division will be recognized. Student authors of single-authored papers should clearly indicate their student status to be considered for the student paper awards.

Authors should submit each paper as an email attachment (documents may be submitted in the following formats: Word, Pages, or PDF). In the body of the email, please provide the title of the paper, and the name, affiliation, address, office phone, home phone, fax and e-mail address for each author. This is where students and faculty should indicate their status for consideration of the faculty and student top paper awards. Do not include any author identifying information on any page of the attached paper submission. Authors also should redact identifying information from the document properties. On the cover page of the attached paper, only the title of the paper should appear. Following the cover page, include a 250-word abstract.

Submissions should be emailed to southeastlaw2014@michaeltmartinez.org. The deadline for paper submissions is Monday, December 9, 2013, at 5 p.m. Eastern Standard Time.

If you have any questions about the submission process or the paper contest, please contact Dr. Michael T. Martinez by phone at (865) 687-2564 or via e-mail at mtmartinez@utk.edu.

Here are some helpful links:

39th Annual AEJMC Southeast Colloquium, <http://www.jou.ufl.edu/colloquium14/>

Conference Registration and Hotel Information, <http://www.jou.ufl.edu/colloquium14/home/registration/>

Gainesville Regional Airport, <http://www.flygainesville.com/>

THINKING ABOUT TEACHING MEDIA LAW ONLINE



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If you have not taught a media law course online, or have not been asked to consider it, time is probably running out. Across division membership, teaching online is a salient topic due to its growing ubiquity. Most professors who have tried to teach online have found that face-to-face courses are preferable for helping students think like lawyers, parse factual distinctions, and apply their learning to hypothetical situations in depth. However, there are several reasons to encourage division members to consider creating quality online experiences that complement the traditional class offering.

First, technology has improved rapidly in the past few years to offer a variety of tools for facilitating more meaningful interaction. Most universities have online course systems that include discussion boards that can help students elaborate on and clarify key points. And synchronous software and applications

such as Skype, Google Hangout, and Wimba replicate small group discussion in real time.

Another consideration is that media law courses tend to be adaptable to most remote learning environments, which creates flexibility for students and professors. In my undergraduate journalism law class this summer, my students included a woman who had moved with her U.S. military officer husband to Germany and another student in Florida who took a full-time position he could not afford to decline. Neither would have completed the degree on time without the ability to take the class online, and their diverse life experience enriched discussion.

As many in the division have noted, winter and summer session courses are perfect times to experiment with online offerings since students generally can focus more intensely on the course for a richer experience. Another perk is that with a few tweaks, the course is replicable in the short term: during the winter 2013 intersession, my six-week summer course will turn into a three-week offering with little alteration.

Shifts in the marketplace of higher education also have placed increased

attention on online options. Massive Open Online Courses (MOOCs) have gained popularity in recent years with non-profits (including edX and Khan Academy) and for-profit companies (including Coursera, Udacity and Udemy) providing courses for free or reduced cost.

While there is no research that indicates MOOCs have had any overall measurable educational effectiveness, several universities have developed partnerships for courses and degrees. For example, Georgia Tech will begin offering its master's in computer science online in January 2014 through Udacity at a fraction of the original cost. And with respect to law, MOOCs offer courses on Copyright (edX), Business Law and Ethics (saylor.org), Immigration and U.S. Citizenship (Coursera), American Counter Terrorism Law (Canvas.net), and English Common Law (Coursera). It does not take an expansive imagination to envision that more courses with relevance to communications law are likely to follow.

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At DePaul, our faculty conversations have focused on concerns about partnerships with MOOCs and other online education application providers, and the possible negative monetary and educational effects. By developing our own online courses and granting instructors discretion for how to teach them, we have proactively avoided those entanglements.

Here are five suggestions for creating productive online learning experiences:

Clear Connections: When learning objectives, course content, and assignments are clearly stated and aligned, students more readily understand what they need to learn and the course can build from basic knowledge to advanced thinking. This approach also helps organize the course to strike a balance between workload and the limitations of the self-guided online experience for students.

Fortify with Multimedia: Clips, links, examples, and video all help emphasize key points from readings and lectures while providing a mental break in presentation, and can be folded into online discussions or quizzes.

Chunk It Up: Research shows that online video-viewing attention spans are shorter than ten minutes. Frankly, it is probably less for college students. Break course content into chunks with central themes that reinforce and supplement, rather than repeat, readings. For example, my online media law course includes 10 Powerpoint chunks on different elements of defamation, most in the two to nine minute range, but are assessed collectively on the quiz with the readings.

Craft Creative Prompts: Having students post outside case examples, share media law topics from social media, or incorporate issues from their entertainment viewing contrasted to the law, encourages higher-order thinking.

Socratic Interaction: In addition to responding to my prompts, students ask one another questions to foster and build an online learning community. I break them into small groups and request that they seek clarification, elaboration, or more examples from everyone else's original posts so that conversations have no choice but to flourish.

New technologies and new media have brought seismic change to communication. The global shift to digital media has strained centuries-old laws in ways that few could have predicted in 1985 when the first .com Web site was registered. Few people would have realized then that within twenty years or so legal scholars would be debating how precedents created in the 1970s and 80s would apply to the dissemination of secret documents by Wikileaks, or that the four traditional privacy torts might be called obsolete in the world of social media, or that there would be drone journalism.

Communication Law and Policy, the research journal of the Law and Policy Division of the Association for Education in Journalism and Mass Communication, is publishing a special issue examining the evolution and direction of communication law and policy in the Twenty-First Century. The journal invites scholars on Internet law, media law, broadcast law, philosophy, policy and economics to consider what the next two decades might bring for communication law and policy. Papers may address any issue—legal or cultural—related to the future of communication law and policy. Papers may be evaluative, normative or prophetic—that is, papers may focus on the current status and make normative suggestions about legal

and policy choices or may focus on the future of the intersection of communication law and technology, so long as they addresses where communication law is or should be headed over the next twenty years. Possible topics include social media, behavioral advertising, online speech, AI, privacy and communication technology, terms of service, the future of journalism and the law, and the future of copyright.

Authors whose papers are accepted to the journal through the peer-review process will be invited to a special symposium for the 2014 AEJMC Conference in Montreal, Canada. Accepted authors will be responsible for their own travel to the symposium.

There are no length requirements. Footnote style must follow The Bluebook: A uniform System of Citation (18th ed.). The first page of each manuscript should contain the article's title, but no authorship information. An accompanying cover page should contain the title and the name, address, e-mail address and phone number of each author. Manuscripts should be accompanied by an abstract of approximately 125 words and should be submitted to W. Wat Hopkins at whopkins@vt.edu. The deadline for receipt is March 1, 2014.

Call for Applications: Editor, Communications Law & Policy

The Publications Policy Committee of the AEJMC Law & Policy Division is seeking applications for the position of editor of Communication Law and Policy, the quarterly, peer-reviewed law journal published by the division. The position is for a three-year term and will begin January 1, 2015.

The editor of the journal is responsible for the prompt processing of all manuscripts submitted to the journal, coordinating four issues per year, handling all correspondence relative to the publication, preparing an annual report, and presenting the report to the division each year at the AEJMC annual conference. The editor should be able to write and edit clearly, to communicate effectively with authors, and to have an understanding of and appreciation for a broad range of research methods used in legal scholarship.

The editor receives an annual honorarium, but must demonstrate that the academic unit where the journal will be housed will support the journal with specific consideration as to postage, photocopying and other technical support, as well as some provisions for an editorial assistant.

A letter of application, a complete curriculum vita, a letter of support from a unit head, and a list of five references with contact information should be mailed to: Prof. Derigan Silver, Department of Media, Film and Journalism Studies, University of Denver, 2490 S. Gaylord St., Denver CO 80208-5000.

Inquiries may be made by email to Prof. Silver at derigan.silver@du.edu. Application materials must arrive by Feb. 1, 2014. The current editor of the journal will be applying for re-appointment.

California, continued from page 1. specifically states that “[a]n operator of an Internet Web site, online service, online application, or mobile application...” must allow a minor who is a registered user of the site to “remove or, if the operator prefers, to request and obtain removal of, content or information posted on the operator’s Internet Web site, online service, online application, or mobile application by the user.”

The impetus for the bill, according to the legislative history, is an acknowledgment that those who are growing up completely online may make youthful indiscretions. The California legislature, therefore, thought it necessary to provide those under 18 the opportunity to make corrections to their digital records. The premise behind the law is not at all novel. The delinquency records of juveniles, for example, can be sealed. For adults, mechanisms like bankruptcy exist to wipeout debt (student loans being the exception).

Some have compared California’s law with the European Union proposal for a right to be forgotten. The EU proposal would allow anyone, not just minors, to force sites that have collected and/or stored personally identifiable information to delete that information. But this is where similarities end. Under the proposed EU law, the person able to force the removal of information is anyone who could possibly be identified by that information. The California law restricts the law’s protections to only minors registered with the site or service provider. What’s more, while the proposed EU law would allow a data subject to erase any information about them that has been collected and stored, the California law only allows the removal of that information that the data subject, herself, posted.

In this way it appears that the law fails to do the very thing that it is supposed to do: protect minors from their mistakes. Although allowing the minor control over the information they themselves have shared, the law makes no provision for the information posted by others. Further, although the law requires that sites not knowingly allow third parties to “use, disclose, or compile, the personal information of a minor for the purpose of marketing or advertising specified types of products or services,” this provides no guarantee that the information

will not appear on third party sites or servers. Such wording is also limited; it would appear that if a third party were not to use the information for a commercial purpose, the original site may ignore the collection or use of the information. More importantly, the law does not provide the minor with any recourse against the third party site.

Those are just some of the problems with the California law as currently written. The law is sure to conflict, as some like Adam Thierer from the Mercatus Center at George Mason University and Eric Goldman of Santa Clara University’s law school have noted, with the First Amendment and the Commerce Clause. The legislature could have instituted a campaign to teach minors responsible online conduct. Instead they have turned to the law, which is never proactive, and sure to be challenged in the near future.

LEGAL ANNOTATED BIBLIOGRAPHY



David Wolfgang
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SOCIAL NETWORKS

Kochler, J. (2013). “Fraleley v. Facebook: The Right of Publicity in Online Social Networks.” 28 Berkeley Technology Law Journal 963.

In January 2011, Facebook launched a new advertising service labeled “Sponsored Stories” that exploited a user’s stated preferences for certain products and services (“Likes”) in conjunction with the user’s name and profile photo to convince that user’s “Friends” to similarly “Like” a product or service. Facebook enabled this service for all of its 600 million users as a default setting. Facebook users brought a class action lawsuit in the North District of California, *Fraleley v. Facebook*, alleging that Facebook misappropriated their names, profile photos, and likenesses in paid advertisements without their consent.

This article looks at the tension between privacy and newsworthiness as exemplified by the way the right of publicity straddles the line between these conflicting concepts. The author ultimately proposes a holistic economic and non-economic approach to

Southeast Colloquium: Call for Reviewers

The Law and Policy Division has a proud tradition of hosting an engaging research paper competition at the Colloquium each year, and we anticipate that 2014 will be no different. With our growing number of papers comes a need for an equally vigorous team of reviewers. For us to limit reviewers to reviewing three papers each, we’ll need approximately 40 reviewers.

If you are not submitting a paper to the colloquium this year, the division would like to invite you to help with the competition. Reviewers will receive a package of papers in mid-December, with a mid-January deadline for returning reviews. For more information, please contact Dr. Michael T. Martinez by phone at (865) 687-2564 or via e-mail at mtmartinez@utk.edu.

the right of publicity and considers both the benefits and possible criticisms of such an approach. The article also explores the broader challenges of resolving the privacy-newsworthiness tension in a way that deems newsworthy all actions by online social network users and indicates the potentially dangerous implications of such an overbroad resolution.

STUDENT SPEECH

Calvoz, R.R., Davis, B.W., & Gooden, M.A. (2013). “Cyber Bullying and Free Speech: Striking an Age-Appropriate Balance.” 61 Cleveland State Law Review 357.

The issue of cyber bullying is more complicated from a legal perspective than “traditional” bullying because regulation of cyber bullying potentially raises First Amendment student free speech issues. In addition, due to the ubiquity of electronic media, cyber bullying conduct which often originates off campus can easily make its way on campus, and potentially disrupt the learning environment and/or directly affect students in that environment. Free speech protections and the off campus/on campus issue are both concerns applicable to cyber bullying that are not necessarily implicated by traditional bullying. The recently published *Anti-Cyber Bullying Statutes: Threat to Student Free Speech in*

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LAW DIVISION GOES TO WASHINGTON AND TOURS THE SUPREME COURT

During the 2013 Annual AEJMC National Convention, the Law Division offered members the opportunity to tour the Supreme Court of the United States. Below are some photos from the tours.



Tour groups gather in front of the statue of John Marshall (above). A group tours the Court's West Conference Room, in which the portrait of John Marshall has a place of honor over the fireplace (left). Photos courtesy of Courtney A. Barclay, Syracuse University, and Carrie Buchanan, John Carroll University.

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the Cleveland State Law Review argued even the mere suspicion of a potential disruption could censor speech.

The authors of this article, however, argue that while cyber bullying statutes might raise First Amendment issues, they do not necessarily “chill student free speech.” The authors argue that the Supreme Court’s student free speech jurisprudence provides schools with the requisite tools to constitutionally regulate student speech whether under the true threats doctrine, the Tinker substantial disruption test or the fighting words doctrine. These doctrines cover a broad spectrum of student speech – from outright threats, to potentially disruptive speech, the speech that is inappropriate to the educational environment and the fundamental values it seeks to inculcate.

DATA PRIVACY

Thierer, A. (2013). “Privacy, Security, and Human Dignity in the Digital Age: The Pursuit of Privacy in a World Where Information Control is Failing.” 36 *Harvard Journal Law & Public Policy* 409.

Online privacy has become one of the most contentious information policy debates of recent times. Many academics, activist organizations, and average consumers are clamoring for greater privacy protections as they realize it is easier than ever for personal information to be widely shared – whether intended or not. “Targeted” or “behavioral” online advertising and data collection practices are under particularly

intense scrutiny. Policymakers at all levels – state, federal, and international – are responding to these concerns with an array of proposals, many of which aim to expand regulation of the Internet, social networking sites, online advertising and marketing services, data aggregators, and other information technology services.

This article – which focuses not on privacy rights against the government, but against private actors – cuts against the grain of much modern privacy scholarship by suggesting that expanded regulation is not the most constructive way to go about ensuring greater online privacy. Privacy has long been a thorny philosophical and jurisprudential matter; few can agree on its contours or can cite firm constitutional grounding for the rights or restrictions they articulate. This article discusses some of the normative considerations raised by the debate on privacy right and argues that there may never be a widely accepted, coherent legal standard for privacy rights or harms here in the United States.

This article argues that legislative and regulatory efforts aimed at protecting privacy must now be seen as an increasingly intractable information control problem. The article also considers the many enforcement challenges that are often ignored when privacy policies are being proposed or formulated.

FTC REGULATION

Ponte, L.M. (2013). “Mad Men Posting as Ordinary Consumers: The Essential Role

of Self-Regulation and Industry Ethics on Decreasing Deceptive Online Consumer Ratings and Reviews.” 12 *John Marshall Law Review of Intellectual Property Law* 462.

Technology provides consumers with new ways to avoid advertisements, such as fast forwarding through TV commercials and using filtering software to block pop-up ads. Accordingly brand sponsors and their advertising marketing firms have sought alternative methods to pierce through consumer resistance to ads. Social media offers an optimal platform to reach millions of consumers on a nearly daily basis who interact and often rely heavily on the reviews and rankings of fellow consumers. However, many of today’s branding campaigns now mask sponsored ads as ordinary consumer reviews or “Like” and “Don’t Like” responses to a service or product. Unbeknownst to the average consumer, these reviewers may have received compensation for their feedback, been paid to disparage a competitor, or may even be automated software programs, and not human at all.

The FTC has attempted to regulate this aspect of the consumer blogosphere by revising its Endorsement Guides in 2009. This article argues that these revised guides fall short of being a comprehensive solution, and in some respects, are even in conflict with existing precedent, statutory law and standards of fairness. This article

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examines these new branding approaches to online marketing and advertising, the FTC's response, and how the Endorsement Guides could be revised to be more effective in combating various forms of deception. This article also proposes a greater reliance on self-regulatory measures aimed at lessening the corrosive effects of fake or deceptive online ratings and reviews and at improving the robust exchange of ideas and opinions between ordinary consumers on the Web.

FIRST AMENDMENT

Derrick, G.J. (2013). "Qualified Immunity and the First Amendment Right to Record Police." 22 Boston University Public Interest Law Journal 243.

Two Circuits have recently affirmed the First Amendment right to record police officers in public. These decisions arose in the context of a civil rights lawsuit brought by citizens arrested or threatened with arrest for recording the police where the defendant government officials raised a qualified immunity defense. *Pearson v. Callahan* gives judges considering such a defense the discretion to never reach the merits of the plaintiff's claim, deciding only that the right a plaintiff asserts that a government actor violated was not "clearly established" in their Circuit at the time of the alleged violation. The Court's opinion in *Pearson* uprooted *Saucier v. Katz*, which required courts to address the merits before deciding whether a defendant is entitled to qualified immunity because the right was not "clearly established" in their Circuit.

While two Circuits laudably addressed the merits of whether the First Amendment right to record police officers exists, judges in all other Circuits have avoided the merits and held that the right was not "clearly established" in their Circuit. This article recommends a return to *Saucier's* mandatory sequencing of the qualified immunity analysis in First Amendment cases because immunity findings in those cases, without a consideration of the merits, chill protected speech by leaving the First Amendment right in permanent limbo.

COMMERCIAL SPEECH

Wright, R.G. (2013). "Are there First Amendment 'Vacuums?': The Case of the Free Speech Challenge to Tobacco Package Labeling Requirements." 76 Albany Law Review 613.

The litigation challenging the recently adopted federal statute and FDA rule seeking to regulate tobacco package labeling focuses on freedom of speech. There is a literal sense in which these tobacco-labeling cases raise various free speech issues, evoke and debate free speech tests, and are judicially resolved on free speech grounds. This article, however, raises an unusual but revealing question about what we might call the "legal space" that is apparently controlled by free speech law. In particular, this article asks whether an apparent free speech law case could, upon closer examination, ever turn out to not really involve a genuine free speech law case.

Overall, it seems possible for a reasonable person to find the underlying free speech value of tobacco labels, as affected by the current regulations, to be negligible. And a similarly reasonable person could also find, on the other side of the case, that the reasonably demonstrable and un-conflicted interests of the government in the new labeling regulations, by themselves, could

also be classified as constitutionally negligible. The authors suggest that if one were to find constitutional negligibility on both sides of an apparent free speech law case, the most realistic analysis would end in recognizing what we have called a free speech law "vacuum." If we do find a free speech "vacuum" in any particular case, the case can still presumably be decided on other grounds, constitutional or non-constitutional in status. If need be, cases can be decided on the basis of a reasonable placement of the burden of proof: whichever side bears the burden of making a persuasive case under the Free Speech Clause would lose.

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MINUTES OF THE LAW AND POLICY DIVISION ANNUAL MEETING

Law and Policy Division Business Meeting Minutes
Aug. 9, 2013
Dan Kozlowski
Clerk/Newsletter Editor
Saint Louis University

Division Head Kathy Olson (KO) called the meeting to order at 6:47 p.m.

KO welcomed all in attendance to the Law and Policy Division members meeting.

Approval of Minutes

The first agenda item was to approve the minutes from the 2012 members meeting, which were prepared by Chip Stewart (CS) and published in Media Law Notes. A motion was made and seconded. The motion had no opposition and passed unanimously.

State of the Division

KO then talked about the state of the division: "We're in sound shape," she said. We have 258 members. She said that we'd have elections later in the meeting for officer positions. She encouraged anyone who might be interested to think about running.

KO said that financially we're steady. Our budget shows we have \$6,800. That is what we had about this time last year before our donations to SPLC and RCFP.

KO said our biggest expense has been reimbursement for the chair and vice chair to go to the chip auction. The auction was in Dallas last December. The auction is no more, though (because AEJMC is instituting a new process for scheduling the conference). That will save the division \$800 a year. We will have that going forward as savings.

Speaker expenses, plaques, and awards are our usual expenses. This year the division had a top debut faculty paper award for the first time.

This year we had an unusual situation. One of the three winning student papers had three student co-authors. AEJMC usually gives only four free registrations to students. Because we had more than four student winners, the division decided to pay for free registrations for all of the student award winners.

KO said the stylish 40 years of law ribbons we handed out at the conference were a nominal expense this year.

One of the main goals of the year was to increase membership, especially international members. KO went to ICA to try to network. She mentioned at ICA that we welcome comparative law, international law, and policy. KO said, "Paper reviewers: Don't make a liar out of me. Let's welcome new members and new ideas."

KO said Kyu Ho Youm's (KY, AEJMC president in 2012-13) programming was bringing a lot of attention to the division. KO said the division social that Erik Ugland (EU) organized will help to

make us more of a community. The social was at Capitol City Brewing Company.

Reports

Division Website

KO did the website report for webmaster Erin Coyle (EC), who couldn't be there.

KO said we have had server problems this year. We haven't been able to update the site recently because of those issues. As soon as we get access, we will fix that.

KO said EC worked on the site during her maternity leave, so she deserves a lot of credit.

The speaker's bureau hasn't worked in quite a while, and nobody seems to have noticed. KO said we won't be able to transfer the bureau over to a new site. We may have a static page with a list of speakers and expertise instead. KO said to let her know if you want to be listed on the page.

Another thing EC did was create a division Facebook page. It is an open page. Anyone on Facebook can get access to it.

KO said we might want to think about getting a Twitter account going forward.

Newsletter Editor

Dan Kozlowski (DK), clerk/newsletter editor, reported that we published 4 issues of Media Law Notes this year. He thanked those members who contributed articles. Some of the copy was solicited, but DK mentioned that he also received some unsolicited copy, which he much appreciated.

Southeast Colloquium Chair

Courtney Barclay (CB), Southeast Colloquium chair, said that we had 46 submissions to the law division at Southeast, which is double what some other divisions had. We accepted 19 papers. She said some reviewers had as many as six papers. We owe them many thanks.

PF&R Chair

Amy Kristen Sanders (AKS), PF&R chair, reported that we had well-attended sessions at our preconference workshop. She said some people who weren't division members said the sessions sparked their interest in the division again.

AKS announced that she is stepping down after a few years as PF&R chair. KO thanked AKS for her great service.

Teaching Standards Chair

Mike Martinez (MM), teaching standards chair, said that he wrote a couple of articles for the newsletter about teaching. The division also planned to run its teaching ideas competition this year, but MM said that the competition only attracted one entrant. The division executive committee decided not to award a winner because the entry wasn't particularly original. MM said the executive committee has been

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brainstorming about what to do with the competition going forward.

KO said the executive committee wasn't sure what to do. She said maybe we could have a more general call (this year was experiential learning). Maybe we could have the competition every other year. Maybe it could go on hiatus. She asked if division members had any thoughts.

CB said she doesn't want the competition to go away. She said she likes that we have an avenue for talking about teaching. She said maybe we could have it every other year. Or maybe we could make it smaller scale. Instead of an assignment, we could ask for a lesson plan. Or a case that we use to open up discussion. Or a video we use to start conversation.

Tori Ekstrand (TE) asked where winning ideas go. Do we have a panel, she asked?

Derigan Silver (DS) said that typically we don't have a panel at AEJMC. We post ideas to the division website. And we have articles in our newsletter that expand on winning ideas.

DK said we had a panel of winning ideas on a teaching preconference session back when the conference was held in St. Louis.

CS said he remembers we had a teaching panel in 2006 that was good.

Jason Zenor asked whether there has been a steady drop in submissions.

KO said the lack of submissions might be because of the narrow call. She said we could do a more general call, and we might get some new ideas.

AKS said we could ask how we use Twitter in class or something similar to that.

KO said the new teaching chair could work on a broader, more general call.

Jeffrey Hedrick said that for accreditation, schools now need evidence of how other countries are approaching free expression.

Programming (vice head/program chair)

Vice Head/Program Chair DS said we had some great panels. When we have well-attended panels, the credit is not his. The thanks go to people who organized the panels.

DS thanked AKS, Jane Kirtley (JK), DK, Joe Russomanno, Richard Davis, and Peter Bobkowski for organizing panels. He said they made his job that much easier.

Research

Research Chair CS said numbers were a little down. We had 60 paper submissions this year. Over the past few years we've gone from 75 to 65 to 60 submissions. That is still a lot, but CS said maybe the drop is something to talk about. It could be a trend to worry about. But maybe another year before we get really worried.

Ultimately five of the submissions were removed for different reasons. One was 65 pages long. One included a title page. One didn't include

a completed paper; it looked like a draft. That left us with a pool of 55 papers. 28 were accepted. One was withdrawn after acceptance, so we ended up with 27. We had a 46% acceptance rate overall.

We had a top debut faculty paper award this year. CS said it was a good competition. We had five submissions. One of the disqualifications was one of the five submissions. That was a tough call to make, he said. Two were accepted. One wins the award. CS said he would present the awards and get to be Santa Claus later in the meeting.

We had seven different kinds of research sessions: six traditional sessions and a scholar-to-scholar session. We were able to get another session over what we were originally allotted, which meant we could have no more than four papers on each panel. That allowed for more discussion.

In addition to top paper awards, CS said we would also give a top poster award. He will award that tomorrow when he see the posters at the scholar-to-scholar session.

Author identifying information in document properties was a problem again this year. CS said there is lots of handwringing again AEJMC-wide. Up until noon on the day of the deadline for submissions, he was able to look at the papers and check for identifying information. But half of the submissions came after noon, and there was nothing he could do about those. Five papers had identifying information. He disqualified them originally because that had been the policy. CS said it is a difficult decision. Is uncomfortable.

CS said he had talked with other research chairs. One chair was possibly losing 40% of papers because the submissions had identifying information in the properties. CS said he had lots of discussion with KO, DS, and TE (who is on the AEJMC committee on research) about how to go forward. Felicia Greenlee with AEJMC was able to strip those in our competition with identifying information this year. CS said we've been told not to expect that or count on it going forward.

TE said the committee on research's perspective is that rules are rules. They are coming down pretty hard on the issue. One suggestion is to not have such detailed instructions – apparently some information in the instructions this year wasn't correct or wasn't thorough enough. The suggestion is that instead AEJMC won't provide instructions because authors just need to know what to do. TE said it is worth investigating and talking with All Academic and exploring the possibility that All Academic could provide a fix. But TE said AEJ doesn't want Felicia stripping all those papers.

Also, TE said the committee on research might end up doing away with z-scores and just do averages to calculate for acceptances instead. That's another thing in discussion.

AKS said someone told her ICA uses All Academic as its system and their papers are stripped. She's never heard other conferences complain about this.

DS said AEJMC Council of Divisions (COD) was going to look into All Academic stripping all papers. Hopefully this won't be an issue next year, he said.

CS asked, "If this isn't fixed by next year, what will our position be?"

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He said he knows not all divisions do the same thing. He asked division members for guidance.

JK said a unified policy makes sense.

DS said COD said zero tolerance as a consistent policy makes sense. The real problem becomes accommodation. If a paper gets disqualified in one division, then you notice it as a reviewer in another division and that division says don't worry about – we can't have that.

DS said it is a question of research quality. He said surveys suggest that some AEJMC members think that our research competition isn't as rigorous. This is one issue.

KO said nothing seems to be fool proof.

CS said we should keep emphasis on a technology solution.

CS said another thing he wanted to do is thank judges. People got reviews done on time.

We had more judges than papers this year. Some judges got three papers; some got two. CS said it was a terrific experience from that side. The judges' names are identified in the AEJMC program. CS said a point of pride for our division is that we have great judges. We are one of the divisions done first with reviews and notifying authors. He hopes we can keep that going forward.

CS announced our paper award winners. He presented the student paper award winners first. Cassandra Batchelder from Minnesota won third place. Kara Carnley, Brittany Link, and Linda Riedemann from Florida won second place. The first-place student paper winner was Emily Garnett from Missouri. The students received plaques and checks from the division. CS congratulated the student winners; hearty applause ensued.

CS then announced the faculty paper award winners. Kearston Wesner from Minnesota Duluth won the top debut faculty paper award. Rob Frieden from Penn State won third place. Clay Calvert from Florida and Matt Bunker from Alabama won second place. Kearston Wesner's paper won the top debut faculty paper and the top faculty paper award. CS congratulated the winners, and the audience applauded.

CS said we had great papers this year. A few are still to be presented.

Communication Law and Policy (CLP) Report

KO asked Wat Hopkins (WH), editor of Communication Law & Policy (the division's journal), to report on the status of the journal.

WH gave out his email address. He joked that it is a requirement to submit to the journal if you won an award.

He said it is a good time to submit to the journal.

WH passed around a sheet for interested reviewers to write their name and area(s) of expertise.

He said submissions to the journal were up slightly over last year, by two or three papers.

WH said he was at a board meeting today for Journalism and Mass Communication Quarterly. Dan Riffe said at that meeting that submissions were up slightly overall at JQ.

WH provided copies of the journal's annual report. He said 10 submissions were rejected without review. Overall, the report said that although the journal rebounded from a dismal performance a year ago, it still had some relatively disappointing numbers. The journal had 38 submissions, up slightly from a year ago but still below the recent high of 42 two years ago. The journal also published 23 more pages than it did a year ago. Three articles are in the queue for consideration and one is under revision. The journal published 13 articles during the year.

WH said the journal has kept its rigor. The journal accepted 13 of 38 submissions during this reporting period, for an acceptance rate of 34 percent. The cumulative acceptance rate of the journal is 27.9 percent.

WH said CLP will publish two special issues this year. One is Communication Law and Technology: The Next 20 years. The deadline for receipt is March 1. Accepted articles will be presented in a preconference session in Montreal. This preconference session is separate from the traditional AEJMC paper competition.

The second special issue is an issue commemorating the 50th anniversary of New York Times v. Sullivan. All of the articles for that issue will be invited by WH. David Johnson (an attorney in D.C.) has agreed to write (based on his speech at the press freedom summit at Oregon in April). WH said Melvin Urofsky has also agreed to write. Kermit Hall died two years ago. He had been a member of the editorial board of CLP. WH said Hall had been working on a book about Sullivan for years. The book deals heavily with the historical, civil rights issues of the case. After Hall's death, his widow approached Melvin, and Melvin finished the book. Also, WH contacted Steve Wermiel, who has written a biography about Justice Brennan; Steve is planning to write an article for the special issue. The issue will be coming out in spring – March or April.

CS posed the possibility of CLP moving to look more like law journals that could be open access – available for free online, maybe partnered up with a print issue.

WH said two years ago he asked Taylor & Francis (CLP's publisher) if authors could post their CLP articles to SSRN. Taylor & Francis said no last year. WH got another note this year that said no again. WH said he might approach Sage. SSRN may not happen there either, but WH is going to make that inquiry. We're not necessarily looking for a new publisher, but we are exploring possibilities, he said.

CS said he is happy to help look at options. He's not sure what's feasible. But CS said this is where the field is inevitably headed. This might be our chance to lead. Not just our division journal, but maybe where the rest of AEJMC is going too. He would like to have a conversation about what our options are.

Officer Elections

On the division's leadership track, DS will automatically advance to division head, CS will advance to vice head, and DK will advance to become research chair.

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Four other leadership positions are elected. EC self-nominated herself for webmaster even though she couldn't be at the meeting.

Jeffrey Hedrick (JH) also nominated himself for the position. He said he had been webmaster for several organizations before.

One division member suggested that we could consider co-webmasters.

KO said that since EC isn't here, we should vote and then whoever wins can talk with the other person about sharing duties.

JH left the room for discussion and voting. Attendees elected EC webmaster with an 18-3 vote.

KO told JH that she would get his information and would talk with EC and get back in touch with him.

KO said Jasmine McNealy (McNealy) self-nominated for PF&R chair. McNealy said she wanted to build on the great work AKS had been doing. She also wants to grow it by having an international focus. What does PF&R mean in the Middle East, in Africa? What also does it mean for grad students as they move toward facultyship?

KO said Jason Martin (Martin) self-nominated for teaching chair. Martin said working with MM, he'll take on the suggestions about fixing problems with the teaching competition we've been talking about. He said he has won a mass comm and society teaching award in the past.

The clerk/newsletter editor is a committed position because it is the start of the four-year leadership ladder. KO said CB has been nominated for the position. CB said she was entering her 6th year at Syracuse. She has been Southeast Colloquium chair for 2 years. She looked at clerk/newsletter editor as another opportunity to help the division and to expand her leadership role. Plus, she said it is another excuse to get her hands into InDesign.

KO asked the nominees to step outside for discussion and voting. Attendees unanimously elected McNealy, Martin, and CB to their positions.

Peaceful Transfer of Power

KO thanked everyone for their help. She said it has been an extraordinary conference – in part because of KY's work, but also because of people who wrote papers, reviewed, wrote for Media Law Notes, and helped with Southeast. The division is in great hands.

KO passed a gift shop gavel to incoming head DS. DS' first act was to recognize KO for her dedication and service. DS said KO has been working on behalf and for the division for a long time. DS said it has been a pleasure to work as her vice chair and to come up behind her in the leadership ladder. She has a cool head and always provides great advice. DS gave KO a plaque to recognize her service.

New Business

DS' second act as new head was to appoint a Southeast Colloquium chair. DS explained that the chair of the Southeast Colloquium isn't elected. The chair serves at the pleasure of the head. DS has asked MM

to serve. MM said he looks forward to it.

The Southeast Colloquium is March 20-22 in Florida. The paper deadline is Dec. 9.

DS mentioned that Don Gillmor passed away this year. He said the division has recognized Don in a couple of venues. DS asked Ted Glasser (TG) to say a few words about Don.

TG spoke movingly about Don, as a person and as a scholar.

EU spoke about Don too. He said Don took a lot of pride and fulfillment in nurturing other people. He said Don valued relationships with students, grad students in particular.

In the next order of business, DS said that the division has a distinguished service award. It appears the division has only given it once. DS said the executive committee voted this morning to bring forward to the full body a resolution that would give the award to KY. Here's the resolution:

“Whereas Kyu Ho Youm has been an active member of the Law and Policy Division of the Association for Education in Journalism and Mass Communication for 30 years and has worked tirelessly on its behalf, including serving on the Research Committee, the Publications Committee, and as division vice head and head; and

Whereas Kyu has brought great credit to the Division through his exceptional service as president of AEJMC over the past year; and

Whereas Kyu has, by releasing a number of presidential statements on current First Amendment issues, highlighted the need to protect freedom of speech and press and reaffirmed AEJMC's commitment to safeguarding those freedoms; and

Whereas, Kyu has helped to set an agenda for thought and action by organizing a Press Freedom Summit at which more than 20 scholars, attorneys and others gathered to discuss the future of a free press and draft position papers related to that future; and

Whereas Kyu has focused the 2013 conference on issues of particular concern to the Division by organizing a keynote address by Lord Anthony Lester of Great Britain on the importance of free expression and a presidential panel on the past, present, and future of mass communication law in teaching, research, and public service in the United States and abroad;

Now, therefore, be it resolved that the Law and Policy Division of the Association for Education in Journalism and Mass Communication present to Kyu Ho Youm of the University of Oregon its Distinguished Service Award.”

DS said KY worked tirelessly this year on behalf of AEJMC. He is also working hard to raise \$300,000 for AEJMC's centennial campaign. DS said KY is an exceptionally nice person, and he is nurturing of young scholars.

WH seconded the motion.

WH added a footnote. He remembered that the last time the division gave this award was to Justice Brennan when he retired. He said the PIO

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for the Court came to the convention to accept the award for Brennan.

Attendees voted and unanimously approved the resolution.

DS said he will send an email to KY letting him know. We will give the award to him next year in person.

Next, DS gave an update from the Council of Divisions. Attendance at the D.C. conference was about 2,200. AEJMC was expecting 300 to 400 walk-in registrations. That will put us close to a record attendance. Association wide, 49% was the acceptance rate for the overall paper competition. Our division was under that acceptance rate.

DS said there will be a new programming procedure for AEJMC 2014. The old chip auction is gone. He won't go into the details about that now. What does that mean for us, he asked? Now, we'll be calling for panel ideas even earlier in the process than before. We've been asked to have some ideas by Sunday. DS told the members that if they have ideas for panels, they should email CS, the new vice head. AEJ gives priority to co-sponsored panels.

DS said next year is the 50th anniversary of Sullivan. He would like to try to do something beyond the typical 1-hour-30-minute panel with several panelists. DS said if members have ideas about what we could do with a preconference panel, let us know. DS said he will ask KY as past president if he could reach out to the incoming AEJMC president about giving time or money to recognize the 50th anniversary.

DS said to start brainstorming ideas. We might have room in the budget with our surplus to bring in a big speaker, perhaps someone like Floyd Abrams.

DS said the 2014 conference will be in Montreal. COD said to remind people that you'll need a passport to get there. The 2015 conference will be in San Francisco. 2016 will be in Minneapolis. 2017 will be in Chicago. And 2018 we'll be back in D.C.

DS next talked about spending priorities. He said we have \$6,800 in our bank account. Every year we get in the same debate about what to do with our money. Some say we should hang on to it. Others say we could spend more. In past years, we've given two \$500 donations, one to SPLC and one to RCFP.

There was a motion, which was seconded, to do the same. Attendees voted unanimously to give \$500 to SPLC and \$500 to RCFP.

A division member suggested that if we have extra money, perhaps we could reduce the cost for graduate student members to join the division. Since there are less expenditures for the division as a whole, maybe that's something we could explore.

DS said he would look into that.

Eric Robinson asked if DS would need a motion from the floor if we wanted to spend money to bring in a big speaker.

DS said technically we wouldn't need to. According to the bylaws, we do not.

KO said at the COD meeting, COD folks mentioned AEJMC was looking for 100% participation from divisions to contribute to the centennial campaign, not just individual members. Some possibilities that were offered for divisions: donate no money, donate \$300, or donate 10% of the money in the division bank account.

KO made a motion that the division give \$300 to the AEJMC centennial campaign. AKS seconded. Discussion ensued.

Before a vote on the motion, Tom Schwartz (TS) said he was next on the list of new business to talk about the Stonecipher Fund.

CB opened up discussion about making a contribution to the Electronic Privacy Information Center given recent events. She made a motion to donate \$500 to EPIC.

Discussion about the motion ensued: KO said there are so many good organizations. She said we need to think about how we expand our giving. There are so many we could be giving money to.

AKS said she agreed with that point. She had mentioned the Newseum as a possible place to donate money at the executive committee meeting in the morning. But on second thought she decided maybe not to. She said she doesn't want to get into a situation where maybe later we couldn't give to groups that expect it because we start giving to so many.

CB said the money to EPIC could be a one-time donation, especially given the events of the past year.

Ed Carter said it seems like we can follow the example of AEJMC stockpiling money and benefitting from it later. He said he would support using money to bring in big speakers.

Attendees voted on donating \$500 to EPIC: 10 in favor; 11 opposed. The motion failed.

TS spoke about the Stonecipher Fund, a fund created to honor Harry Stonecipher. More details about the fund will be announced when the centennial campaign is complete, but part of the fund will support the division's interests.

An amended motion about donating to the AEJMC centennial campaign was offered: to give \$300 to AEJMC targeted to the Stonecipher Fund. AKS seconded the motion. Attendees voted and the motion passed unanimously.

No more time for any more new business, as the next group scheduled to use our room swarmed in and overtook us.

A motion to adjourn passed unanimously. The meeting ended at 8:23.

DO YOU HAVE NEWS FOR THE DIVISION?

If you have any news or would like to contribute to the newsletter, please contact Courtney Barclay by email, cobarcla@syr.edu.