

Media Law Notes

AEJMC Law & Policy Division

Volume 48, Issue 1

Fall 2019

Division has key role in informing

As we move half-way through the semester and a few months removed from our Toronto conference, the call and demand on media and First Amendment law professors grows by the day. The vocal condemnation of the press on a seemingly daily basis includes not only credible criticisms of the press but also outlandish cries that the press is the “Enemy of the American people” and progenitors of fake news.

Recent developments from the latest defamation lawsuit, calls for investigations of whistleblowers, and the legal implications of high-ranking government officials blocking critics on Twitter make headlines living case studies for class discussions.

It is also incumbent upon us as media law professionals to serve as spokespeople for First Amendment values. Much of our work in the division focuses on that. The papers we publish in our division journal, Communications Law & Policy, our conference panels and paper presentations all contribute to this. Year after year, our scholarship and contributions play a role in this marketplace of ideas. But it seems as though it is even more important today.

It is easy to write off much of what we do as “simply academic.” But our division’s charter and focus is more than just academic.

We teach these concepts in



Head Notes

Roy Gutterman
Associate Professor
Syracuse University
rgutter@syr.edu

class and hope to impart these values on students. We write about these issues in our academic journals and hope to educate and influence readers.

Nevertheless, it is difficult to assess our effectiveness until we get that note from a current or former student who applied judgment or realized a legal lesson in the field or scholar or court cites our research.

I hope our division can continue this tradition. Building on years of contributions our division has new blood and institutional talent.

Though it seems like our Toronto conference just concluded, Nina Brown, vice head, has been planning next year’s panels and made deals with other divisions. We are looking forward to a slate of timely, thought-provoking panels.

In the coming months, Caitlin Ring Carlson, research/paper competition chair, will send out the call for research papers. Now is the time to start cranking out your papers and getting your students to get working. This issue includes the call for papers for the Southeast Colloquium in Memphis in March.

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Nina Brown, last year’s Law & Policy Division research chair, hands Clay Calvert his Top Faculty Paper award during the business meeting in Toronto in August. *Photo by Mike Martinez.*

Grad students must support expression

Graduate students have a unique responsibility to address censorial university policies and increasing abridgments of campus free speech. This past February, the Foundation for Individual Rights in Education (FIRE) named the University of Kansas, my home institution, one of the top ten worst colleges for free speech. This conferral stemmed from KU’s removal of a public art exhibit bearing the likeness of an American flag.

“Untitled (Flag 2)” by Josephine Meckseper was part of a



Graduate Student Liaison

Harrison M. Rosenthal
University of Kansas
rosenthalhm@gmail.com

national art installation spanning 11 institutions and 14 locations. The project tasked artists with creating flag-inspired social commentary that addressed issues of public im-

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Don't let media law for strat. comm. slide

"Ariana Grande is a great example," is not something I ever imagined myself writing, but her recent lawsuit against Forever 21 basically forces me to do so. It also provides some support for something I believe all media law professors should consider: that your strategic communication students need media law training just as much as your traditional journalism and mass communication students do.

Grande's \$10 Million case, which any undergrad who has learned about right of publicity could have avoided, is an example of why advertising and public relations students need exposure to media law concepts as part of their program.

As the number of students in mass communication programs with advertising or public relations interests continue to grow, (having social media in the description gets them every time) the need to make sure those students have a baseline understanding of media law has also increased.

As I imagine many of the members of this division do, I teach a short unit on advertising law as part of our program's regular media law course. I've included the unit at all of the 5 places I've taught sections of media law. This short unit hits the high points of advertising law: Central Hudson, FTC enforcement of deception and FCC regulation of sponsorship ID. But is this enough? I am not convinced it is.

At Minnesota I teach both a traditional media law course and another law course specifically for the strategic communication students. Having



Christopher Terry
Assistant Professor
University
of Minnesota
crtery@umn.edu

the two courses really allows me to focus in on regulatory issues for the advertising students. Students going into the advertising industry need to know about state and federal regulation of advertising content.

Disclosure requirements for native advertising, the deception standard, and the enforcement process each represent important learning objectives.

Anyone entering the advertising industry today should have a baseline knowledge in the rules for political advertising and the enforcement of sponsorship ID regulations by the FCC.

To have a chance to succeed in today's data driven advertising environment they also need to understand the rules for data collection and privacy (including COPPA). And yes, even things as straightforward as intellectual property or right of publicity are potentially (\$10 Million) important to those students who want to pursue a career in advertising or public relations.

As you think about future semesters, consider what can be included in your media law course that's practical knowledge for your advertising students and make sure to direct their attention to it when you cover it in class. They will thank you later.

But don't take my word for it, ask my former students:



Caity Strong @cmotion88 · 2h

By and far the most useful class in my undergrad career @UWM was AdLaw w/ @ChristopherTerry- I still use that stuff daily. @JAMS_UWM



Jared Schroeder, previous Law & Policy Division teaching chair, hands Stacie Jankowski her third-place award in last year's teaching competition. *Photo by Mike Martinez.*

Scholar to Scholars

Avoiding media law 'Spin of Doom'

Stacie M. Jankowski, assistant professor of journalism at Northern Kentucky University, calls it the "spin of doom." Students enroll in undergraduate media law primed by horror stories of legal argumentation and case analysis. What comes next for many students, Jankowski says, is a predictable cycle as students struggle to make sense of complex cases, levels of scrutiny, and murky doctrinal elements. Students appear dejected by the pace of their progress, which only impedes learning. Jankowski developed a teaching strategy and project idea to counteract the spin of doom in undergraduate media law. Her idea won third place in the AEJMC Law and Policy Division teaching competition at the 2019 national conference in Toronto.

"Legal research mystifies [students]," Jankowski said. "I want them to take ownership of a topic and feel proud." Jankowski's idea is simple and elegant. Identify the benefits that researchers get from scholar-to-scholar (poster) sessions at academic conferences and build those benefits into a stu-



Teaching Chair

Brooks Fuller
Assistant Professor
Elon University
bfuller7@elon.edu

dent-focused learning experience built around collaboration. The result, Jankowski says, is a project that leaves students with a fuller "appreciation for how the law shapes our lives."

Jankowski starts by priming her students early in the semester to think about course subject matter through a lens of personal interest or experience. Students think early and often about the intuitions, positionalities, political ideas, and instincts they bring to bear on a particular topic related to media law. From there, students are introduced to legal research databases, and law review articles and encouraged to explore. Importantly, students learn how to mine articles for pertinent case law and scholarly literature, which helps them build the scaffolding for effective legal argumentation.

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Call for papers, panels, research in progress

Authors are invited to submit research papers, panel proposals and/or research-in-progress abstracts in the Law & Policy Division for the 45th Annual AEJMC Southeast Colloquium, which will be held March 19-21, 2020 at the University of Memphis.

In addition to the research competition, the conference will host a session about academic citizenship to help graduate students and early-career scholars learn some of the skills of the presenting at a conference, reviewing research, and networking.

All submissions must be completed by no later than 5 p.m. CST on Wednesday, December 18, 2019. Submissions must be original and must not have been previously presented at a conference.

Students and faculty should indicate their status for consideration of faculty and student top paper awards. Do not include any author identifying information on any page of the 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. Length of papers should not exceed 50 pages for Law and Policy papers (30 pages including references and tables for other divisions).

The author of each accepted paper (at least one author in the case of a co-authored paper) must present the paper at the Colloquium or it will not be listed in the final program.

Acceptance and/or submission of papers to colloquium paper competitions does not prevent authors from submitting to AEJMC divisions for the AEJMC Annual Conference in August. Complete contact information and a complete list of (all) authors must be sub-

mitted with other material (and on deadline) or a paper will be disqualified. For online instructions on "how to submit a clean paper" for blind review, see this link. Authors of accepted pa-

pers will be notified by early February 2019. You may read more about the event at the Colloquium website at <https://www.memphis.edu/jrsm/southeast2020.php>

PANEL PROPOSALS

Panel proposals using the same link by Wednesday, December 18, 2019, and should include a

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AEJMC | 45TH ANNUAL SOUTHEAST COLLOQUIUM

MARCH 19-21, 2020
MEMPHIS

Participating divisions

- Electronic News
- History
- Law and Policy
- Magazine Media
- Newspaper and Online News
- Visual Communication
- Open (All subfields welcome)

Submission Deadline

5 p.m. (Central), December 18, 2019

Full call and information

memphis.edu/jrsm/southeast2020.php



Department of Journalism
and Strategic Media

Division seeks reviewers

The Law and Policy Division has a proud tradition of hosting an engaging research paper competition at the AEJMC Southeast Colloquium each year, and we anticipate that 2020 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 three papers each, we'll need approximately 25 reviewers.

If you are not submitting a paper to the colloquium this year, the division invites 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. Martínez by phone at (865) 974-1567 or via e-mail at mtmartinez@utk.edu.

For more information on the 2020 AEJMC Southeast Colloquium, to be held at the University Memphis, visit the website: <https://www.memphis.edu/jrsm/southeast2020.php>.

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brief description of the panel along with proposed panelists. Proposals should not exceed three double-spaced pages.

RESEARCH-IN-PROGRESS

The Colloquium will include research-in-progress round tables as an opportunity for researchers to share and get feedback on projects that are in some stage of development. Research-in-Progress abstracts are NOT eligible for Colloquium research awards.

Authors must submit a synopsis of the project, with research questions or hypotheses and at least one paragraph that explains what stage of development the project is in.

More detailed submissions are also allowed but should not exceed ten double-spaced pages.

For more information contact Law & Policy Research chair Dr. Michael T. Martínez (mtmartinez@utk.edu).

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The process is daunting for students, no doubt, but the timeline for the "Rowdy Poster Project" includes substantial time for students to work directly with Jankowski. She sees herself as a "support person" during the early stages of the project. As students develop their project deliverables, Jankowski adopts the role of discussant.

"I do not go and talk to any

student unless they have already given their presentation to at least one of their classmates," Jankowski said in her submission for the teaching competition. "[This] helps dispel nerves and for the student to see where people might have questions about their project."

Jankowski's pivot from traditional in-class presentations to a scholar-to-scholar model has paid dividends. "I had a student who really wanted to argue that '50 Shades of Gray' was obscene. Through the research project, she came to

the opposite conclusion and said, 'I never would've thought that I would have changed my mind.'" The student's experience demonstrates the learning through critical thought that ignites students' minds and fosters their best work.

"This is a different type of learning," Jankowski says. "More organic. They're learning for themselves rather than for me."

Jankowski has extensive teaching experience in media law and ethics, but her primary research area is health commu-

nication, particularly surrounding media coverage of health issues and effects of health messages and news coverage on audiences. Look for a new book coming from Jankowski and co-author Lesa Hatley Major titled "Health News and Responsibility: How Frames Create Blame," published by Peter Lang.

Congratulations to Jankowski for being recognized during the teaching competition. If you have any questions about her ideas, she can be reached at meihauss1@nku.edu.

Annotated Bibliography

Rachel Levinson-Waldman, *Private Eyes, They're Watching You: Law Enforcement's Monitoring of Social Media*, 71 Okla. L. Rev. 997 (2019).

This past summer, I had the opportunity to work as a clerk for a circuit court judge in my hometown. During my time at the courthouse, I was exposed to numerous departments and professionals in the criminal justice system. One day, I shadowed the Homicide Unit at the city sheriff's office. In between responding to calls and visiting crime scenes, I noticed a few of



Ashton Hampton
JD Candidate 2021
University of Florida
ahampton95@gmail.com

the detectives spent a lot of time on social media while working at their desks.

One detective caught my curious gaze and assured me the Facebook and Instagram accounts he was accessing were not his personal pages. He explained he was operating up to five faux accounts for the purpose of monitoring prevalent

gang members and other infamous characters in the area. I was invited to watch over his shoulder as he sent friend requests to specific suspicious individuals that were believed to be involved in recurring violence or gang-related activities.

At that moment, he was surveilling pages under the guise of a young, attractive female and each of the young, male suspects he contacted added him as a friend within seconds. Once added, the detective could view the individual's posts, comments, likes, and affiliations, as well as any

comments or likes from others on their page. The targeted individuals were completely unaware of the true intentions of their new "friend."

Levinson-Waldman, senior counsel of the Liberty and National Security Program at the Brennan Center for Justice, edited an article with the Oklahoma Law Review discussing her research on these types of sneaky surveillance strategies.

Based on an annual study conducted in 2015 by the International Association of

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addressed issues of public importance. Meckseper used a drip-technique to paint separated black splotches atop the flag: an abstract rendering of a U.S. map. The striped child's sock in the left-hand corner symbolized migrant children's detention at the U.S. border. The piece was installed outdoors, on a flagpole across from the campus union. Initial objections to the display, raised by the Kansas College Republicans, were minimal. The flag was installed in early July, when students were on summer break. The story gained momentum when a cadre of Kansas politicians, jockeying for positions in the upcoming GOP primary, turned it into a political football.

One Kansas Republican candidate for U.S. Congress wrote, "I'm sorry that a Kansan would deface our symbol of strength, unity, and patriotism" (ignoring the fact that (1) the artist is from Germany and (2) the artwork is intended to depict civic polarity). The former governor and Kansas secretary of state, locked in a gubernatorial race, started a competition to see who was more outraged by the display.

The governor called the art "absolutely unacceptable" and ordered that more flags be flown at the capitol in response. The secretary said the incident evidenced the "left-wing tilt of college campuses" and lambasted the display of a desecrated American flag (ignoring the contradiction in his American-flag emblazoned campaign Jeep, complete with a replica machine gun, which he said was to fight the "snowflake meltdown"). The universi-



Josephine Meckseper's artwork was drawn into the center of a heated election contest in Kansas.

ty capitulated to political pressure and moved the flag to the campus museum, citing "public safety" concerns.

When classes resumed last fall, I was shocked to hear students' ambivalence toward — or outright support for — KU's censorship. I recognize certain facets of First Amendment doctrine are ripe with subtleties, but public art? Everyone should be behind campus art, right?

Wrong. The KU incident is part of a long train of art censorship at universities. In 2016, Salem State University temporarily closed an exhibit depicting illustrations of Ku Klux Klan members. The artist was commenting on the relationship between President Trump's campaign rhetoric and historical oppression of minorities. In 2015, the University at Buffalo removed "Black Only" and "White Only" signs from outside campus bathrooms. The signs were part of a student art project meant to call attention to institutionalized racism. In 2014, the University of Iowa rebuked a visiting assistant art professor who created a Ku Klux Klan outfit from newspa-

per images of racial violence. But unlike the KU flag display, these other incidences are not predicated on political partisanship. They indicate student and administrative willingness to censor triggering content and chill political speech.

Graduate students, ideologically homogenized in their respective academic departments, may think everyone on campus shares their philosophical convictions. I certainly did. But talking with people outside my discipline showed the academy is not immune from political polarization. Students who are not required to take free-speech-related courses may have higher tolerance for speech suppression by university administrators, especially if the suppressed content is something they find repugnant.

While working to convince other students of the importance of free expression and the impropriety of KU's actions, I discovered graduate student advocacy occupies a different function from faculty advocacy. Grad students are uniquely positioned to promote free speech, especially related to

matters of intense public scrutiny, for three distinct reasons:

First, grad students are afforded certain administrative and employment protections. While we are not bulwarked by tenured employment, grad students benefit from strong GTA and GRA lobbying factions. Unionized representation allows us, individually, to criticize censorial policies and, collectively, to change those policies through elected representatives.

Second, grad students are closer to undergrads in terms of age, academic mastery, and life experience. This nexus alleviates the perceived power differential between students and professors. Undergrads may be more comfortable broaching sensitive issues and offering frank responses in conversations with grad students than in conversations with faculty. Because we have the ability to connect with the university's majority population, we have the responsibility to socialize undergrads into normative standards of free-speech ideology.

Third, grad students' evolving academic masteries empower us to influence stakeholders and to persuade policymakers. In the same way that our proximity to undergrads makes us accessible, our proximity to experts makes us authoritative. Whether we choose to exert our influence using social media, committee memberships, or student governance, we have obligations to be stewards of campus free speech.

Harrison M. Rosenthal is a JD/PhD student at the University of Kansas. Harrison has interned for the American Civil Liberties Union of Kansas. He has clerked for the Seventh and Tenth Judicial Districts of Kansas and the Kansas Court of Appeals.

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This newsletter was generated by our new clerk/newsletter editor Jared Schroeder, who is new to the leadership ladder, but not new to the division after serving as PF&R and Teaching

chair.

Likewise, Jon Peters continues on as PF&R chair and already has at least one pre-conference event lined up while Genelle Belmas has been maintaining our web presence.

I am pleased to welcome back Kriste Patrow from UNC's PhD program as our social media co-

ordinator and our new graduate student liaison, Harrison Rosenthal, from the JD/PhD program at the University of Kansas.

As I look forward to a productive year, I also look back to the leadership of Kearston Wessner, Jason Martin and Courtney Barclay who were wonderful and supportive divi-

sion heads in the previous years. I hope to uphold the model and standards they set. As the division moves forward, we look for growth and relevance. The times continue to make the Law & Policy Division relevant, and I look forward to working with the division to also make us a valuable resource, too.

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Chiefs of Police, over 96% of 553 police departments reported social media monitoring in some capacity. Despite this prevalent social media use, Levinson-Waldman notes that only around 10% of those departments supply any form of public policy or notice to their communities explaining how and why they collect and monitor data. She explains that police surveillance on social media generally occurs in four methods: (1) simple searches of public accounts; (2) undercover accounts created to monitor and interact with targeted users; (3) use of analytical software to track people, groups, or hashtags; and (4) search warrants.

Levinson-Waldman identifies constitutional concerns surrounding this sort of police supervision and highlights the potential disproportionate affect these methods could have on political activists and racial minorities.

The third method, involving private analytic service vendors, has already received serious backlash. Levinson-Waldman describes how work conducted by the American Civil Liberties Union of Northern California (ACLU) revealed shady systems operations. The ACLU uncovered that social media surveillance “providers were marketing their products as a way to monitor lawful protesters.”

Companies were soliciting police departments and promising the creation of unlimited fake accounts and the ability to track specific hashtags associated with political movements, activists, and events.

Evidence of these exchanges was brought to the attention of “the social media companies to highlight that the platforms were being used to surveil their users for engaging in constitutionally-protected activities.”

As a result, in 2016, “Face-

book, Twitter, and Instagram [] banned developers from using their data for surveillance purposes.” Although a valiant effort to curb unconstitutional conduct, Levinson-Waldman warns individual rights are still very much at stake.

Levinson-Waldman briefly introduces several case studies that shed light upon the potential harm and discriminatory repercussions—intended or otherwise—of social media spying by law enforcement. The studies report occasions in which police power was not only misused but, at some points, arguably abused.

Levinson-Waldman explains some police departments were found using social media surveillance to keep tabs on individuals with no criminal history. The ACLU challenged the accumulation of social media data in Memphis, for example, when it discovered that the city police department was monitoring social media accounts to create and internally distribute dossiers on individual non-criminal activists.

Similarly, the Boston police department used a private company to specifically “track hashtags related to Ferguson [, Missouri], protests, and Black Lives Matter... [and] the Muslim Lives Matter hashtag, as well as terms common within the Muslim community.” This racially-motivated monitoring followed users without any criminal activity who were exercising their constitutional right to freedom of speech online.

Social media surveillance has also been manipulated in criminal proceedings and investigations. In one unique case, the Drug Enforcement Administration seized a woman’s cell phone during an investigation on a drug-trafficking ring.

Agents made a fake Facebook account under her name and posted pictures of her and her children from her phone to fool friends and family online.

When the woman realized she was being impersonated she sued and “[t]he agency settled...for a little over \$100,000.”

Levinson-Waldman predicts that if unchecked police inspection of social media continues, First and Fourth Amendment challenges will be raised in the future. She notes that the Supreme Court has recently labeled “cyberspace, and especially social media,” as “the most important space for the exchange of views.”

This forum clearly falls under the umbrella of First Amendment protection. Levinson-Waldman concludes by offering suggestions to help avoid potential constitutional problems, including implementing stricter limitations on police use of social media for investigation, greater transparency of such practices for the public, and higher standards for protecting free speech online.

Anupam Chander and Madhavi Sunder, *Dancing on the Grave of Copyright?*, 18 *Duke L. & Tech. Rev.* 143 (2019).

Anupam Chander and Madhavi Sunder, professors at the Georgetown University Law Center, begin their article with a quote of John Perry Barlow from 1994: “[I]n the years to come, most human exchange will be virtual rather than physical, consisting not of stuff but the stuff of which dreams are made. Our future business will be conducted in a world made more of verbs than nouns.”

Barlow prophesied that evolving technology and greater reliance on the Internet “would render intellectual property rights largely obsolete.” In Barlow’s view, the contagion of ideas coupled with increased ease of accessibility would deteriorate the protection of individual claims of ownership. Now, almost twenty-five years after this statement, Chander and Sunder offer their take on Barlow’s prediction.

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Law & Policy Division Officers

Division Head
Roy Gutterman
Associate Professor
Syracuse University
rgutter@syracuse.edu

Vice Head/Program Chair
Nina Brown
Assistant Professor
Syracuse University
nmibrown@syr.edu

Research/Paper
Competition Chair
Caitlin Carlson
Associate Professor
Seattle University
carlo42@seattleu.edu

Clerk/Newsletter Editor
Jared Schroeder
Assistant Professor
SMU
jcschroeder@smu.edu

Teaching Chair
Brooks Fuller
Assistant Professor
Elon University
bfuller7@elon.edu

PF&R Chair
Jonathan Peters
Assistant Professor
University of Georgia
jonathan.peters@uga.edu

Southeast Colloquium Chair
Michael T. Martinez
Assistant Professor
University of Tennessee
mtmartinez@utk.edu

Webmaster
Genelle Belmas
Associate Professor
University of Kansas
gbelmas@ku.edu

Graduate Student Liaison
Harrison M. Rosenthal
University of Kansas
rosenthalhm@gmail.com

Graduate Student Social
Media
Kriste Patrow
UNC Chapel Hill
patrowk@live.unc.edu

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In their article, the authors refute Barlow's notion that "[i]ntellectual property is a 'sinking ship,' and the lawyers preparing...for digitization are merely rearranging the deck chairs." Instead, the authors argue that intellectual property is bravely enduring the changing technological tides.

The authors note that, due to innovative technology, consumers expect more than mere physical goods and services. In describing how interactive experiences have come to trump prior methods of entertainment, they point out that, "[f]rom Star Wars to Harry Potter, fans do not just want to watch or read about their favorite characters—they want to be them."

Barlow warned these experiences would not be as economically commodified and protected as they once were, like when consumers paid to see a movie or purchased a book. In contrast, Chander and Sunder claim that intellectual property has more than made up for the challenges of our mutating market. Researchers have learned "how to package and market the human need for fantasy, play, imagination, and haptic experience."

Previously uncharted areas of expression "are increasingly becoming commodified and metered fare, regulated by licenses and royalties, requiring permission and payment." The authors highlight a recent surge of lawsuits involving creative companies asserting ownership over imaginative imitations. In a cease-and-desist letter addressed to a Chicago pop-up bar inspired by and modeled after the hit show, *Stranger Things*, for example, Netflix wrote, "We love our fans more than anything, but you should know the Demogorgon is not always forgiving."

Chander and Sunder iden-

tify the immense popularity of emotes, GIFs, and memes as evidence of the evolution of Internet exchanges. They claim this evolution, however, has preserved and promulgated numerous forms of racial discrimination.

The authors describe the copyright controversies surrounding Epic Games, the creators of the video game *Fortnite*. One iconic feature of the game is the opportunity for players to

be ever-evolving. Barlow wrote that, "[d]igital information, unconstrained by packaging, is a continuing process more like the metamorphosing tales of prehistory than anything which will fit in shrink wrap."

Chander and Sunder see this idea embodied in the modern meme. They note that, "the meme borrows an image or set of video stills and adds a caption that removes the image from its original context and

thus far alluded the "wave of copyright infringement claims."

The authors deduce that no claims have been brought against GIFs or memes because, due to their transience and transformative features, most are likely protected as fair use.

Finally, Chander and Sunder explore Barlow's belief that cultural appropriation should be regulated by ethics over law. The push toward a more ethical approach is plausible when considering the hindering effect that too many present property rights could have on future development.

Conversely, the authors acknowledge the severity of situations like the Epic Games suits and other instances in which creative copies have been marketed to a much higher success at the expense of their original—and unprotected—counterparts.

Chander and Sunder assert that the "bar of originality" for copyright protection is very low and it "self-consciously refuses to discriminate between high and low art." Further, if they were to agree to try Barlow's ethical approach, the pair questions whose ethics would form the guiding lines.

Ultimately, Chander and Sunder propose that all discussions of the "future role of intellectual property laws [be sure to] account for historical and ongoing racial, class, and gender exploitation in the production and dissemination of culture."

The authors maintain that intellectual property is a profoundly powerful tool. The owners of the products and ideas that receive protection control what aspects are made publicly available and what features remain private.

The authors recommend that those who practice intellectual property law remain cognizant of the "implicit racial, cultural, gendered and class biases" embedded in every creative—as well as every appropriated—work.

Previously uncharted areas of expression "are increasingly becoming commodified and metered fare, regulated by licenses and royalties, requiring permission and payment."

purchase in-game expressions known as emotes. These typically consist of unique skins to style one's character or victory dances to use following a successful battle.

As the game went viral, lawsuits began springing up from individuals claiming Epic Games was infringing upon their signature moves—i.e., Alfonso Ribeiro's "Carlton dance," 2 Milly's "Milly Rock," and BlocboyJB's "Shoot." The authors call attention to the fact that many of the artists alleging infringement are African-American.

They suggest these misappropriations could be racially-motivated, which incites much more serious concerns than the mere parroting of dance moves. At least as far as copyrights are concerned, the United States Copyright Office has routinely denied registration for simplistic dances of this nature.

The Supreme Court placed an additional hurdle earlier this year when it decided that copyright claims cannot be brought absent copyright registration. For now, Epic Games can continue to sell these expressions and other such dances online.

The authors also explore Barlow's view that information will

deploys it in a new way that the original image creator would not have anticipated."

The authors also recognize emojis and GIFs as other novel forms of expression that have emerged in the digital age. Social media has played a substantial role in changing the way individuals communicate. The use of these images is now almost second nature.

Today, certain expressions like "the 'eye roll,' the 'facepalm,' [and] the 'mic drop,'" are practically universally understood and circulated through emojis and GIFs. Chander and Sunder, however, briefly note that these tools can be abused.

GIFs can carry a negative racial association when, for instance, extensive images of black figures are used to express "excessive behaviors" and to "reinforc[e] racist caricatures." Other races, on the other hand, are rarely featured in GIFs, if at all, due to a lack of "Latino, Asian American, and Native American celebrities in Western media."

Racial bias may lead to other studies down the road. From the perspective of copyright protections, some may wonder why GIFs and memes—which "often borrow stills from broadcast video or movies"—have

2019 Business Meeting Minutes

AEJMC, Toronto Thursday, August 8, 2019

[33 people were in attendance]

Previous business

Minutes from 2018 (in Media Law Notes) - Kearston Wesner (KW) thanked everyone for their support during her term and thanked the sponsors for their support of the division.

News and Updates

- Assessment - Our five year assessment occurred on Wednesday morning. The committee mentioned a need to boost diversity, boost membership, and increase focus on teaching.

They suggested bringing teaching sessions out of the preconference and into main conference, or a potential partnership w. other divisions.

Council of Divisions Stats and Announcements

2018 conference - There were 1584 papers submitted and 785 accepted (49.5%)

2019 conference - There were 1450 papers submitted and 713 accepted (48.9%)

KW not concerned about downturn because of travel issues w. Toronto. Some people w. visas were told they may not be able to return to U.S. if they came into Canada.

KW reached out to International Division, encouraging AEJMC to make larger statement about how this impacts scholarship, junior faculty. One idea she proposed was to have these presentations still count even though presenters were not able to attend.

KW wants division's thoughts on this issue.

Tori Ekstrand - This is an academic freedom issue.

Genelle Belmas - She sits on the Monographs editorial board. They want more international submissions/ membership. Heard at French conference that AEJMC was American and you had to be American to join.

KW - Was at IAMCR this summer and heard other scholars (incorrectly) say AEJ home for international scholars.

Chip Stewart - Do we move to endorse you to talk about this? Jonathan from York University - Loves that AEJMC is here in Canada and wants us to come back.

Amy Kristin Sanders - AEJ should more frequently consider other locations in Canada. People can get visas to Canada that can't get them to U.S.

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Submission numbers are down but last time AEJMC was in San Francisco, in 2015, there were a record high number of submissions

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Erik Ugland - Does AEJMC keep stats on How many people accepted that don't come?

Budget

Bank account contained \$4,136 at the end of last year. This does not reflect social donations / expenses.

Plaques / awards cost \$6-700 each year.

Membership dues - Currently \$30 for faculty, \$7 for students; KW says we're allowed to raise if we want. KW inclined not to advocate for that b/c membership down, would like it to go up.

Doing fine w. dues that we have

KW called for a vote. Unanimous decision made not to raise dues.

Membership Numbers

Across AEJMC - 3,430
Law & Policy - 202

This is consistent w. most divisions but we are out of the top 7.

Need to talk about how to bring members up.

KW thinks deficiency is in student numbers. Membership down, could be tied to location.

Students in AEJ 702
International Students 234

Highest level of grad student participation this year ever at AEJ.

We need to have a larger conversation about how to get grad students involved.
Grad student liaison, Social Media coordinator positions help.

50% of all AEJMC members not part of division or interest group.

DIG fair - Need to have concerted place for grad students to come ask.

There is a perception that the Law and Policy Division is less receptive to people with alternative methodologies may not be comfortable.

A panel was held during the preconference. We talked about reviewing - Discussed award for top reviewer.

Karen Mulligan - ICA does something similar.

Ed Carter - JMCQ has reviews of reviewers - Rate reviewers, write letters to folks who have done a good job. Good reviewers get good feedback.

Will often also pull in 4th reviewer (PhD student) on manuscript that doesn't influence publication decision but acts as training for future faculty.

TE - Feedback issues across AEJMC, Research Committee reluctant to impose overarching guidelines.

Caitlin is incoming Research Chair. She will email guidelines in 2020, along with sample reviews.

Survey update (Tori Smith Ekstrand)

In interest of serving Division, Kyla Garrett Wagner, Kearston Wesner, and others worked to put together a State of Law and Policy Division survey.

The survey had 59 participants.
60 percent taught for more than 15 years
76 percent male
54 average age
80 percent worked for program that offers stand-alone media law course

53 percent work for AEJMC accredited institutions

Support for media law course in programs good. 70 percent report that Department/ Colleges have not questioned need for media law course.

Support for mentorship within the division was lukewarm. People very neutral about idea.

Perceptions of the division - Generally positive. 80 percent believe submissions relevant to the division; 50 percent agree submitting to the division is important for their work; 50 percent agree to submitting in the future.

Diversity / inclusion - Perceptions mixed bag. Some feel very welcome, while others report problems with in groups and plans that they make to go to other conferences as a result.

Communication Law & Policy update (KW on behalf of Wat Hopkins)

2019 issues each had 3-5 articles.

Wat is changing his reporting cycle. He will send out his full report after the autumn issue.

Some issues this year were late. Issues w. Taylor and Francis, but issues seem to have been resolved.

25th issue of journal will happen next year. Wat wants to know whether there is interest in sponsoring a session at next year's conference to celebrate.

Wat has offered to plan it and use journal funds for refreshments. Seeking suggestions from membership about what that might look like. Email/ call him with suggestions.

Two special issues planned this year. One to commemorate 1919 cases, one submission, will come out in Autumn issue and also has invited essay from Rodney Smolla about the marketplace of ideas. Second special issue is on International Media Law, co-editors Amy and Kyu/ 17 submissions, reviewing 9.

Overall 29 submissions this year:

Minutes, see page 9

Minutes

from Page 8

12 – rejected w/o review
7 - rejected after review
8 published
1 withdrawn
1 under review
27.6 percent acceptance rate overall

A suggestion has been made to look for an associate editor to work with Wat. This person may also consider taking over once his term is up.

The division is looking to expand the publication committee and get a call out for an associate editor this year so that we can vote at the 2020 conference.

Please let Roy Gutterman (incoming Head of the Division) know if you are interested in joining publications committee.

Gauging interest for peeps serving on publication committee -

Southeast Colloquium update (Mike Martinez)

Held at University of South Carolina
9 faculty applied and 7 were accepted – 78% acceptance rate
10 students applied and 5 were accepted – 50% acceptance rate
We had 19 reviewers

Research in progress panels – 3 faculty applied to share research in progress along with four students, all were accepted

One PF&R research panel – 4 faculty

Faculty registration will be separate from students. Now \$140, starting to creep up which is concerning. \$110 for students

Should he be appointed again, going to raise issue about rates w. committee

Something came up this year – Consider paying for top student paper registration to get students to attend?

Division is in favor of this idea provided funds available.

Submission Deadline for 2020 – 5 p.m. Central Time, Wed. Dec. 18

Teaching Chair (Jared Schroeder)

11 submissions this year, 10 in 2018
Had preconference session.

There were four teaching competition winners:
First: Chip Stewart and Jonathan Groves - “Sunshine Law Project”
Second: Brett Johnson - “Be Jon Peters: Translating Communication Law for a Lay Audience”
Third: Stacie Jankowski - “The Rowdy Poster Project: Creating a Culture of Excitement About Legal Research”
Honorable mention – Jason Martin – «Artificial Intelligence and Ethics Action Plans”

PF&R Chair (Jonathan Peters)

AEJMC reached out to wordsmith statements about press freedom issues including the removal of Acosta’s press pass.

Was contacted by members of other divisions whose work intersected w. public on press freedom issues. Served as consultant to them.

Membership reached out a bit to get advice on op-eds, other public facing publications.

Keep on with public scholarship. We need more of that so that it becomes standard practice.

Webmaster (Genelle Belmas)

Website updated regularly.

Clerk/ Newsletter Editor (Caitlin Carlson)

Newsletter was published each quarter. Thanks to contributors, especially Ashton Hampton who did the annotated bibliography all year. Also grateful to grad students, who were contributors in every issue.

Research Chair (Nina Brown)

Research Competition Stats & Winners

Stats – Submissions consistent with last year – a few more than last year
42 submissions, 19 accepted – 46 percent acceptance rate

49 reviewers – Thank you to them;
34 males, 15 females

Moderators – 3 females, 2 males,
Discussants 3 females, 2 males

Special thanks to Jason – Fastest turnaround.

Research Competition Winners:

Student Papers
3rd place student paper – Kelli Boling
2nd place – Sam Cohn
1st place – Sarah Wiley
Faculty Papers
Top debut faculty paper – Jonathan Obar and Andrew Hatelt
3rd Place faculty – Joeseph Russomanno
2nd Place faculty paper - Eric Robinson
1st Place to faculty – Clay Calvert

Vice Head Programming Update (Roy Gutterman)

This year we put together a total of 6 PF&R panels. We cosponsored with Electronic News, History, Media Ethics, Media Management, Economics & Entrepreneurship, International Communication

Got to use 6.5 chips

Lots of moving parts this year. Thanks to those who filled in at the last minute, thanks to presenters and moderators.

Stonecipher Award (KW on behalf of Dean Smith and Kyu Ho Youm)

Recipient, Victor Pickard
Kyu / Dean could not attend – Hoping to encourage more submissions, anytime you see an article about free expression that speaks to you – You can submit.

Division Leadership Elevation of elected officers (Head, Vice Head, Research Chair)

KW gave Roy Gavel
Roy thanks to Kearston, looking forward to working with Nina/ Caitlin
Thanks to Felicia in the head office

Elevation for Clerk/ Newsletter Editor, PF&R, Teaching, Webmaster

Clerk/ Newsletter Editor:
Chip nominates Jared
Vote by acclimation – Jared approved

PF&R chair:
Amy nominates Jon
Vote by acclimation – Jon approved

Teaching Chair – Self nomination from Brooks Fuller
Vote by acclimation – Brooks Approved

Webmaster – Genelle voted by acclimation and approved

Appointed officers (SE Colloquium, Graduate Liaison, Social Media Coordinator)

Mike Martinez –Appointed as SE Colloquium Chair

Vacancy for graduate liaison – Can appoint later
Roy – Those w. grad programs please pitch it, email Roy if interested

Social media Coordinator – Kriste Patrow has been doing it, expressed interest to keep doing it – She’s appointed

Stonecipher – Dean wants to continue – He’s appointed

New Business 2023 conference locations (NYC, Philly, Nashville)

As a division have opportunity to tell central what city we prefer.

NY – \$259 room rate
Preconf. Sunday, Aug. 4, Aug. 5-8

Philly – \$214 room rate, \$234 double
Preconf. Tues., Aug 6, Aug. 7-10

Nashville –\$249 room rate
Preconf. Sunday, 8/4, conf. Aug. 5-8
Glitch – Stay in Opryland but might have to shuttle
Final votes:

NY – 11
Philly – 14
Nashville - 1

Contributions to organizations – In past donated to

i. SPLC - \$250
ii. RCFP - \$250

Does division want to continue?

Eric moved to approve, Amy seconded

Adjourn Social at 8:30 p.m. – Assembly Chef’s Hall

WILD Breakfast – Tomorrow at Eggspectation 9:30