Media Law Notes

46.1
Fall 2017

Head Notes

AEJMC Law & Policy Division

Jason Martin
Division Head

There probably has never been a bad time to be a communication law and policy scholar or professor in the past half-century, but it is debatable whether there has ever been a more hectic one.

Daily headlines from all corners of the country and all levels of government detail new statements, proposals, laws, and rulings that could launch several new research agendas about official and unofficial infringements on freedom of expression.

Rhetoric from a president who casts the press as his enemy and an administration taking aggressive positions against free speech interests amplify very real concerns about threats to journalists and the First Amendment.

Reporters Without Borders ranked the United States 43rd in its 2017 World Press Freedom Index, down two spots from 2016. The organization noted that the Obama administration's war on whistleblowers and leaks set the stage for these recent developments.

Journalists arrested covering political protests, an increase in prolonged searched of journalists and their devices at the border, and some foreign journalists prevented from entering the country after covering sensitive topics highlight Reporters Without Borders' reasoning.

Those points are echoed in the launch this fall of the U.S. Press Freedom Tracker (https://pressfreedomtracker.us/), a partnership of the Columbia Journalism Review, the Committee to Protect Journalists, and the Freedom of the Press Foundation to document encroachments on press freedom around the country.

As of Nov. 16, 2017, the website chronicled 31 journalist arrests; 20 instances in which their equipment was stolen, seized, or damaged; 31 physical attacks on journalists (including one by a Congressional candidate in Montana), and five border stops of journalists.

Training journalists and journalism students now must incorporate not only awareness of libel and newsgathering torts, but also personal safety and police confrontation contingencies. My syllabi now include mundane tasks such as teaching how to password-protect mobile phones, back up data from a phone to the cloud, and what to do when a police officer "asks" to confiscate a student journalist's camera. Such topics also have become commonplace in the past year in publications that bridge the academy and journalism profession. AEJMC LAWP member Jonathan Peters recently wrote a column for CJR addressing the question of what a news outlet should do if a journalist is arrested covering a protest. (Advice he gathered from experts: develop a plan in advance; reporter and amplify; hold police accountable.)
Another recent CJR piece by Annalyn Kurtz tackled whether freelance journalists should invest in liability insurance – a question that NPR's Ashley Messenger addressed at our 2017 conference in Chicago and answered with an emphatic yes.

As most of our AEJMC LAWP members struggle each new term to place new developments in context for their students and in their research, it is worth remembering that this division and community is one of the best resources for staying up to date on recent developments and learning best practices from one another as they develop.

Even for scholars less focused on newsgathering and journalist concerns, rising issues of media consolidation, changes in FCC policy, and a range of other empirical threats from government and beyond are sure to continue the chaotic trend.

As head the division, my hope is that Media Law Notes, our annual programming, our website, and our social media channels are important resources for us to learn from one another and initiate conversations in what sure to be a trying year ahead.

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THE STATE OF OUR SATIRICAL UNION

Hustler Magazine, Inc. v. Falwell at 30

Save the Date + Call for Papers

The State of Our Satirical Union: *Hustler Magazine, Inc. v. Falwell* at 30 symposium will mark the anniversary of a landmark Supreme Court decision, issued in 1988, affirming the First Amendment right of editorial cartoonists and satirists to lampoon public figures.

But 30 years later, satirists of all stripes are working in an environment that presents challenges to freedom of speech unimaginable when the unanimous court decided *Hustler v. Falwell.* There are calls to change libel laws to make it easier to sue the news media. Cartoonists and journalists face intimidation on social media platforms. Those same platforms make it possible for cartoons drawn in Buffalo, Copenhagen, or Paris to reach audiences in any corner of the world, including places where insult laws and prohibitions on hate speech are the norm. In the era of Trump and *Charlie Hebdo*, will *Hustler*'s protections endure?

The State of Our Satirical Union is sponsored by the University of Minnesota's Silha Center for the Study of Media Ethics and Law. The Association of American Editorial Cartoonists and some of its members are helping organize the symposium and will participate in many sessions. Held at the University of Minnesota, Twin Cities, on April 20 and 21, 2018, the symposium will explore the many dimensions of the *Hustler* decision, including the history of the case and participation by editorial cartoonists and other First Amendment advocates as "friends of the court." Leading media law scholars and editorial cartoonists will interpret the legacy of the ruling in the context of major political events and legal developments of the last 30 years.

The symposium will feature some of the country's best-known editorial cartoonists, whose work will be displayed throughout the event.

The Silha Center at the Hubbard School of Journalism and Mass Communication will publish a special symposium book examining the significance and vitality of satire in American life today. Scholars, media lawyers, historians, cartoonists, comedians, and others are invited to submit abstracts of articles, essays, and graphic art exploring these topics by January 16, 2018. The Silha Center will invite authors and artists whose abstracts are accepted to provide the final version of their submissions by March 5, 2018, and to participate in the symposium.

KEY DATES

ABSTRACTS DUE
JANUARY 16, 2018

FINAL ARTICLES DUE
MARCH 5, 2018

SYMPOSIUM
APRIL 20-21, 2018

For further information, or to submit an abstract, contact Jane E. Kirtley, Silha Professor of Media Ethics and Law, Hubbard School of Journalism and Mass Communication, University of Minnesota, at **kirtl001@umn.edu** or **612-625-9038.**

The Silha Center for the Study of Media Ethics and Law is based at the Hubbard School of Journalism and Mass Communication at the University of Minnesota. Silha Center activities are made possible by a generous endowment from the late Otto and Helen Silha. http://silha.umn.edu/

SILHA CENTER
FOR THE STUDY OF MEDIA ETHICS & LAW

HUBBARD
SCHOOL OF JOURNALISM
& MASS COMMUNICATION
UNIVERSITY OF MINNESOTA

2018 AEJMC Southeast Colloquium

Call for Papers, Panels and Research-in-Progress Abstracts

Authors are invited to submit research papers, panel proposals and/or research-in-progress abstracts for the **43rd Annual AEJMC Southeast Colloquium**, which will be held **March 8-10, 2018** at The University of Alabama in Tuscaloosa, Ala. Authors should prepare submissions as either Microsoft Word or PDF file and submit them to the following link:

http://tinyurl.com/y97anqzz

All submissions must be completed by **no later than 11:59 p.m. CST on December 11, 2017**. 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 30 pages including references and tables (50 pages for Law and Policy papers).

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 submitted 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 papers will be notified by early February 2018. In the meantime, read more about the event at the Colloquium website at https://cis.ua.edu/sec18/

PANEL PROPOSALS

Panel proposals using the same link by **Monday, December 11, 2017**, and should include a brief description of the panel along with proposed panelists. Proposals should not exceed three double-spaced pages.

RESEARCH-IN-PROGRESS

The Colloquium will include our first research-in-progress roundtables as an opportunity for researchers to share and get feedback on projects that are in some stage of development. Authors must submit a synopsis of the project, with some research questions or hypotheses and a paragraph explain what stage of development the project is in. Research chairs will determine how many abstracts can be programmed based on development of research strategy, clarity of research goals and available slots in the roundtable. Research-in-Progress abstracts are NOT eligible for Colloquium research awards.

PARTICIPATING DIVISIONS and Research Chairs

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For more information: Contact the 2018 Colloquium Coordinator George L. Daniels at gdaniels@ua.edu

Media Law Notes: **Legal Annotated Bibliography**

Austin Vining
Doctoral Student
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Enrique Armijo, Reed v. Town of Gilbert: Relax, Everybody, 58 B.C. L. REV. 66, (2017).

Elon University School of Law Professor Enrique Armijo uses several examples of cases and potential laws to quell criticisms of the Supreme Court's 2015 Reed v. Town of Gilbert decision. The "firestorm" set off by the Reed decision led Armijo to respond to concerns and criticisms, specifically concerns that Reed "has upended the Court's content inquiry in First
Amendment cases and severely limited governments' ability to protect the public in a range of other areas."

To qualm these fears, Armijo first examines how Reed could affect four primary categories: signage restrictions, panhandling, intellectual property, and consumer protection-related regulations referencing content. Armijo also looks at content discrimination doctrine and criminal law in a post-Reed world. Through cases, legislation, and theories, Armijo finds that Reed has not taken away the government's ability to pen legislation in any of these categories.

In fact, Armijo argues that rather than impeding the government's ability to legislate, Reed has a positive effect. Instead, Armijo shows, Reed encourages more thoughtful and appropriate legislation. He uses Norfolk, Virginia as an example of this. After the town's sign code, which exempted governmental flags, noncommercial "works of art," and signs from religious organizations, initially passed examination from U.S. Court of Appeals for the Fourth Circuit but was vacated by the Supreme Court after Reed, Norfolk amended its code, choosing to comply with Reed rather than fight the standard. Armijo uses this example to encourage more cities to follow this route to ensure that the "Supreme Court will not find itself becoming, to use Justice Kagan's phrase, a 'veritable Supreme Board of Sign Review,' and permitting the Court to focus on controversies that Justice Kagan apparently deems more worthy of its time."

In Part II, Armijo explains how Reed's Two-Step analysis minimizes the focus on governmental purpose and why doing so is a step in the right direction. Armijo declares that lower courts, frequently considering the government's purpose to be the controlling consideration in deciding whether a law is content-based, have long used a rule the Supreme Court never adopted. Reed, he says, makes this purpose irrelevant when examining laws that refer to content on its face. Armijo contrasts content neutrality with viewpoint neutrality, and he remarks that Reed helps clarify between the two, writing that "arguing that a particular law is viewpoint-neutral is no defense to the claim that that law is content-based."

Part II continues to pose benefits of purpose minimization. Armijo posits that Reed's Two-Step analysis helps align the First Amendment with other areas of constitutional law. Purpose, Armijo says, is a slippery slope, and he uses Justice Hugo Black's notes on equal protection to remind readers that motive is difficult for courts to ascertain. Armijo contends that Reed and similar cases don't impact the underlying issue: that the move toward content discrimination doctrine has paved a difficult road for constitutional analysis and "set First Amendment doctrine on the wrong track."

In Part III, Armijo gives Reed worries a new target. Instead of focusing on the unlikely possibilities Armijo debunks, he encourages scholars, legislators, and others to consider what he calls the true problem: there is "no principled basis for treating content-neutral restrictions with the leniency that current doctrine provides."

Armijo uses a set of hypothetical laws regarding bumper stickers — one content-based and one content-neutral — to illustrate this problem. Under current rules, content-neutral restrictions — such as a law that prohibits all bumper stickers rather than prohibiting only political bumper stickers — has more potential to limit speech but faces less scrutiny. Armijo goes on to contend that while content-neutral restrictions may appear to affect all speech equally, in fact, they often serve as a way to underhandedly target specific speech. He uses the example of implementing a burn ban — seemingly under the premise of protecting against fires — to limit the freedom of expression used by disgruntled basketball fans hoping to burn effigies of a university basketball coach. Armijo writes, in this case as well as many others, that "content-neutral restrictions are benign because they are not aimed at suppressing speech, a particular law's effects on speech are given no weight." This, he claims, is "exactly wrong." He finishes Part III suggesting that placing emphasis on effects rather than purpose will help advance the First Amendment.

Armijo concludes by re-emphasizing that the Reed decision should elicit praise, not concern, from scholars and encourages the limitation of purpose-driven decisions.

Toni M. Massaro, et al., Siri-ously 2.0: What Artificial Intelligence Reveals About the First Amendment, 101 MINN. L. REV. 2481, (2017).

Law professors Toni Massaro, Helen Norton, and Margot E. Kaminski tackle a rising issue — artificial intelligence. In the introduction, the authors pose the question of whether or not "strong AI" should be protected by the First Amendment. Early on, the authors say yes, and they argue that current laws and theories would easily allow the possibility of AI protection.

The authors first differentiate between strong AI and present AI by defining strong AI as "as-yet-hypothetical machines that would actually think and generate expressive content independent of human direction." Currently, many arguments for free speech rest on the principles that speech provides value for listeners (the positive view) and that speech has the ability to curb government power (the negative view). As the authors explain, strong AIs may have the potential to participate in both types of speech, and as humans have found protection in these principles, strong AIs could as well.

In Part II, the authors provide examples of how free speech has already been extended to non-human entities such as corporations and algorithms. In this section, the authors contend that humanness may be irrelevant when looking at the current climate of First Amendment law. They examine the potential of strong AIs to close the gap between humans and machines and to develop emotions. They ask the question of where First Amendment protection ends and contend that AIs share the most important human traits when it comes to current free speech doctrine and that the line is most certainly drawn at cats.

Part III moves on to discuss how AIs might have the ability to be held liable under current theories and doctrine. The authors contend that while current laws and theories may have to change or grow to accommodate strong AIs, the concept isn't novel. In fact, as they explain, laws have a history of growing with technology. They liken strong AIs to corporations and municipalities, who, though non-human, receive First Amendment protection.

In the following Part, the authors examine limiting principles, their current implementation with humans, and the possibilities for their extension to AIs. The authors find that, like humans, strong AIs may produce a variety of outputs — some speech and some pure or expressive conduct. As free speech doctrine already discerns between these things for humans, the authors contend that it would not be a new concept for courts to eventually

distinguish between these things for strong AIs. They argue that while much of AI output may be expressive conduct rather than speech, free speech protection for expressive conduct is already enjoyed by humans. Just as humans can be held accountable for danger and harm done to others, so too can strong AIs be held equally accountable.

The extension of the First Amendment may make many uncomfortable, and the authors agree that uncertainties that come along with strong AIs and the First Amendment will, and should, remain. The authors posit that the potential for AI protection carries insights concerning current free speech law. Moving forward, the authors suggest, will require courts to revisit certain First Amendment questions and to reconsider the rights of listeners. They conclude the article by challenging future First Amendment scholars to pay close attention to what the future of AI means for freedom of expression.

David E. Pozen, Freedom of Information: Beyond the Freedom of Information Act, 165 U. PA. L. REV. 1097, (2017).

This article challenges the heraldry of FOIA as an "indispensable tool." David E. Pozen, professor at Columbia School of Law, questions the effectiveness of the Act and provides potential replacements to help fill its purpose.

Pozen begins by highlighting deficiencies in the current Freedom of Information Act and carries this throughout the article. Pozen contends that FOIA, though modeled by many countries and individual states, carries too many exemptions, too much cost, and too little efficiency.

One of the main issues, Pozen argues, is FOIA's reactionary premise. Rather than having to go through the process of filing a FOIA claim, he suggests that legislation and practice requiring affirmative disclosure would be more effective.

Additionally, Pozen considers other regulatory models, such as whistleblowing and congressional monitoring, and examines how these methods both complement and compete with FOIA. He contends that while these methods are tied with FOIA in several ways, with adaptations, they could stand on their own (and stand better) to promote FOIA's purpose of providing access to information.

Pozen also takes issue with the use of FOIA, stating that "FOIA does the least work where it is most needed." He posits that because FOIA requests require "time, money, and expertise," it comes as no surprise businesses are the primary users of the Act. He suggests that other freedom of information policies lack the same "corporate skew" and argues that neither should our own. The author also discusses FOIA in the context of national security secrecy and claims that because of complex classifications, the Act fails in this area as well.

Next, Pozen tackles issues caused by FOIA, including high costs and filing difficulty. Regarding the estimated cost of FOIA provided yearly by the Department of Justice, Pozen contends this number fails to take into account the many hands required to deal with the Act's request.

Pozen finds that journalists, whom many would expect to be primary users of FOIA, are increasingly turning to other sources, such as whistleblowers and affirmative disclosures, because of the difficult, lengthy process involved with the Act. By failing to deliver information efficiently, FOIA creates distrust and frustration rivaling that of government scandal and misuse it aims to reveal.

The author moves on to discuss due process interest, watchdog operations, and transparency, writing that while in theory FOIA should advance these functions, in actuality, it is not.

The article concludes with Pozen's call for a reduction of reliance on FOIA and his suggestions for alternative paths. Pozen writes, "FOIA not only fails to deliver on ostensible goals such as participatory policymaking, equal access to information, and full agency disclosure, but also has evolved to subvert some of these goals as well as other public law values." Pozen suggests that adaptive affirmative disclosure requirements would much better provide true freedom of information.

Brian L. Frye, Against Creativity, 11 NYU J.L. & LIBERTY 426, (2017).

University of Kentucky Law Professor Brian L. Frye finds issue with the creativity requirement dictated by the Supreme Court regarding copyright. Frye examines the prevailing theory of copyright — the economic theory — and contends that "the purpose of copyright is to encourage the production of economically valuable works of authorship, not creativity."

The economic theory of copyright rests the justification of copyright on an increase of net economic welfare. As Frye writes, "if copyright can increase net economic welfare by encouraging 'creativity,' then copyright should require 'creativity;' but if copyright cannot increase net economic welfare by encouraging 'creativity,' then copyright should ignore 'creativity.'" Beating this point like a dead horse, Frye believes the latter.

Frye focuses on Feist v. Rural to expound his point. He opines that while the Constitution requires originality for copyright, the creativity element added by Feist lacks clarity and goes against the purpose of copyright. While the Feist decision aligns with economic theory and Frye suggests the decision is correct, it fails "to provide a coherent explanation of why either the independent creation or creativity requirements precluded copyright protection of the white pages listings copied by Feist."

The Court's decision that telephone numbers are facts and therefore uncopyrightable is, to Frye, "nonsense." He contends that Rural created facts by assigning phone numbers to subscribers and lambasts the Court for leaving the term "facts" with no clear definition. Frye hits harder the Court's decision that Rural's phony phone numbers (planted to catch Feist's copying) also received no copyright, as they were clearly creative.

Moving back to creativity, how can this requirement and the Court's longstanding aesthetic nondiscrimination principle exist side by side? As Frye explains, they can't. The Court has tried to reconcile these two doctrines by stating that originality requires very little creativity, but the article holds that they have not done so successfully.

The author suggests that the creativity requirement is irrelevant and that the Court's desire to explain why selection, order, and arrangement are not protected by copyright could have avoided complication by using something much simpler: the idea-expression dichotomy. If not with that principle, the Court could have instead focused on the fact that Rural's directory was functional, excluding it from copyright protection.

Frye decries the "creativity rhetoric" flowing from the aftermath of Feist. Creativity, often associated with newness, has low demand, and therefore fails the economic theory of copyright. Frye provides several examples — genre fiction v. experimental fiction, pop music v. experimental music, etc. — to support his claim that "[f]or better or worse, consumers tend to favor familiar works of authorship and disfavor creative ones." If this holds true, creativity may lead to market failures and decreased efficiency, some of the very things copyright exists to protect.

As Frye concludes, "[r]elying on copyright to encourage creativity is highly inefficient, because it imposes a high economic cost and provides only a low social benefit." Copyright should move away from creativity and back toward economic value.

AEJMC Law and Policy Division Business Meeting
Friday, August 11, 2017, 7 p.m., Chicago
Prepared by Roy S. Gutterman, clerk/newsletter editor, Syracuse University

Division Head Courtney Barclay (CB) called the meeting to order at 7 p.m.

Approval of Minutes

The first agenda item was to approve the minutes from the 2016 meeting in Minneapolis, prepared by Kearston Wesner (KW), division clerk/newsletter editor. The minutes were published in the fall 2017 Media Law Notes. A motion was made by Chip Stewart (CS) and minutes were approved unanimously with no opposition.

State of the Division

CB opened the meeting with remarks and the state of the division. She thanked the officers and said the programs were "great" showcasing "outstanding scholarship." She also thanked the sponsors for the social, noting there was a "tremendous" response. This generated a round of applause.

The division currently has 216 members. Though there was a slight decline from the previous year's membership of 238. The decline was attributed to loss of walk-up registrants. She is hopeful that there may be a bump in membership in the fall. Overall, division interest group membership is down throughout AEJMC. About 52 percent of AEJ members are not members of a group or division.

Budget

The division's budget was $4,675. This was not reflective of donations for the social or expenses associated with the social. Conference expenses were not accounted. Last year's social cost about $3,500. Other division expenses included donations to the Student Press Law Center and the Reporters Committee for Freedom of the Press, which received $520 each, 1/3 of the budget rather than a fixed amount. This figure was consistent with previous years' donations.

Last year, division leadership could spend a portion of the journal funds, roughly $35,000 for professional development and special speakers. No one requested money. CL&P funds are still intact. Division leadership was saving funds for a "big party" to commemorate the journal's anniversary in three years.

Division dues are currently $30 for members and $7 for students. Membership confers receipt of print copies of the journal and students get online access.

Morgan Weiland (MW) said students get hard copies of CL&P. CB was aware of that.

Motion by Dean Smith (DS). Seconded by CS. Unanimous vote.

CB said the division is in contract negotiations with Taylor & Francis (T&F). Wat described the journal's history and the initial publication with Lawrence Erlbaum Publishers (LE) which was negotiated when Robert Trager was editor of the journal for volumes 1 through 4. Trager had been the editor before Wat Hopkins (WH). LE journals were acquired by T&F. When Dan Kozlowski (DK) was division head, he discovered that there was no contract.

CB described that leadership discovered lots of obsolete information, including floppy discs. CB, DK and WH had a conference call regarding the lack of a contract. DK was the point person on the issue, which CB acknowledged and noted her appreciation. She said the contract negotiation process is slow. Currently there is no contract with T&F. CB met with representatives of T&F. The issue of books for grad students seems to be a sticking point and CB has to relay the number of grad student members to the publisher.

The division receives only 5 percent of royalties from the journal. Most journals receive 7 to 8 percent. CB asked for 9 percent.

Eric Robinson (ER) asked how much we pay per person. CB said she was not sure, but it is close to the cost of the books, which generally cost about $20 to print. CB noted that there might be other fundraising or sponsorship opportunities with the books. She expected the contract to be finalized and formalized by October.

A. Jay Wagner (AJM) recommended leadership read Art of the Deal to prepare them for negotiations.

CB said she was volunteering to stay on with contract negotiations and planned to update the division.

ER also asked whether there could be access to archives for the journal. CB said she would check into the archives issue and will try to make that an immediate issue.

Stonecipher Award

Dean Smith (DS), chair of the Stonecipher Award Committee, gave a "quick report." Janice Hume of the Grady School at the University of Georgia was present to accept the award on behalf of Sonja West. West's article was "The 'Press': Then and Now," 77 Ohio St. L.J. 49 (2016). The group applauded.

This was the third Stonecipher Award. There were eight submissions, which DS described as "all extremely wonderful." The six-member committee included Tori Ekstrom Smith (TES). TES interjected that there were other committee members. [Judges included DS, TES, Kathryn Blevins, Michael Hoefges, Jasmine McNealy, and Ken Paulson]

DS said he planned to write a more detailed description of this year's award for the fall MLN.
CB thanked the committee and its reviewers for their service. She urged the division to start thinking about next year's nominations. She said nominations can be sent to Jason Martin, new division head.

Reports
Communications Law and Policy (CL&P) – Wat Hopkins (WH)

WH distributed copies of the Editor's Annual Report for Volume 22 (2016-17). WH said submissions this year were down as was the overall page count for the journal. The journal maintained a 22 percent acceptance rate, which he characterized as "a rigorous acceptance rate." For the reporting period between July 1, 2016 and June 30, 2017, the journal received 35 submissions and published 14 articles (22.3 percent). Of the submissions, 11 were rejected without review; 14 were rejected after review; eight were accepted and two were under review. He compared data to the previous year which had a 23.4 percent acceptance rate.

When the fourth book is published in October, the journal would have published 371 pages in Volume 22, a decrease of 196 from Volume 21. CL&P generally publishes about 518 pages annually.

WH recounted that the journal had to confront a question of plagiarism, which he characterized as an incident of "bad things can happen to good people." An editor at T&F received a call from an author who believed a CL&P article violated her copyright. The author's allegation would have been more aptly described as an accusation of plagiarism. WH investigated the accusation, compared the underlying article to the CL&P article and put the piece through anti-plagiarism software and determined that the complaint was unfounded. There was no plagiarism. "It happens. The previous article was by a law professor who didn't know the difference between copyright infringement and plagiarism," WH concluded.

WH announced that Routledge, the company that owns T&F, will publish a special book on the Freedom of Information Act. He credited Dave Cullier (DC) for organizing the project and securing authors. The book will be a special issue of CL&P commemorating the 50th anniversary of FOIA. Routledge will select what it considers exceptional issues of T&F journals for this special distinction. The special issue will be titled, "The U.S. Freedom of Information Act at 50." The book will be published in December. The group applauded.

The authors will not receive a complimentary copy of the book, and will have to pay $150 with a 30 percent discount. Royalties of 3 percent will go to the division. The publication committee will provide authors with a copy of the book.

Kyu Ho Youm (KHY) asked whether articles are being cited frequently in other journals. WH said the high-quality of the articles gets "pretty good" citations.

WH said two authors were currently under consideration and that production flow was in "pretty good shape." The group applauded. He also distributed a sign up sheet for reviewers.

CB thanked WH for his work, saying WH is "doing a fantastic job." CB announced that WH's term was concluding. The February MLH issue had a call for editors and there was one "excellent application" – from WH. WH declined comment. WH did say he would like another appointment as editor, which he said would be his last.

CB asked WH to leave the room. The group discussion was brief with DS simply saying, "yes" with CS seconding. KHY lauded WH's work and the journal's excellence and relevance.

CB called for the vote by acclimation. The vote was unanimous. WH reentered the room to applause. CB congratulated WH and thanked him for his continued service. CB asked WH to start thinking about a successor.

Council of Division

CB reported that the division head and vice head participated in a meeting of the Council of Division. The Membership Statement would be the same as last year. Paper submissions were close to the same, within four or so papers. The law division is doing its part.

The 2018 conference will run from Monday through Thursday (Aug. 6-9) with pre-conference that Sunday in Washington, D.C. The 2019 conference is slated for Toronto and 2020 will be back in San Francisco. There was a vote for San Diego, but the conference is going to San Francisco.

AEJMC is thinking of a child care option and wi fi fees are part of the cost.

CB reported "good news" with a new AEJMC research grant of $1,000. The division's research chair will submit one paper to the conference-wide competition. These will be papers that bridge the gap between the profession and the academy. Each division will submit one paper to this competition.

Report of Vice Head , Jason Martin (JM)

JM reported the pre-conference had a "rocky" beginning. The pre-conference kick off event featuring a Q&A with Judge Richard Posner suffered from the judge's last-minute cancellation the day before the speech. There was also a pre-conference teaching panel, featuring the winners of the division's teaching awards.

The division also hosted or co-hosted six panels with other divisions. JM also asked division members to present ideas for future pre-conference panels or co-sponsored panels with other divisions such as ethics, tech or PR. JM thanked all the division members who coordinated or participated in events and looks forward to seeing new ideas for next year in Washington.

Report of Research Chair, Kearston Wesner (KW)

KW thanked division members for submitting 57 papers with 27 (47.3 percent). Last year, there were 53 papers submitted with 25 accepted (47 percent). KW said four papers were close to disqualification because they were written on Macs and not all the metadata had been scrubbed. CB has asked AEJMC to have the submission system, All-Academic, automatically scrub the data. Tony Fargo asked whether the division could also simply ask judges not to go searching for metadata on submissions.

KW said no papers were disqualified. There were 14 debut faculty submissions this year (last year there were eight). There were 64 paper reviewers, which exceeded the competition's needs and allowed judges to read one to three papers each. There were 37 participants on panels.

KW said panel ideas can be forwarded to Roy Gutterman (RSG) incoming research chair.

First place on the poster award went to Caitlin Ring Carlson.

Debut paper award: A.Jay Wagner (Bradley), A Secret Police: The Lasting Impact of the 1986 FOIA Amendments, A. Jay Wagner (Bradley University)

P**aper competition award: First place**: Tyler Prime & Joseph Russomanno - Lock or Key: Does FOIA Sufficiently Open the Right to Information?; **Second place:** Clay Calvert - Gag Clauses and the Right to Gripe: The Consumer Review Fairness Act of 2016; **Third place:** Nina Brown & Jon Peters - Say This, Not That: Government Regulation and Control of Social Media.

Top student papers: First place: Sebastian Zarate, Austin Vining & Stephanie McNeff (Florida), Fake News and the First Amendment: Reconciling a Disconnect Between Theory and Doctrine (Florida); **Second place:** Morgan Weiland (Stanford), First Amendment Metaphors: From "Marketplace" to "Free Flow of Information;" **Third place,** Shao Chengyuan (UNC), Social Media Under Watch: Privacy, Free Speech, and Self-Censorship in Public Universities.

Kathy Olson asked about members not getting the newsletter. CB said she should check the email list.

PF&R

Jared Schroeder, Teaching Chair will become PF&R chair.
Happy to be part of the team

Teaching Chair

Jon Peters (JP), teaching chair, reported a "great" pre-conference. There were 11 submissions to the teaching competition. Winners were selected. This year's winners were: First place, Chip Steward' Second, Ben Holden; Third place, Nina Brown. The group applauded.

Website administration

No report. Amy Kristin Sanders (AKS) had to leave the meeting to catch her flight back to Qatar. She will also step down from division service.

Newsletter Editor/clerk, Roy Gutterman (RSG)
RSG thanked all the contributors to the four Media Law Notes editions. RSG noted the new bibliographer would be Austin Vining, Florida. RSG thanked Minch Minchin, previous bibliographer and Brooks Fuller, the graduate student liaison for their contributions. He also thanked KW for her patience and assistance.

SE Colloquium, Michael Martinez (MM), SEC chair
MM reported this year SE Colloquium was hosted by TCU and CS. There were 23 judges, each had three papers. There were 22 submissions – nine faculty submissions with six accepted and 13 student submissions with seven accepted (59 percent accepted). Next year the SE Colloquium will be held at the University of Alabama, March 8-10. There were no questions. The membership applauded.

Elections

Kearston Wesner moved up the ladder and became Vice Head. Roy Gutterman became research chair.

Nominations were opened for clerk/newsletter editor. Christopher Terry, Minnesota, nominated himself. JM closed the floor to nominations. Paul Siegel made a motion and the group voted by acclimation.

PF&R election, Jon Peters, Georgia, self-nominated. There were no other nominations from the floor. Members noted his service to the division as teaching chair and his contributions to the industry through his CJR pieces. The group unanimously approved his nomination.

Teaching Chair, Jared Schroeder, self-nominated. There were no nominations from the floor. Members noted JS's service to the division as PF&R chair. The group voted unanimously.

Website administrator. The division drafted Caitlin Ring Carlson, Seattle. There were no floor nominations and she was unanimously approved.

Appointments

Michael Martinez was reappointed chair of the Southeast Colloquium.

Kyla Wagner, UNC, was appointed student liaison.

For the Publications Committee, Katie Blevins, Idaho, and Ben Holden, Illinois, were appointed; Tori Smith, UNC, rotated off.

Social media administrator, Lindsie Trego, UNC, was appointed to the new position.

New Business

The 2021 conference venue was discussed with the majority of the division membership voting for New Orleans. (St. Louis, 3; Austin, Texas, 1; Kansas City received no votes).
Discussion on continued support of SPLC and RCFP. Chip Stewart made a motion that the group continue to donate 1/3 of its budget to these groups. There were multiple seconds and a unanimous vote.

JM reminded the group that the division social would take place immediately following the meeting at Jake Melnick's Corner Tap, 41 E. Superior Ave.. JM called meeting to adjourn at 8:26.

If you have any newsto share with the division or would like to contribute to the newsletter, please contact Clerk/Newsletter Editor Christopher Terry via email: CRTERRY@UMN.EDU

On a personal note: I'll be more timely with my future editions. Putting a radio guy in charge of a print publication...led to some delays.

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