Professor Ira Steven Nathenson

CYBERLAW SEMINAR, FALL 2014
ST. THOMAS UNIVERSITY SCHOOL OF LAW

Syllabus

Email: inathenson@stu.edu
Phone: 305-474-2454
Class time: Thurs. 10:00AM-11:40AM (Room 218)
Office hours: Mon. & Wed. 3:30-5:30PM, Thurs. 4-6PM, and by appointment.
Course website: See http://nathenson.org/courses/cyberlaw/

OVERVIEW OF CYBERLAW SEMINAR

This course is intended to satisfy the Senior Writing Requirement. It will be taught as a writing seminar rather than a substantive course. We will explore: 1) the nature of cyberspace; and 2) the role of internet intermediaries. Thus, we will consider questions such as: What *is* cyberspace? Can it be regulated? Should it? What about intermediaries such as Google, YouTube, Facebook, and Twitter? Should such intermediaries respect national boundaries? Or should nation-states step aside and allow cyberspace to develop from the ground up?

REQUIRED BOOKS

1. REQUIRED: JAMES GRIMMELMANN, INTERNET LAW: CASES AND PROBLEMS, 2014 EDITION, V.4.0 (SEMAPHORE PRESS). This book is not available from the bookstore. Instead, the PDF is available from the Semaphore Press website at https://www.semaphorepress.com/books.html. Users are asked to pay only $30 for the book, which is a PDF that may be printed and annotated. You should print out assigned pages and bring them to class.

2. REQUIRED: ELIZABETH FAJANS & MARY R. FALK, SCHOLARLY WRITING FOR LAW STUDENTS: SEMINAR PAPERS, LAW REVIEW NOTES AND LAW REVIEW COMPETITION PAPERS, 4TH EDITION (West 2011). This book, a short and very useful volume, is available from our book store or online.

3. REQUIRED: THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION, 19TH EDITION (2010). You should each already own a copy of this book.

4. ADDITIONAL MATERIALS: will be posted online as the semester progresses.

GOALS OF THE COURSE: SCHOLARLY DISCUSSION, RESEARCH, AND WRITING

       Scholarly paper. In this seminar, we will explore major themes, theories, and issues in cyberspace scholarship. Each of you will select a topic, subject to approval, and research and write a scholarly paper. Your paper must reflect substantial original research and writing. For students seeking to satisfy the senior writing requirement, the minimum length is 30 double-spaced pages of text, including footnotes. Students who already have satisfied their senior writing requirement are subject to a 20-page minimum. All papers are expected to reflect, *inter alia*, substantial research, critical thinking, good writing, appropriate attribution, proper bluebooking, and originality. This suggests that the actual length will depend on what is appropriate for the topic you have chosen. I would therefore urge you to choose narrow topics, and will be happy to provide guidance.

       Submissions. As the semester progresses, you will be required to submit: (1) a topic proposal; (2) a thesis statement with outline and preliminary source listing; (3) a first draft; and (4) a final draft. Please make your work product at each stage as good as you can make it. If you don't, you'll be leaving too much work for later.

       Harkness format of student-led discussion. Discussion is student-centered and we'll use the *Harkness* method, which "promotes the idea of each student taking responsibility for his or her own education, with teachers acting largely as facilitators." Carl Hoffman, *What the Harkness Method Is*, JERUSALEM POST, Sept. 23, 2010, *available at* http://www.jpost.com/Local-Israel/Tel-Aviv-And-Center/What-the-Harkness-Method-is. There is no "head" of the table or dominant position in the classroom. As once source describes it:

> [T]raditional rows of students' desks facing a teacher and a blackboard at the front of the room were ripped out and replaced by the new tables. Traditional lectures were replaced by discussions, and the distance between teacher and students was removed. There was no head of table, dominant position or "power seat." With everyone equally visible, everyone was expected to participate and interact – no relaxing, daydreaming or hiding. Learning became dynamic as students discovered how to share ideas and listen to one another respectfully.
>
> In time, this basic departure from the norm developed into what is now known as the Harkness Method, in which students learn to think critically, listen analytically, and interact respectfully. Most importantly, however, the Harkness Method promoted the idea of each student taking responsibility for his or her own education, with teachers acting largely as facilitators.

Id. Because it is essential that each of us is fully engaged with one another, laptops/tablets/electronics will not be permitted. You should print out the readings and any other materials you will need for class. So that we can incorporate internet materials into our discussions, I will bring a low-profile iPad to class to display materials on the screen. If you have anything you'd like to show on screen, send me the link so that I can display it.

EVALUATION AND GRADING

As a seminar course, there will be no final examination. Instead, you will be evaluated on thesis statement & outline/preliminary source listing (5%), first draft (25%), final draft (45%), and class participation (25%). Your score for class participation will take into consideration a number of factors, including: regularity and quality of preparation and discussion; providing peer review of classmates' drafts; presenting your own paper; and regular class attendance.

HONESTY IN ATTRIBUTION; HONORS CODE

Honesty in attribution is one of the backbones of academic integrity. Thus, all students must abide by the St. Thomas University School of Law Honor Code, including but not limited to the section on Plagiarism (2.01(B)). Therefore, <u>any</u> time a draft uses <u>any</u> words or ideas from another source—whether verbatim or by paraphrase—the source <u>must</u> be provided by footnote. This means that any statement of law or fact in your paper must have a footnote to the appropriate source(s), *except* whether the main text contains only: 1) your own completely original argument; or 2) a topic sentence. Along similar lines, any words copied exactly from another source must also be marked off with quote marks. When in doubt, provide a source and quote. If you are uncertain, do not hesitate to ask me for guidance. *See* FAJANS pp. 104-24 for further details. We will discuss honesty in attribution further in class. For now, keep in mind that I take these requirements extremely seriously, and will deal with violations harshly.

CLASSROOM POLICIES

Computers & other technology. Computer or phone usage of any type (laptop, iPad, iPhone, etc.) is **<u>not allowed</u>** in class, except for students who are giving a presentation that requires use of technology. Don't worry: I recognize the irony of banning technology in a class that focuses on technology; however, several years of experience have confirmed that discussions are far richer when we sit together rather than behind walls filled with the temptations of email and social media. Therefore, turn off or turn down every device that could conceivably beep, buzz, ring, or otherwise emit sound in class. Because such devices are prohibited, please print out hard copies of any assignments, notes, or other materials you may need for class discussion and bring them with you. Note: as a former colleague notes in his own syllabus, if your device goes off in class, you will be expected to bring impressive treats for the entire class for the next session.

Class attendance. "Regular class attendance" means that you are in your seat and ready to start work on time. If you leave class early without permission, you may be counted absent.

FIRST ASSIGNMENT (AUG. 21, 2014)

Read FAJANS, pp. 1-22 for basic information on academic legal writing.

Read GRIMMELMANN:

- pp. 9-13: Introduction to Cyberlaw
- pp. 17-40: Basics of computers, internet, cryptography
- pp. 43-51: Regulation (Lessig) & generativity (Zittrain)

Details on future assignments and readings will follow after the semester commences.

DEADLINES AND SUBMISSIONS FORMAT

Dates are subject to revision

Sept. 4:   Topic proposal
Sept. 18:   Thesis/outline/preliminary sources
Oct. 13:   First draft
Nov. 24:   Final draft

All assignments must be sent via email to inathenson@stu.edu.

Assignments must be in Microsoft Word format.

Last revised July 24, 2014
(Casebook now available, adding assignment)