

SYLLABUS – CLASS #6353
SOCIAL MEDIA AND THE LAW

Prof. John Browning

1. Schedule

This class meets every Thursday evening in Florence Hall, Room 201, from 6:00 p.m. – 7:40 p.m. The first class meeting is January 7, 2016, and the last class meeting will be April 21, 2016. There will be no class meeting on March 15, 2016, due to SMU’s Spring Break. Also, please note that classes normally scheduled to meet on Thursday, April 7, 2016, will not meet (Monday classes will meet on that day instead). In addition, the class meeting on January 21, 2016, is likely to be rescheduled due to a prior commitment.

2. Student Learning Outcomes

Upon successful completion of this course, students will have an enhanced knowledge of the impact that emerging technologies—specifically social networking platforms such as Facebook and Twitter—are having on the legal system, substantive areas of law, and the legal profession. Students will gain knowledge of how social media is affecting fundamental notions of jurisdiction; procedural concerns such as service of process; and substantive areas including family, criminal, tort, employment, securities, intellectual property, defamation, estate planning/probate, and constitutional law. In addition, students will gain skills in the discovery of social media content as well as its evidentiary use. Finally, students will achieve familiarity with an attorney’s ethical obligations regarding the use of social media, as well as with the use of social media in marketing one’s practice.

3. Course Requirements

The course requirements consist of one 12–20 page paper which will be due at the end of the course; the exact due date and specific parameters of the paper will be discussed in greater detail as the course progresses, but it will involve original analysis of some aspect of the intersection between social media and the legal system and/or the impact that social media has had on some area of the law. Examples of such topics might include how the Texas court system has reacted to the problem of online “investigation” by jurors, the First Amendment implications of student expression via Facebook profiles/pages, or the issue of who owns an employee’s LinkedIn contacts or other social media content.

In addition to the paper, part of each student’s grade will take into account regular attendance and class participation. This will take the form of a ½ grade “bump”; for example, satisfactory or better class participation and exemplary attendance can raise a “B+” grade on the paper to an “A-” for the course. Regular and punctual class attendance is required, and attendance will be taken.

4. Course Materials

The text for this course is The Lawyer’s Guide to Social Networking: Understanding Social Media’s Impact on the Law (Browning, Thomson Reuters West Publishing 2010), as well as the supplemental reading packet that is available through Lone Star.

5. Class Assignments

The assignment for the first class has already been posted. The following reflects reading from the course text, as well as the supplemental packet, for class meetings this semester:

January 7, 2016 – Introduction / Jurisdiction / Service of Process

- Read Chapters 1–4 of the text; *People v. Franco*; the chapter excerpt from Michael Connelly’s *The Fifth Witness*; Prof. Browning’s article on service via social media platforms from *Reynolds Courts & Media Law*; *Fortunato v. Chase Bank*; the *PCCare 247* case; *Waterman Steamship Corp. v. Ruiz*; *Wilkerson v. RSL Funding, LLC*; and *Baidoo v. Blood-Dzraku*.

January 14, 2016 – The “Facebook Divorce”: Social Networking and Family Law

- Read Chapter 5 and article from packet on social media in family law cases

January 21, 2016 – Use of Social Networking Evidence in Criminal Matters

- Read Chapter 6 and *Bradley v. State*

January 28, 2016 – Social Media Evidence in Tort Litigation

- Read Chapter 7

February 4, 2016 – Social Networking and Employment Law

- Read Chapter 8; the NLRB General Counsel’s 8/18/11 Report concerning social media cases and its January 24, 2012 Report; and *Rodriguez v. Wal-Mart*

February 11, 2016 – Social Media and Defamation Law

- Read Chapter 9

February 18, 2016 – Intellectual Property Concerns/Social Media and Securities Law

- Read Chapter 13–14

February 25, 2016 – Constitutional Issues in Social Networking/Social Media’s Impact on Canadian Law

- Read Chapters 12 & 19, the *Kowalski v. Berkeley County Schools* 4th Circuit decision, *Mattingly v. Milligan*, and *Bland v. Roberts*

March 3, 2016 – Discovery Issues and Social Media Evidence

- Read Chapters 10–11 and the following cases:
Cabrera v. Honeybaked Ham Co.
Patterson v. Turner Construction Co.
Romano v. Steelcase, Inc.
Offenback v. L.M. Bowman, Inc.
Largent v. Reed
Mailhoit v. Home Depot
Tompkins v. Detroit Metropolitan Airport, 2012 WL 179320 (E.D. Mich., Jan. 18, 2012).
Farley v. Callais & Sons LLC

March 10, 2016 – Evidentiary Issues

- Read Chapters 10–11 and the following cases:

United States v. Musgrove

Tienda v. State of Texas

Griffin v. Maryland (both)

People v. Malcolm Harris

State v. Eleck 2011 WL 3278663 (Conn. App. 2011).

March 24, 2016 – Ethical Issues in Social Networking

- Read Chapters 15–16; the New York City Bar Ethics Opinion 2010-2; New York State Bar Ethics Opinion 843; NYCLA Committee on Professional Ethics Opinion 743; San Diego County Bar Ethics Opinion 2011-2; Supreme Court of Ohio Ethics Opinion 2010-7; Maryland Judicial Ethics Committee Opinion 2012-07; and article *It's Complicated*

March 31, 2016 – Social Networking and Juries

- Read Chapters 17–18; *Dimas-Martinez v. State of Arkansas*; *State of West Virginia v. Dellinger*; the amendment to jury instructions under Texas Rule of Civil Procedure 226; and *Sluss v. Commonwealth of Kentucky*

April 14, 2016 – Social Networking and Attorney Marketing

- Read Chapter 20 and article on lawyer advertising and social Media (to be handed out)

April 21, 2016 – What Does the Future Hold? New Crimes, Defenses, Causes of Action, and Legal Duties in the Age of Social Media

- Read Chapter 21 and the 2 articles provided on digital estate planning.

6. Disability Accommodations

Students needing academic accommodations for a disability must first be registered with Disability Accommodations & Success Strategies (DASS) to verify the disability and to establish eligibility for accommodations. Students may call 214-768-1470 or visit <http://www.smu.edu/Provost/ALEC/DASS> to begin the process. Once registered, students should then provide the letter of accommodation to Assistant Dean Steve Yeager to put accommodations in place in the law school.

7. Religious Observance

Religiously observant students wishing to be absent on holidays that require missing class should notify me in writing before the class that will be missed. This will be counted as an excused absence in accordance with University policy.

8. Contact Information

As an adjunct professor, I do not have an office or regular office hours at SMU. However, if you should have questions about the course, assignments, or social media and the law generally, you may contact me at my office at (214) 698-3512, and via email at browningj@passmanjones.com.