Media and the LAW

25th Annual Seminar

The Changing Face of Media

Friday May 4, 2012
8:00 a.m.–4:15 p.m.
InterContinental Kansas City at the Plaza
Kansas City, Missouri

Schedule Includes:

- **Toto, We’re Not In Kansas…But Google Is!**
  What happens when technology, big business and individual rights collide?

- **Whose Book Is This?**
  Digital publishing, copyright and the future of “orphaned” literary works

- **Anti-Social Media**
  Social media and the struggle for free speech

- **Winning by Spinning?**
  The ethics of litigating civil cases in the media

- **Taking the Punch from Defamation Suits**
  A comparative analysis of state approaches to anti-SLAPP statutes

Luncheon Speaker

- **Fredrik Gertten, Filmmaker**
  *Big Boys Gone Bananas!* and *Bananas!*

Bonus Program on May 3

- **Media Insurance 360**
  New media, new coverage issues and unpredictable losses

Sponsors: The Kansas City Metropolitan Bar Association Media Law Committee and University of Kansas School of Law

Contributors: AXIS PRO; CNA; Larry Worrall; Michelle Worrall Tilton, Media Risk Consultants LLC; Landon Rowland, Lead Bank; Lathrop & Gage; OneBeacon Professional Insurance; and the Media, Privacy and Defamation Law Committee of the Tort, Trial and Insurance Practice Section of the ABA

Coordinated by: University of Kansas Continuing Education

www.ContinuingEd.ku.edu (keyword: Media & Law)
Join us Thursday for a free CLE
Media Insurance 360

New media, new coverage issues and unpredictable losses
(A Joint ABA TIPS/KCMBA Media Law Committee Presentation)

The KCMBA Media Law Committee and the ABA TIPS Media, Privacy and Defamation Law Committee are teaming up again to present free CLE on Thursday, May 3, from 4–5 p.m. The convergence of content, technology and services has resulted in media liability policies that are broader than ever. Competition among insurers remains fierce, pushing premiums and retentions to low levels despite unknown risks presented by emerging technology. Insurance veterans will analyze how media insurers will survive unpredictable losses and attendant coverage issues presented by new media.

Moderator: Dana McElroy, Partner, Thomas & LoCicero PL, Ft. Lauderdale, Fla.
Mike DiSilvestro, Vice-President, Claims, AXIS PRO, Kansas City, Mo.
James Holmes, Partner, Sedgwick LLP, Los Angeles, Calif.
Chad Milton, Partner, Media Risk Consultants LLC, Shawnee Mission, Kan.
Eileen Reingold, Senior Vice President, Willis Group, New York, N.Y.

PROGRAM OVERVIEW
For 25 years, the Media and the Law Seminar has highlighted important First Amendment issues. In the late 1980s, there was significant concern among media advocates that the U.S. Supreme Court’s ruling in Milkovich v. Lorain Journal would erode protected opinion under the First Amendment. In the next decade, newsgathering techniques took center stage in high stakes privacy suits, such as in Food Lion v. ABC, as juries punished intrusive media defendants, and the public developed its first taste for “reality” programming. Libel damages, which had been increasing, peaked with a $222 million jury verdict (which was never collected) in MMAR Group Inc. v. Dow Jones & Company. As the new millennium dawned, courts struggled to apply First Amendment principles to Internet communications and to interpret new federal laws, such as Section 230 of the Communications Decency Act and the Digital Millennium Copyright Act. In 2008, we witnessed the rapid decline of news media companies as subscribers—and advertisers—left in droves for online sources of news and information. Today, social media has become the platform of choice for many, allowing them to influence and challenge corporations, government and politics by speaking with a unified voice in tweets, texts and posts. Through it all, the First Amendment continues to endure and expand, even protecting speech and conduct most consider to be repugnant, such as that directed toward fallen U.S. soldiers by the Westboro Baptist Church.

With a nod to its past and a look toward the future, this year’s seminar will discuss how new media challenges our notion of privacy and free speech. Google plans to wire Kansas City, Kansas as its first city of the future. Our panel will analyze whether the benefits of immediate public access trump concerns over Google’s access to the online actions of so many. In another panel, authors seeking to protect their copyright interests will square off against book publishers seeking to digitize “orphaned” literary works. We will explore how dancing flash-mobs have morphed into sinister “smash and grabs” and how city officials struggle to balance the protection of citizens against the right of others to be heard. Film clips will spotlight a dispute over whether zealous plaintiffs’ attorneys improperly use documentaries to the detriment of corporate defendants in civil litigation. Finally, we’ll discuss how anti-SLAPP statutes are being adopted by more states and weakening the threat of libel litigation.

LUNCHEON SPEAKER: FREDRIK GERTTEN

Fredrik Gertten is a Swedish filmmaker and journalist. In 2009, Mr. Gertten’s documentary, Bananas!, highlighted the plight of twelve Nicaraguan workers on the Dole Food Company banana plantation, who sued the food giant for negligently exposing them to DBCP, which allegedly caused sterility. After the film’s initial screening at the Los Angeles Film Festival in June 2009, Dole sued Mr. Gertten for defamation. Amid threats of further litigation from Dole’s attorneys, the LA Film Festival removed the documentary from competition. Mr. Gertten and his legal team fought back filing, a special motion to strike the complaint under California’s anti-SLAPP statue. In response to the motion—and with the film effectively silenced—Dole voluntarily dropped its defamation suit without prejudice. A year later, the California Superior Court granted the defendant’s motion and fully vindicated the film on the defamation claim, thus making its distribution possible. The court held that Dole’s lawsuit lacked “minimal merit” and that a “careful review of the film did not support Dole’s assertions” in the complaint. Dole was ordered to pay defendants’ attorneys’ fees. Gertten’s fight for the film and freedom of speech won international recognition. In Sweden, he was awarded the Anna Politkovskaya Freedom of Speech Award.

This past year, Mr. Gertten directed the film, Big Boys Gone Bananas!, which documents Dole’s efforts to suppress and discredit Bananas! through litigation, intimidation and PR spin. The film premiered at the Sundance Film Festival to rave reviews. Out of an abundance of caution, Gertten attended the festival with his media defense attorney at his side.

FRIDAY EVENING RECEPTION
at the College Basketball Experience

Hors d’oeuvres & drinks (included in registration)

After a fun-filled day discussing legal matters, it’s time to go to court. Join us for an evening with friends and colleagues at the College Basketball Experience. Although the College Basketball Experience honors the game’s many great players, coaches and moments, it’s not like most museums. This 41,500-square-foot venue lets casual and hardcore fans completely immerse themselves in college basketball, from playing on a full-size court to taping a broadcast from the ESPN news desk.

The College Basketball Experience includes the National Collegiate Basketball Hall of Fame. Visitors can discover or relive the seminal moments in college basketball’s colorful history, including Kansas City’s unique role. When you’re done with the Hall of Fame, you can work on your free throws, throw down dunks on rims of varying heights or practice the perfect bounce pass.

With the Sprint Center next door and the Kansas City Power & Light District across the street, you’ll find plenty to do once the horn sounds on your evening at the College Basketball Experience.

CLE CREDIT

A total of 8.0 CLE credit hours, including one hour of ethics, has been approved by the Kansas CLE Commission, as well as in Missouri, New York and California.

The seminar support staff will provide assistance on-site to attendees who plan to apply for CLE credit from other jurisdictions.

REGISTRATION & FEES

The registration fee includes panel instruction, materials, luncheon and refreshments. See the registration form for fee options.
A block of rooms has been reserved at the InterContinental Kansas City at the Plaza, 401 Ward Parkway, Kansas City, Mo. until 5 p.m. April 2, 2012. After that date, room availability and rate cannot be guaranteed. Please make your reservations by calling 866-856-9717, or register online at www.kansascityjc.com. To receive the special seminar rate of $184, mention that you will be attending the University of Kansas Media and the Law Seminar. If you register online, you will need to use the group code M12 to receive the special rate.

LOCATION & PARKING
InterContinental Kansas City at the Plaza
401 Ward Parkway, Kansas City, Missouri

Hotel guest valet parking is $18 a day or self-park for $15 a day. Participants commuting to the seminar can park during the day at the InterContinental at no cost.

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KANSAS CITY ATTRACTIONS
Thinking of enjoying the weekend in Kansas City after the seminar? Attractions include:

Country Club Plaza—Across the street from the InterContinental Kansas City at the Plaza, the 15-block district is one of Kansas City’s popular retail, dining and entertainment destinations. Visit www.countryclubplaza.com.

For additional information on Kansas City events, visit www.kansascity.com.

Program Accessibility: We accommodate persons with disabilities. Please call 785-864-5823 or mark the space on the registration form, and a KU Continuing Education representative will contact you to discuss your needs. To ensure accommodation, please register at least two weeks before the start of the seminar.

The University of Kansas is committed to providing programs and activities to all persons, regardless of race, religion, color, national origin, ancestry, sex, age, disability, and veteran status. In addition, university policies prohibit discrimination on the basis of sexual orientation, marital status, and parental status.

Refund and Cancellation Policy: A full refund of registration fees, less a $50 administrative fee, will be available if requested in writing and received by April 27, 2012. No refunds will be made after that date. A $30 fee also will be charged for returned checks. (Please note that if you fail to cancel by the deadline and do not attend, you are still responsible for payment.) KU Continuing Education reserves the right to cancel the 25th Annual Media and the Law Seminar and return all fees in the event of insufficient registration. The liability of the University of Kansas is limited to the registration fee. The University of Kansas will not be responsible for any losses incurred by registrants, including but not limited to airline cancellation charges or hotel deposits.

Thursday, May 3
4–5 p.m. Bonus Program (free CLE)
Media Insurance 360
New media, new coverage issues and unpredictable losses

Friday, May 4
7:00 a.m. Registration & Continental Breakfast
8:00 a.m. Welcome
Russell Hickey, Chair, Media & the Law Committee, AXIS PRO, Kansas City, Mo.

Seminar Moderator: Mike Kautsch, Professor, Media, Law & Technology, University of Kansas School of Law, Lawrence, Kan.

Roger Fidler, Program Director for Digital Publishing, Donald W. Reynolds Journalism Institute, Columbia, Mo.
Robb Heineman, CEO, Sporting KC, Kansas City, Mo.
Thomas R. Julin, Partner, Hunton & Williams, Miami, Fla.

9:10 a.m. Q & A
9:25 a.m. PANEL 2. Whose Book Is This?
Digital publishing, copyright and the future of “orphaned” literary works
Moderator: Kate Spelman, Co-Founder/Partner, Cobalt LLP, Berkeley, Calif.
Steve Potter, Director of Libraries, Mid-Continent Public Library, Kansas City, Mo.

10:25 a.m. Q & A
10:35 a.m. Break

10:50 a.m. PANEL 3. Anti-Social Media
Social media and the struggle for free speech
Moderator: Roger Myers, Partner, Bryan Cave LLP, San Francisco, Calif.
Sylvester “Sly” James, Jr., Mayor, City of Kansas City, Mo.
Jean Maneke, Attorney, The Maneke Law Group, Kansas City, Mo.
Lee Tien, Senior Staff Attorney, Electronic Frontier Foundation, San Francisco, Calif.

11:50 a.m. Q & A
Noon Luncheon Address: Fredrik Gertten

1:30 p.m. PANEL 4. Winning by Spinning?
The ethics of litigating civil cases in the media
Moderator: Bruce Johnson, Partner, Davis Wright Tremaine, Seattle, Wash.
Karen Shatzkin, Partner, Shatzkin & Mayer PC, New York, N.Y.
John Walsh, Senior Counsel, Carter Ledyard & Milburn LLP, New York, N.Y.
Michael Wolff, Law Professor, St. Louis University, St. Louis, Mo., and former Missouri Supreme Court Chief Justice

2:30 p.m. Q & A
2:40 p.m. Break

3:00 p.m. PANEL 5. Taking the Punch From Defamation Suits
A comparative analysis of state approaches to anti-SLAPP statutes
Moderator: Lincoln Bandlow, Partner, Lathrop & Gage, Los Angeles, Calif.
Steve Mandell, Partner, Mandell Menkes, Chicago, Ill.
Laura Prather, Partner, Sedgwick LLP, Austin, Texas
L. Lin Wood, Partner, Wood Hernacki & Evan LLC, Atlanta, Ga.

4:00 p.m. Q & A
4:10 p.m. Adjourn
5:30 p.m. Reception at The College Basketball Experience
MEDIA and the LAW 2012
May 4, 2012 • InterContinental Kansas City at the Plaza, Kansas City, Missouri

REGISTER NOW!

“Timely, substantive, and hands-on. Information from real experts in the field.”
—Robb Harvey, Nashville, Tenn.

“Excellent, Excellent—variety, management, content all good. Once again lived up and surpassed my ‘yearly’ expectations. I’ll be back next year.”
—Michelle Ness, Topeka, Kan.

For conference updates, visit www.ContinuingEd.ku.edu/programs/media_law/ or find us on Facebook, Twitter or LinkedIn.

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MEDIA and the LAW 2012
May 4, 2012

Fees

May 3—Pre-Conference CLE
☐ “Media Insurance 360” ..................................................................................................................... No charge

May 4
☐ KCMA lawyer .................................................................................................................................. $325
☐ Non-KCMA lawyer registered by April 6, 2012 .............................................................................. $350
☐ Non-KCMA lawyer registered after April 6, 2012 ........................................................................... $400
☐ Journalist/media ............................................................................................................................ $60
☐ Educator .......................................................................................................................................... $60
☐ Member of the public ..................................................................................................................... $110
☐ Full-time student ............................................................................................................................ $55
☐ Luncheon only (available after April 6; preference will be given to seminar registrants)............ $50
☐ Friday evening reception at the College Basketball Experience (included in reg. fee) .......... No charge
☐ Vegetarian lunch option

Total due $ __________________________

Payment

Registrations will not be processed until payment is received. Payment for early bird registrations must be received on or before the early bird deadline.

☐ Check enclosed, payable to the University of Kansas.

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Preferred Means of Communication

Please continue to send KUCE information by (check all that apply):
☐ Mail ☐ E-mail ☐ Fax
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Easy Ways to Register

Mail Complete the registration form and mail with payment to:
The University of Kansas
Continuing Education
Registrations
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Phone Toll-free 877-404-5823 or 785-864-5823

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☐ Special Accommodation

If you will need special accommodation, please mark the box above, and a member of the Continuing Education staff will contact you.

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