

The Fickle Future of First Freedoms

Countering Top Threats to the First Amendment

Friday, May 5, 2017 | 8:00 a.m. – 4:15 p.m.

InterContinental Hotel at the Plaza, Kansas City, Missouri

law.ku.edu/media-law-seminar

30th Annual

MEDIA
— and the —
LAW

Seminar

Coordinated by University of Kansas Professional & Continuing Education



30th Annual



Seminar

Each year, the University of Kansas School of Law and the Kansas City Metropolitan Bar Association Media Law Committee host the Media and the Law Seminar in Kansas City, along with other local events, to facilitate and encourage dialogue about the latest legal issues and developments in media, law and technology.

Program Overview

Digital technology has changed everything—from the way international corporations do business to the way teenagers communicate with each other. But with those changes come challenges, and press freedom is not immune.

News leaders resoundingly agree that laws related to the First Amendment are no longer adequate in the digital age. In a recent survey of leading news editors by the Knight Foundation, 88% agreed that “there are many unsettled legal questions about the scope of free expression” today.

At this year’s 30th annual seminar, we will take on these unanswered questions and present how media law practitioners can counter the top threats to the First Amendment.

CLE Credit – A total of 9 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. Seminar support staff will provide on-site assistance to attendees who plan to apply for CLE credit from other jurisdictions.

Lodging – A block of rooms has been reserved at the InterContinental Kansas City at the Plaza, 401 Ward Parkway, Kansas City, Mo., at the special seminar rate of \$194. The block is available through 5:00 p.m., April 3, 2017. After that date, room availability and rate cannot be guaranteed.

Phone: Call 866-856-9717 and mention that you will be attending the Media and the Law Seminar.

Online: Visit <http://www.kansascityic.com>, enter the date you will be staying and click “Book Now.” Use the Group Code “M17” to receive the special rate.

Location & Parking – The InterContinental Kansas City at the Plaza offers valet parking for \$22 per day or self-parking for \$18 per day to hotel guests. For commuting participants, daily parking at the InterContinental is complimentary when available.

Sponsors

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

Contributors

AXIS Insurance; Fox Rothschild LLP; Katten Muchin Rosenman LLP; Larry Worrall; Lathrop & Gage LLP; Levine Sullivan Koch & Schulz LLP; OneBeacon Entertainment; Satterlee Stephens Burke & Burke LLP; Stevens & Brand, Thomas & LoCicero PL; Vedder Price; Media, Privacy and Advertising Law Committee of the Tort, Trial and Insurance Practice Section of the ABA

Luncheon Speaker Linda Deutsch, Associated Press Special Correspondent



In five decades with The Associated Press, Linda Deutsch established herself as the nation’s leading expert in the coverage of high-profile trials. From Manson to O.J. Simpson, Michael Jackson, and many others in between, she has become known for her fair and unbiased coverage.

Deutsch has been “ranked among the foremost American courtroom journalists of modern times” by Current Biography magazine, which adds: “She is best known for her detailed, objective reporting on some of the most sensational, newsworthy and influential trials of recent decades.”

An exclamation point was added to Deutsch’s career by her Pulitzer Prize-nominated coverage of the O.J. Simpson criminal and civil trials. Deutsch’s work on the case brought her face, as well as her byline, into millions of homes as she was called upon by TV news shows to share her expertise for their audiences.

Following her retirement in 2015, she became a TV presence and regularly appears in the series, “Murder Made Me Famous.”

Deutsch has received the University of Missouri’s Honor Medal for Distinguished Service in Journalism and the Society of Professional Journalists’ national First Amendment Award. She has also been recently honored with lifetime achievement awards by the International Women’s Media Foundation, the Washington Press Club Foundation and Loyola Law School.

Luncheon Presentation Journalism and Justice: A Look at Trials that Made History

Associated Press Special Correspondent Linda Deutsch will share her views on the importance of high profile trials as a mirror of America’s transformative changes and as a force in shaping both the justice system and a society that reacts to these cases. She also has many stories to tell about what it was like to be there.

Kansas City Attractions

Thinking of enjoying the weekend in Kansas City? There are attractions and events for everyone, including:

Country Club Plaza – Across the street from the InterContinental Hotel at the Plaza, the 15-block Country Club Plaza is one of Kansas City’s popular retail, dining and entertainment destinations.

Westport – A fusion of local eateries, fashionable boutiques and hot night spots compounded with remnants of the neighborhood’s historic past, this entertainment district boasts a rich history as the oldest established community in Kansas City.

Crossroads Arts District – Kansas City’s eclectic enclave hosts boutique shops, one-of-a-kind restaurants, creative businesses, studios and art galleries.

Kansas City Power & Light District – Spread over a half-million square feet, the Kansas City Power & Light District is the Midwest’s premier entertainment epicenter. With more than 50 unique and captivating shops, restaurants, bars and entertainment venues, the district offers something for everyone.

Additional information – www.visitkc.com

For more information or to register, find us at law.ku.edu/media-law-seminar

Thursday, May 4

4-5:45 p.m. **BONUS SESSION***
A Five Star Review: Navigating the Pros and Cons of Crowdsourced Media for Your Clients and Firm

2 hours CLE

(A program jointly sponsored by the KCMBA, and the Media, Privacy and Advertising Law Committee of the ABA/TIPS)

*Free when attending the Friday program

Moderator: Amanda Zimmerman, *Partner, Jackson Walker, Houston, Tex.*

Panelists: Richard Callow, *Public Eye, Inc., St. Louis, Mo.*; Erin Evans, *Counsel - Consumer and Marketing Practices, Sprint, Overland Park, Kan.*; Karen R. Glickstein, *Shareholder, Polsinelli LLC, Kansas City, Mo.*; Richard Morefield, *Member, Morefield Speicher Bachman LLC., Overland Park, Kan.*; James Rosenfeld, *Partner, Davis Wright Tremaine LLP, New York, N.Y.*

Friday, May 5

7:00 a.m. **Registration & Continental Breakfast**

8:00 a.m. **Welcome**

Emily Caron, *Co-Chair, Media and the Law Committee, Vice President, Media Liability Claims, OneBeacon Technology Insurance, Overland Park, Kan.*; Eric Weslander, *Co-Chair, Media and the Law Committee, Associate, Stevens & Brand LLP, Lawrence, Kan.*

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

8:10 a.m. **PANEL 1**
If You Can't Say Anything Nice, Don't Say Anything: Analyzing un-publishing demands, non-disparagement clauses, and whistle blower retaliation and their impact on the Fourth Estate

Moderator: Cynthia Counts, *Partner, Duane Morris, Atlanta, Ga.*

Panelists: Jonathan Anshell, *Executive Vice President, Deputy General Counsel and Secretary, CBS Corporation, Los Angeles, Calif.*; Elizabeth McNamara, *Partner, Davis Wright Tremaine, New York, N.Y.*; Joshua Pila, *General Counsel, Local Media Group, Meredith Corporation, Atlanta, Ga.*; Nabiha Syed, *Assistant General Counsel, BuzzFeed, New York, N.Y.*

9:00 a.m. **PANEL 1 Q&A**

9:10 a.m. **PANEL 2**
DMCA Smackdown—Take it Down Because I Said So!

Moderator: Peter Rienecker, *Vice President and Senior Counsel, HBO, New York, N.Y.*

Panelists: Fred von Lohmann, *Senior Copyright Counsel, Google, San Francisco, Calif.*; Ben Scheffner, *Vice President, Legal Affairs, Motion Picture Association of America, Inc., Sherman Oaks, Calif.*; Wendy Seltzer, *Policy Counsel, World Wide Web Consortium, Boston, Mass.*

10:00 a.m. **PANEL 2 Q&A**

10:15 a.m. **Break**

10:30 a.m. **PANEL 3**
Anonymous Speech and the Dark Web: Resolving the tension between First Amendment rights and online threats to reputation, privacy and public safety

Moderator: Rachel Matteo-Boehm, *Partner, Bryan Cave, San Francisco, Calif.*

Panelists: David Greene, *Civil Liberties Director, Electronic Frontier Foundation, San Francisco, Calif.*; Ronald Miller, *former police chief of Topeka and Kansas City, Kansas, Basehor, Kan.*; Steve Vockrodt, *Reporter, Kansas City Star, Kansas City, Mo.*

11:20 a.m. **PANEL 3 Q&A**

11:30 a.m. **Luncheon Address**

Linda Deutsch, *Special Correspondent, Associated Press, Los Angeles, Calif.*

1:00 p.m. **PANEL 4**
#mediafrenzy: Exploring the Changing Coverage of "Trials of the Century"

Moderator: Chip Babcock, *Partner, Jackson Walker, Dallas, Tex.*

Panelists: Seth Berlin, *Partner, Levine, Sullivan, Koch Schulz LLP, Washington, D.C.*; Linda Deutsch, *Special Correspondent, Associated Press, Los Angeles, Calif.*; Kelli Sager, *Partner, Davis Wright Tremaine, Los Angeles, Calif.*

1:50 p.m. **PANEL 4 Q&A**

2:00 p.m. **Break**

2:15 p.m. **PANEL 5**
Technology, Truth, and the First Amendment

Moderator: Ashley Messenger, *Associate General Counsel, NPR, Washington, D.C.*

Panelists: Robert Corn-Revere, *Partner, Davis Wright Tremaine, Washington, D.C.*; Dan Margolies, *Health Editor, KCUR — Kansas City Public Media, Kansas City, Mo.*; Jonathan Peters, *Assistant Professor, William Allen White School of Journalism and Mass Communications, University of Kansas, Lawrence, Kan.*

3:05 p.m. **PANEL 5 Q&A**

3:15 p.m. **PANEL 6**
Whatever Happened to Champerty and Maintenance? The ethics of third-party financing of litigation against the media.

Moderator: Katherine M. Bolger, *Partner, Levine Sullivan Koch & Schulz, New York, N.Y.*

Panelists: Libby Locke, *Partner, Clare Locke LLP, Alexandria, Va.*; Len Niehoff, *Of Counsel, Honigman Miller Schwartz and Cohn, and Professor, University of Michigan Law School, Ann Arbor, Mich.*; Mitchell A. Orpett, *Partner, Tribler Orpett & Meyer PC, Chicago, Ill.*

4:05 p.m. **PANEL 6 Q&A**

4:15 p.m. **Adjourn**

4:05 p.m. **Cocktail Reception**

InterContinental Rooftop Lounge

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- Whatever Happened to Champerty and Maintenance? The ethics of third-party financing of litigation against the media.

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