**Law, Politics, and the Media**

LAW 839/PSC 700/NEW 500

Wednesday 2:30 p.m.-5:15 p.m.

Sonkin Seminar, Room 342

Dineen Hall

Syracuse University College of Law

Spring 2017

**Course Faculty**

Keith J. Bybee Roy Gutterman

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 (and by appointment)

**Graduate Assistant**

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**Course Web Page**

<http://jpm.syr.edu/law-politics-media-course/>

[this page will list course announcements and

any changes to course assignments]

**Course Description**

The American legal system today operates in a complex environment of formal doctrine, political pressure, and media coverage. The goal of this course is to introduce students to the court system and its environment as a single, integrated subject of study. Academic discussions are complemented by guest lectures given by practitioners from the bench, the bar, the media, and the world of policymaking. Topics to be covered in the course include: perspectives from the Chief Judge of the Second Circuit, partisanship in the media, the importance of free access to the law, journalism through freedom of information, voting rights, and the law, media, and public policy impacts of a new President assuming office.

**Workload**

This is a 3 credit course. Pursuant to ABA Standard 310, that means that in addition to the time you spend in class, you are expected to spend at least an additional 6 hours per week on course related work. Although course related work may vary each week, it often includes reading the assigned material, taking notes, performing library research, outlining and writing papers, and attending faculty office hours.

**Learning Outcomes**

This course is designed to help students achieve the following learning outcomes:

* Demonstrate knowledge of the basic structure and procedures of governance, including the interaction of courts, policymakers, and the media.
* Effectively analyze the legal and policy arguments made by legal practitioners, media professionals, and public officials.
* Refine capacity to explain legal issues understandably orally and in writing, with an emphasis on the broader context in which legal issues arise.
* Demonstrate research skills, including ability to identify and evaluate relevant facts, authorities, and scholarship.
* Enhance and expand understanding of the role played by law and lawyers in society and the impact of law on institutions and public life.

**Formative and Summative Assessment**

Pursuant to ABA Standard 314, this course employs both formative and summative assessment.

Formative assessment gives students feedback **during** a course in order to improve student performance. In this course, students will receive formative assessment through the faculty feedback provided during class discussion as well as through the grades for (and faculty comments on) the two critical assessment papers that students are required to write (please see “Course Requirements and Grading” for more information on class participation and the critical assessment papers). Both forms of formative assessment are designed to guide students as they journey toward the Learning Outcomes for this course.

Summative assessment happens **after** the completion of course work and informs students of their level of achievement. In this course, students will be summatively assessed by the awarding of a grade for their class participation over the course of the semester and through the grading of a research paper (please see “Course Requirements and Grading” for more information on class participation and the research paper). These two forms of summative assessment align with the Learning Outcomes for this course.

**Course Requirements and Grading**

Class attendance and participation (20%) The ABA and the College of Law require regular and punctual class attendance from all students. As a general matter, attendance is also a matter of enlightened self-interest and those students wishing to do well in the course will attend all classes. Attendance will be taken at each class meeting. If a student records more than two unexcused absences, then that student will be dropped from the course. Please note that attendance is the minimum requirement for the participation grade. To receive a good participation grade, students must attend and actively participate in class discussions.

Two six-page papers critically assessing the presentations of two guest speakers (20% for each paper) Papers are due in class on the Wednesday following the lecture about which students choose to write. Students may choose the guest speaker they would like to assess in each of their response papers subject to the following requirement: students must write their first response paper on one of the first four guest speakers and write their second response papers on one of the last four speakers. The term “guest speaker” does not include course faculty.

Response paper guidelines A response paper is a critical appraisal of a speaker’s presentation. A paper should not simply summarize a presentation nor should it be a mere record of a student’s impressions. Instead, a response paper makes an argument (with a clear thesis, logically related assertions, and appropriate evidence) that shows how and why the student agrees or disagrees with a speaker’s claims. It is not necessary for a student to address every detail of the speaker’s lecture. The best response papers zero-in on several points that are essential to the speaker’s presentation and builds an analysis around those points. Please note that independent research is not required for the response papers. Depending on the argument that is being made in a given response paper, a student may sometimes find that he or she has to perform independent research in order to gather appropriate evidence. If so, the amount of independent research should be modest (students will have an opportunity to perform significant independent research in their research papers – see below). Since appropriate evidence can often be found in the required reading for the course, in the discussions led by course faculty, or in the arguments made by other guest speakers, independent research is not a mandatory element of the response papers. Finally, please note that the evidence used in response papers (whether or not the evidence results from independent research) must be properly cited.

Twenty-page (fifteen-page for NEW undergraduate students) research paper (40%) Requirements for the paper will be discussed in detail as the course progresses. Papers are due by 5:00pm on Wednesday, May 3. Each student must turn in a hard copy of their paper to the course faculty responsible for grading the papers. Students will be required to attend individual meetings with course faculty to discuss their research papers (all individual meetings will be held during Week 8 and most of the meetings will be arranged during regularly scheduled class time on March 8).

Law students: Please note that this course does not satisfy the COL writing requirement. Please also note that this course is exempt from the upper-class grading curve. LL.M. students in the course will participate in all classes and course activities with the J.D. students (as well as with the Maxwell and Newhouse students). LL.M. students will also be subject to the same course requirements as the J.D. students. Each LL.M student, like each J.D., Maxwell, and Newhouse student, will be assessed and graded individually based on the merits of his or her work.

**Required Texts & Readings**:

* Robert Katzmann, Judging Statutes (2014), available for purchase or Kindle download at [https://www.amazon.com/Judging-Statutes-Robert-Katzmann-ebook/dp/B00LXZTU8O/ref=mt\_kindle?\_encoding=UTF8&me](https://www.amazon.com/Judging-Statutes-Robert-Katzmann-ebook/dp/B00LXZTU8O/ref%3Dmt_kindle?_encoding=UTF8&me)=
	+ Please purchase and read this book before Judge Katzmann lectures on April 5.
* Handouts (to be distributed in class as the semester progresses).
* Online material (links on syllabus and PDFs available on Black Board). **THE ONLINE MATERIAL IS SUBJECT TO CHANGE**. Please visit the syllabus posted on the course website regularly to ensure you are current with the class material.

**Guest Lectures**:

Over the course of the semester there will be eight guest lectures. The lecture dates are indicated on the course schedule. Lectures will be held in **360 Dineen Hall (Feinberg Lecture Hall)**, will run from 4:00pm-5:15pm, and will be open to the public. There will be a small reception with refreshments after every lecture. Our class will meet before each lecture in our usual classroom (Room 342) for discussion, 2:30pm-3:45pm. The pre-lecture discussions will not be open to the public. After our pre-lecture discussion, the class will relocate to Room 360 for the lecture. Speaker bios are listed in the syllabus.

**Course Lunches**:

Each guest lecture will be preceded by an informal lunch for students in the course and the guest speaker. The lunches will be held in our usual classroom (Room 342) from 11:45am-12:45pm and food will be provided. Attendance at the lunches is optional, but students who do attend will have an invaluable opportunity to interact with the guest lecturers.

**Affiliated Institutes and Faculty**:

Law, Politics, and the Media is sponsored by the Institute for the Study of Judiciary, Politics, and the Media (<http://jpm.syr.edu/>) with assistance from the Tully Center for Free Speech (<http://tully.syr.edu/>). Professor Bybee directs IJPM, and Professor Lisa Dolak (Law) and Professor Roy Gutterman (Newhouse) serve as IJPM associate directors. Professor Gutterman also directs the Tully Center. Although she will not teach as part of the LPM team, Professor Dolak will attend LPM lectures from time to time, and she can be an important resource for students in the class.

**Additional Notes**:

Law students: If you have a disability that may affect your performance in this class, please see Michelle Wilcox, Director of Student Life, in room 220 as soon as possible, to discuss necessary accommodations. We are happy to cooperate with any arrangements made.

Newhouse and Maxwell students: If you have a disability that may affect your performance in this class, please contact the university Office of Disability Services (ODS), 304 University Avenue, Room 309, 315-443-4498. We are happy to cooperate with any arrangements made.

We do not object to the use of tape recorders to record class discussion, but we do expect all cell phones, pagers, and similar devices to be turned off during class time. We also ask that students refrain from emailing, surfing the web, instant messaging, gaming, and other computer diversions during class. Nothing in this paragraph should be read to preclude a student from utilizing an approved educational accommodation.

**Course Schedule**:

**Week 1 (1/18)**

Welcome to Law, Politics, and the Media

**Readings**:

* Overview of course and requirements. No reading assigned.

**Week 2 (1/25)**

Fundamentals of Media Practice

**Readings**:

* Kovach and Rosenstiel, *The Elements of Journalism* [Black Board]
* Keller and Greenwald, “Is Glenn Greenwald the Future of News?” [Black Board]
* Linda Greenhouse, “Law in the Raw” [Black Board]
* SCOTUSblog interview with Dahlia Lithwick. Watch video at <http://www.scotusblog.com/media/scotusblog-on-camera-dahlia-lithwick/>.

**Week 3 (2/1)**

Essential Principles of Politics

**Readings:**

* Mayhew, *Congress: The Electoral Connection* [Black Board]
* Schattschneider, *The Semisovereign People* [Black Board]

**Week 4 (2/8)**

*Luncheon will be held at 11:45 in the College of Law*

**The Supreme Court Reporter**

Speaker: Dahlia Lithwick

Speaker Bio:

**Readings**:

* Timely news articles to be provided on Blackboard

**Week 5 (2/15)**

Judicial Views of Politics, Media, and the Courts;

Public Views of the Judiciary

**Readings**:

* Federalist No. 78. Available at <http://thomas.loc.gov/home/histdox/fed_78.html>.
* Hon. Alex Kozinski, “What I Ate for Breakfast” [Black Board]
* Hon. John Walker, “Bench Press: Politics and the Confirmation Process” [Black Board]
* Bybee, “Justice Stewart Meets the Press” [Black Board]
* Bybee, *All Judges Are Political—Except When They Are Not* [Black Board]

**Week 6 (2/22)**

*Luncheon will be held at 11:45 in the College of Law*

**Unconstrained Global Power?: Law, Media and Public Policy Impacts as a New President Assumes the World's Most Powerful Role**

Speaker: Steven Schrage

Speaker Bio:

Mr. Schrage’s experience spans senior positions with the U.S. State Department, Office of the U.S. Trade Representative, the G-8, major presidential campaigns, and key roles for congressional committees and senior leadership. He served as deputy assistant secretary of state and acting assistant secretary under Colin Powell. During that time, he was selected by the White House and the State Department to lead major multilateral efforts among the United States’ top allies in the G-8 as the co-chair of the G-8’s Anti-Crime and Terrorism Group.

Previously, Mr. Schrage served in the White House office of the U.S. trade representative (USTR). He was the first senior official placed in the USTR in 2001, and later served under USTR Robert Zoellick. Additionally, Mr. Schrage was international trade counsel for the U.S. House of Representatives’ Ways and Means Committee (which initiates all U.S. trade legislation) and chief foreign policy counsel for the third-ranking member of the Senate Foreign Relations Committee. He has also held positions with both House and Senate leadership members. More recently, Mr. Schrage served as foreign policy and trade director for the 2008 presidential campaign of former Massachusetts governor Mitt Romney. Mr. Schrage is an honors graduate of Duke University and the University of Michigan Law School, and conducted MBA and doctoral studies at Harvard Business School, where he earned distinction (honors) for his doctoral work prior to his return to public service in 2000. Mr. Schrage is currently pursuing a PhD at the University of Cambridge.

**Readings**:

* TBA [Blackboard]

**Week 7 (3/1)**

*Luncheon will be held at 11:45 in the College of Law*

**Victim Mentality: How media portrayals of crime victims contribute to distortions that affect public opinion and policies on crime and punishment.**

Speaker: Mark Obbie

Speaker Bio:

Mark Obbie is a freelance journalist focusing on criminal justice policy. His work has appeared in *The New York Times*, *Slate*, *Pacific Standard*, TheAtlantic.com, Vice.com, *TheTrace.org*, *TakePart.com*, *Inc.* magazine*,* and *O, The Oprah Magazine*. Obbie was a 2014-15 Soros Justice Media Fellow, in which he produced a series of longform narratives for *Slate* exploring the crime-victim perspective on criminal justice reform. He is the former executive editor of *The American Lawyer* magazine, editor/publisher of *Texas Lawyer* newspaper, and he covered police and federal courts at *The Houston Post*. He is also a former associate professor of magazine journalism at Syracuse University's S.I. Newhouse School of Public Communications and helped found the Institute for the Study of the Judiciary, Politics, and the Media. He is a member of the American Society of Journalists and Authors, Investigative Reporters and Editors, and Criminal Justice Journalists. Find his work at http://markobbie.com and follow him on Twitter @markobbie.

**Readings**: Available on BB

* “Crime Survivors Speak,” advocacy and research report (Aug. 4, 2016, Alliance for Safety and Justice).
* “How the Gun Control Debate Ignores Black Lives,” by Lois Beckett (Nov. 24, 2015, ProPublica).

**Week 8 (3/8)**

**Students meet with course faculty to discuss research papers.**

**Week 9 (3/15)**

Spring Break. No class.

**Week 10 (3/22)**

*Luncheon will be held at 11:45 in the College of Law*

**Open Access to Law: Why it Matters to More People Than You Think**

Speaker: Thomas Bruce

Speaker Bio:

Thomas R. Bruce is the co-founder and Director of the Legal Information Institute. Educated at Yale College and the Yale School of Drama, he had a decade-long career as a stage- and production manager for such organizations as the American Repertory Theater, the Lyric Opera of Chicago, Houston Grand Opera, and Spoleto Festival USA, where he was Director of Special Technical Projects. After serving for five years as the Law School's Director of Educational Technologies, he became Co-Director of the LII at its founding in 1992, and sole Director in 2004. An Internet and Web pioneer, he developed the first Web browser for Microsoft Windows. He has served as a visiting fellow for the Center for Online Dispute Resolution at the University of Amherst, and as a Senior International Fellow of the University of Melbourne Law School. For more than a decade, he was the digital-projects consultant for the Harvard Law School Library, and has consulted on legal information projects on four continents. He has been an invited expert for the Hague Conference on Private International Law, and has testified before Congress on legal information modernization. In 2009, the American Bar Association Journal named him one of 50 innovators doing the most to change the American legal profession.

**Readings available on Blackboard**:

* Graham Greenleaf, *Legal Information Institutes and the Free Access to Law Movement* (skim)
* Daniel Poulin, *Open Access to Law in Developing Countries* (skim)
* Tom Bruce, *Tears Shed Over Gynt’s Onion: Some Thoughts on the Constitution of Public Legal Information*
* LII Practical Principles
* Tom Bruce, *Caselaw is Set Free, What Next?*

**Week 11 (3/29)**

*Luncheon will be held at 11:45 in the College of Law*

**With Pen and Gavel: How Reporters Fight for Access**

Speaker: Jennifer Borg

Speaker Bio:

Jennifer Borg serves as Vice President, General Counsel, and Corporate Secretary at North Jersey Media Group Inc. As the company’s chief legal counsel, Jennifer Borg directs the legal work for two daily newspapers, more than 50 community newspapers, a number of websites, and the company’s commercial printing business. North Jersey Media Group also publishes a number of glossy magazines, including The Parent Paper and (201). A litigation and transaction attorney, Ms. Borg handles intellectual property disputes, copyrights, licensing, and right-of-access claims, as well as other legal issues. Jennifer Borg was involved in licensing the renowned photograph taken by Thomas E. Franklin of The Record (Bergen Co., New Jersey) that features three firefighters raising an American flag at Ground Zero.

Actively involved with others in the journalism industry, Ms. Borg serves as President of the New Jersey Press Association and as a board member of both the Association and the New Jersey Press Foundation, a nonprofit organization that aims to inspire student journalists. Furthermore, she serves on the boards of the Hackensack University Medical Center Foundation, Table to Table, the Eddie Adams Workshop for photographers and photojournalists, and Programs for Parents. Jennifer Borg is also the founder and President of the North Jersey Media Group Foundation. In addition, she serves as the founder and member of Women United in Philanthropy, Bergen County’s first women’s giving circle. She also donates her time to Fighting Chance in Sag Harbor, which offers free counseling services to cancer patients and their families. In addition, Jennifer Borg served on the Board of the Hackensack University Medical Center, the Board of the Urban League for Bergen County, and the Marilyn Horne Foundation.

**Readings**:

* TBD – Will be available on Blackboard

**Week 12 (4/5)**

*Luncheon will be held at 11:45 in the College of Law*

**Interpreting the Laws of Congress: A View from the Federal Bench**

Speaker: Chief Judge Robert A. Katzmann

Speaker Bio:

Robert A. Katzmann is the Chief Judge for the U.S. Court of Appeals for the Second Circuit. He became Chief Judge on September 1, 2013. At his appointment in 1999, he was Walsh Professor of Government, Professor of Law and Professor of Public Policy at Georgetown University; a Fellow of the Governmental Studies Program of the Brookings Institution; and president of the Governance Institute.

Judge Katzmann received his A.B. (summa cum laude) from Columbia College, A.M. and Ph.D in government from Harvard University, and a J.D. from the Yale Law School, where he was an Article and Book Review Editor of the Yale Law Journal. After clerking on the U.S. Court of Appeals for the First Circuit, he joined the Brookings Institution, where he was a research associate, senior fellow, visiting fellow, and acting program director. His books include: Judging Statutes; Regulatory Bureaucracy: The Federal Trade Commission and Antitrust Policy; Institutional Disability; Courts and Congress; editor and project director of The Law Firm and the Public Good; co-editor of Managing Appeals in Federal Court; editor and contributing author of Daniel Patrick Moynihan: The Intellectual in Public Life; and editor and contributing author of Judges and Legislators.

He chaired the U.S. Judicial Conference Committee on the Judicial Branch, and serves as a member of the U.S. Judicial Conference. He also is a commissioner on the Supreme Court Fellows Commission. Judge Katzmann received the American Political Science Association’s Charles E. Merriam Award. He is also the recipient of: the Learned Hand Medal for Excellence in Federal Jurisprudence of the Federal Bar Council; the Chesterfield Smith Award of the Pro Bono Institute; the Stanley H. Fuld Award of the New York State Bar Association; the Michael Maggio Memorial Pro Bono Award of the American Immigration Lawyers Association; the Public Interest Scholarship Organization Lifetime Achievement Award; and the Green Bag’s “Exemplary Legal Writing” honoree recognition. His lectures include: the James Madison Lecture of New York University School of Law; the Orison Marden Lecture of the NYC Bar Association; and the Robert L. Levine Distinguished Lecture of Fordham University School of Law. He is a Fellow of the American Academy of Arts and Sciences.

**Readings**:

* Excerpts from Robert Katzmann, Judging Statutes (2014).

**Week 13 (4/12)**

*Luncheon will be held at 11:45 in the College of Law*

**Voting Rights for Millennials**

Speaker: Jenny Cheng

Speaker Bio:

Jenny Diamond Cheng is a Lecturer in Law at Vanderbilt Law School, and her research focuses on the political and legal treatment of families and children. She is currently authoring an article for the *Syracuse Law Review Volume 67* about voting rights.

Professor Cheng earned her B.A. in philosophy from Swarthmore College and her J.D. from Harvard Law School, where she was the book reviews chair of the Harvard Law Review, and a Ph.D. in political science from the University of Michigan. She has been a visiting assistant professor of law at Brooklyn Law School and a Miller Center Fellow in Public Affairs at the University of Virginia. At Vanderbilt, she teaches Education Law and The Individual in the Democratic State.

**Readings**: (Available on BB)

* Forthcoming *Syracuse Law Review* Article
* *Young Voters in the 2016 General Election*
* Excerpts from current voter rights cases – TBD

**Week 14 (4/19)**

*Luncheon will be held at 11:45 in the College of Law*

**Polarizing Partisanship in the Media**

Speaker: Matthew Levendusky

Speaker Bio:

Matthew Levendusky is currently associate professor and director of graduate studies in the Department of Political Science at the University of Pennsylvania. He was previously an assistant professor of Political Science at Penn (2007-2013), and a postdoctoral research associate at the Center for the Study of American Politics at Yale University (2006-2007). He obtained his Ph.D. from Stanford University in 2006, and his BA (with highest honors) from The Pennsylvania State University in 2001. In 2014 and 2016, he served as a decision desk analyst for NBC News.

He is the author of The Partisan Sort (University of Chicago Press, 2009) and How Partisan Media Polarize America (University of Chicago Press, 2013). Beginning with the 15th edition, he is a co-author of American Government: Institutions and Policies (Cengage Learning; with James Q. Wilson, John J. DiIulio, Jr., and Meena Bose) and beginning with the 13th edition, he is a co-author of American Government: Institutions and Policies, Brief Edition(Cengage Learning; with James Q. Wilson, John J. DiIulio, Jr., and Meena Bose). His work has also appeared in the American Journal of Political Science, Journal of Politics, Public Opinion Quarterly, and a variety of other outlets in political science. His research focuses on understanding how institutions and elites influence the political behavior of ordinary citizens, including studies of mass polarization, the effects of partisan media, and various other topics.

His work has been honored with a number of awards, including the 2011 Jewell-Lowenberg Award (for the best article published in Legislative Studies Quarterly), the 2013 best paper award from the Journal of Politics, the 2014 Goldsmith Book Prize from Harvard University’s Shorenstein Center (for How Partisan Media Polarize America), and the 2016 Erik Erikson Early Career Award from the International Society of Political Psychology.

**Readings available on Blackboard**:

* Excerpts from Chapters 1, 5, and 7 *in* Matthew Levendusky, How Partisan Media Polarize America (2013).

**Week 15 (4/26)**

Course wrap-up. No reading assigned.

**\*\*PAPERS DUE WEDNESDAY, 5/3, BY 5:00 PM\*\***