

Free Speech, Free Press, Free Society:
The Marketplace of Ideas in an Era of Fake News

By Mora Prestinary



May 1, 2019, will mark the 61st anniversary of Law Day, which is held every year as a celebration of the rule of law in our society.

President Dwight Eisenhower established the first Law Day in 1958 to mark the nation's commitment to the rule of law. In 1961, Congress issued a joint resolution designating May 1 as the official date for celebrating Law Day, which is subsequently codified (U.S. Code, Title 36, Section 113). Every president since then has issued a Law Day proclamation on May 1 to celebrate the nation's commitment to the rule of law

It is essential to remember that even in today's social mass media society, the individual's rights to free expression, are still protected under the United States Rule of Law

9 First Amendment Cases That Changed American Law

Schenck v. United States, 249 U.S. 47 (1919): Created a "clear and present danger" test for protected speech under the First Amendment. Concluded that defendants who distributed fliers to draft-age men, urging resistance to induction, could be convicted of an attempt to obstruct the draft, a criminal offense.
<https://caselaw.findlaw.com/us-supreme-court/249/47.html>

Frohwerk v. United States, 249 U.S. 204 (1919): "conspiracy to obstruct recruiting would be criminal "willful obstruction" of America's recruitment efforts and was not protected by the First Amendment to the United States Constitution.
<https://caselaw.findlaw.com/us-supreme-court/249/204.html>

Terminiello v. City of Chicago, 337 U.S. 1 (1949): in the words of Justice Douglas, the "function of free speech is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dis-

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The National Student Loan Debt and the New UCI School of Law Student Loan Law Initiative

By Elizabeth Harmon

The national student loan debt has climbed to over \$1.5 trillion and according to the Urban Institute's website, is second only to mortgage debt for those between the ages of 29-37 with over 50 percent concerned that they might never be able to pay off their loans. Worry about paying off these loans affects borrowers in almost all income levels – about 75 percent of people with incomes of \$25,000 or less are concerned but so are at least 36 percent of those who make \$100,000 or more. Research groups such as the Brookings Institute and the Urban Institute predict that approximately 40 percent of borrowers could default on their loans by 2023 and that those with smaller loans or students that drop out of college have even a greater default rate.

David Flynn, a University of North Dakota economics professor, cites that one reason student loan debt has grown so rapidly is that more people are attending college hoping to get the jobs and salaries they want. At the same time, the expense of going to college continues to rise and borrowers don't always factor in what they will earn once they graduate. A report released in 2016 by the New York State Comptroller, reported that from 2005 to 2016 the average expense for tuition, housing, various fees, etc. had risen by over 50 percent – for both in-state students at public colleges and for those attending private colleges. New York has well over 2,000,000 student loan borrowers and of those over 275,000 are in delinquency. Considering these rising costs and what a borrower can anticipate earning on graduation is a way for students to determine what is an affordable amount of debt in their future.

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Student loan debt*(Continued from page 1)*

There are, however, other factors that contribute to the problem of student loan debt. According to the Office of the Inspector General (OIG), the U.S. Department of Education (the largest supplier of financial aid) has failed to responsibly oversee the more than \$1 trillion in federal student loans. The Federal Student Aid program is within the Department of Education and handles the servicing of the loans, which they contracted out, in 2009, with four loan servicers – Great Lakes; Nelnet; Navient; and PHEAA. Then from 2011 to 2013 they contracted with 11 additional servicers. Although, companies are required to comply with all federal and state laws, regulations and FSA requirements, according to a highly critical audit performed by the OIG, these companies were not adhering to these regulations and requirements. At the same time, FSA staff did not consistently monitor calls, according to policy, between servicers' representatives and borrowers, which meant that FSA managers could not be sure whether servicers were compliant with regulations. Consequently, borrowers were not always protected from poor services or inaccurate charges and lenders may have been overpaid.

FedLoan, also known as Pennsylvania Higher Education Assistance Agency (PHEAA) is named as one of the worst offenders, along with Navient, LCC. Ironically, FedLoan is the only loan servicing company picked by the Department of Education to handle the Public Service Loan Forgiveness (PSLF) program, which is just one component in the flawed student loan system. Even though Navient does not participate in the PSLF, the servicer was sued in October 2018 by The American Federation of Teachers. The lawsuit claimed that the servicer had misguided borrowers who were eligible for the loan forgiveness program to increase their own profits. Teachers, police officers, firefighters, librarians, and others in public service jobs are eligible for the program, which became law in 2007. Borrowers who have worked in a qualified public service job and made 120 payments on time can have the remainder of their loan balance forgiven but unfortunately the program is complicated and filled with problems. This became apparent in 2017 - the 1st year borrowers could begin applying for loan forgiveness - when 28,000 eligible applicants applied, only 96 received cancellation of their debt.

In November 2018, University of California, Irvine School of Law created the Student Loan Law Initiative (SLLI) together with the Student Borrower Protection Center (SBPC) – a nonprofit whose focal point is to lighten the burden of student debt. Through this partnership, the SLLI will concentrate on the student debt problem by a combination of actions: Through innovative research and insight, they will create a new academic field of study called *student loan law*, which will cover parts of administrative law, bankruptcy, constitutional law, consumer law, and education law. They will work in collaboration with other universities' staff, and experts from around the country. As a result, policymakers won't have to rely on results from studies financed by the student loan conglomeration. Instead, they will have access to information gained through new avenues of research that is focused on the real cost of the student loan plight. In addition, UCI Law's Consumer Law Clinic will highlight forthcoming risks to students needing loans and create strategic litigation to deal with these risks. Plus, an important service is being offered to students, which they will directly benefit from: The Clinic will provide free legal help to borrowers facing obstacles to their Loan Forgiveness applications being approved.

To learn more about SLLI go to: <https://protectborrowers.org/our-projects/student-loan-law-initiative/> or email them at studentloanlaw@protectborrowers.org

To read more of the U.S. DOE Office of the Inspector General Audit Report go to:

<https://www2.ed.gov/about/offices/list/oig/auditreports/fy2019/a05q0008.pdf>



ask a
librarian



Where can I get help filling out a Court form?

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The Superior Court's Self-Help Center Workshops offer information about the legal process and assistance with preparing case documents in a group setting. See the listing of available workshops at: www.occourts.org/self-help/shworkshops.html

The California Association of Legal Document Assistants are authorized to prepare legal documents for a client, but only at the direction of the client. In other words, an LDA is there to assist the "self-help" client handle their own legal matters without the cost of an attorney." To find a certified California Legal Document Assistant see the Association's website at www.calda.org

AND in the Law Library we have a huge variety of internet and print resources that can assist <https://innopac.ocpll.org/> Contact us at 714-338-6790, or www.ocpll.org/email-a-librarian/

*Free speech**(Continued from page 1)*

satisfaction with conditions as they are, or even stirs people to anger. The "breach of peace" ordinance of the City of Chicago banned that speech.

<https://caselaw.findlaw.com/us-supreme-court/337/1.html>

Barenblatt v. United States 360 U.S. 109 (1959): the Court upheld Barenblatt's conviction for contempt of Congress. "where First Amendment rights are asserted to bar governmental interrogation, resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown."

<https://caselaw.findlaw.com/us-supreme-court/360/109.html>

Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969). The Supreme Court ruled in the students' favor, stating that schools cannot censor students' rights to freedom of speech and expression, defined First Amendment rights of students in U.S. public schools

<https://caselaw.findlaw.com/us-supreme-court/393/503.html>

Stanley v. Georgia, 394 U.S. 557 (1969). Justice Thurgood Marshall delivered the decision, stating that "If the First Amendment means anything, it means that a state has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men's minds." It helped to establish an implied "right to privacy" in U.S. law, in the form of mere possession of obscene materials.

<https://caselaw.findlaw.com/us-supreme-court/394/557.html>

Street v. New York, 394 U.S. 576 (1969), the Court held that a New York state law making it a crime "publicly [to] mutilate, deface, defile, or defy, trample upon, or cast contempt upon either by words or act [any flag of the United States]" was, in part, unconstitutional because it prohibited *speech* against the flag. States cannot make it a crime to verbally insult the American flag.

<https://caselaw.findlaw.com/us-supreme-court/394/576.html>

Red Lion Broadcasting Co. v. Federal Communications Commission, 395 U.S. 367 (1969): upheld the equal time provisions of the Fairness Doctrine, ruling that it was "the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences". However, it strongly suggested that broadcast radio stations (and, by logical extension, television stations) are First Amendment speakers whose editorial speech is protected.

<https://caselaw.findlaw.com/us-supreme-court/395/367.html>

Texas v. Johnson, 491 U.S. 397 (1989): defendant's act of flag burning was protected speech under the First Amendment to the United States Constitution. Burning a flag is protected under the First Amendment as political expressive conduct. The court stated that "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

<https://caselaw.findlaw.com/us-supreme-court/491/397.html>

The future may well see other cases tried on the First Amendment Constitutional right to *Free Speech, Free Press, Free Society*.

Sources : ABA Journal : http://www.abajournal.com/gallery/nine_first_amendments_cases/



Did you know that...

The Judicial Council has just made proposed changes to the rules of appellate filings in the California Supreme Court and Courts of Appeal.

One of the proposed rules, [Appellate Procedure: Uniform Formatting Rules for Electronic Documents, Invitation to Comment Spr19-07](#) is that the font that some of us have been using regularly, "Times New Roman," will not be accepted. The Judicial Council's proposed rule gives only one example of an alternate appropriate font: "Century Schoolbook". Furthermore, the Judicial Council proposes all briefs use 13-point size for both body text and footnotes. The current rule requires that the size of the font "must not be smaller than 13-point."

Those who use Times New Roman or other fonts may voice their comments. The Judicial Council is accepting public comment on the proposed new rules until 5 p.m. on June 10 on its [website](#) or by email at invitations@jud.ca.gov

(Source: So long, Times New Roman! Written by Sharon Baumgold, published by the Los Angeles Daily Journal, Tuesday, May 28, 2019 on pages 8 and 9).

Looking at the Web

by Mora Prestinary



Cornell Law School First Amendment https://www.law.cornell.edu/constitution/first_amendment

U.S. Supreme Court Cases <https://caselaw.findlaw.com/court/us-supreme-court>

Judicial Council of California, Invitations to Comment <https://www.courts.ca.gov/policyadmin-invitationstocomment.htm>

In association with the Orange County Public Library system, one of our law librarians visits Foothill Ranch Public Library monthly to provide the public help locating information and resources concerning legal issues and court procedures.

We are at Foothill Ranch Public Library every 2nd Thursday, 4 to 6 P.M.

[27002 Cabriole Way](#)
[Foothill Ranch, CA 92610](#)

<http://www.ocpl.org/libloc/fr>

Please stop by!



The Library will be closed

Thursday July 4th

Art and culture for summer:

<https://artsandculture.google.com/project/loire-castles>

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