

ANIMAL LAW: Legislation, Lobbying, Litigation
Syllabus
Lewis & Clark Law School
Professors Jonathan R. Lovvorn and Nancy V. Perry
July 21 – August 3, 2009
9am - 12pm

*** This document only serves as an example syllabus for this course. It is NOT the actual syllabus for the Summer '09 course.**

Course Materials:

Animal Law Reader (will be provided first day of class)
C. Sunstein, ANIMAL RIGHTS (2004)
C. Kush, THE ONE HOUR ACTIVIST (2004)
J. Curnutt, ANIMALS AND THE LAW (2001) (suggested)
M. Bean, THE EVOLUTION OF NATIONAL WILDLIFE LAW (1997) (suggested)

Course Description:

Practical survey of lobbying and litigation on behalf of animals at the local, state, and national level. The course will address the historical status of animals in the law; legislative drafting and lobbying; application and enforcement of federal statutes such as the Animal Welfare Act, the Humane Slaughter Act, the Endangered Species Act, the Marine Mammal Protection Act, the Migratory Bird Treaty Act, Wild Horses and Burros Act, and the Animal Damage Control Act; international conventions concerning trade in animals and animal products, free trade, and comparative animal protection laws; state laws and citizen initiatives concerning anti-cruelty, hunting, trapping, animal fighting, performing animals, and farm animals; veterinary malpractice and consumer protection actions; free speech, religious expression, and other Constitutional limitations on animals protection statutes; the movement to obtain legal recognition of the rights of animals; and innovative uses of existing laws to expand legal protection of animals.

Evaluation:

Student grading will be based on completion of a final examination (66%) and class participation (34%). Class attendance and participation are an important component of a successful seminar and students will be expected to be ready to discuss the assigned reading for each session.

The syllabus sets forth the basic reading assignments for class sessions, which may be supplemented each week with additional materials. Exact dates and assignments may change as the course progresses, and there will likely be occasions where the subject from one class will carry over to the next. All reading assignments are mandatory unless otherwise indicated.

Schedule and Reading

Session 1:

Tuesday, July 21

Introductions, overview, and discussion of course requirements. Overview and history of

state, federal, and international laws and regulations pertaining to wild and captive animals, the application and limits of anti-cruelty codes.

W. Pacelle, *Law and Public Policy: Future Directions For The Animal Protection Movement*, 11 ANIMAL L. 1 (2005)

C. Sunstein, *Introduction: What Are Animal Rights*, ANIMAL RIGHTS (2004)

B. Unti & A. Rowan, *A Social History of Postwar Animal Protection* (2001)

D. Favre & V. Tsang, *The Development of Anti-Cruelty Laws During the 1800's*, 1993 DETROIT L. REV. 1 (1993)

M. Bean, *The Legal Framework for the Development of Federal Wildlife Law*, THE EVOLUTION OF NATIONAL WILDLIFE LAW (1997)

Session 2:

Wednesday, July 22

State and Federal legislative process for enacting animal protection laws: Part I - Lobbying

C. Kush, THE ONE HOUR ACTIVIST (2004)

Session 3:

Thursday, July 23

State and federal legislative process for enacting animal protection laws: Part II - citizen initiatives and referenda; drafting; Constitutional limitations on animal protection laws.

Dane Waters, INITIATIVE AND REFERENDUM IN THE UNITED STATES (2002)

Church Of The Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993)

International Dairy Foods Association v. Amestoy, 92 F.3d 67 (2nd Cir. 1996)

Empacadora de Carnes De Fresnillo, S.A. De C.V. v. Curry, 476 F.3d 326 (5th Cir. 2007)

Cavel International v. Madigan, 500 F.3d 551 (7th Cir. 2007)

Illinois Restaurant Assoc. v. City of Chicago, 492 F.Supp.2d 891 (2007)

Savage v. Prator, 921 So.2d 51 (La. 2006)

Viva v. Adidas, 41 Cal.4th 929 (Ca. 2007)

Session 4:

Friday, July 24

Enforcement of Animal Protection Laws: Opportunities, limitations, and proposals for change.

B. Meier, *Bringing Lawsuits to Do What Congress Won't* (2000)
Mark Tushnet, *Some Legacies of Brown v. Board of Education*, 90 Va. L. Rev. 1693 (2004)
C. Sunstein, *Can Animals Sue?*, ANIMAL RIGHTS (2004)
Sierra Club v. Morton, 405 U.S. 727 (1972)
ALDF v. Glickman, 154 F.3d 426 (D.C. Cir. 1998)
Baur v. Veneman, 352 F.3d 625 (2nd Cir. 2003)
Cary v. Hall, 05-0364 (N.D. Cal., 2006 Memorandum Decision)
Seeton v. Pennsylvania Game Com'n, 594 Pa. 563 (Pa. 2007)
Hammer v. American Kennel Club, 1 N.Y.3d 294 (N.Y. 2003)

Session 5: (split session)

Monday, July 27

Part I: Veterinary malpractice and other tort actions concerning companion animals.

S. Wise, *Recovery of Common Law Damages for Emotional Distress, Loss of Society, and Loss of Companionship for the Wrongful Death of a Companion Animal*, 4 ANIMAL L. 33 (1998)

C. Green, *The Future of Veterinary Malpractice Liability in the Care of Companion Animals*, 10 ANIMAL L. 163 (2004)

Part II: Limits on animal advocacy (libel and defamation, invasion of privacy, Animal Enterprise Terrorism Act, ethical constraints on lawyers).

PETA v. Bobby Berosini, 111 Nev. 615, 895 P.2d 1269 (Nev. 1995)

Reporters Committee for Freedom of the Press, *"Can We Tape?"* (2005)

In the Matter of Steven Mark Wise, 740 N.E.2d 946 (Mass. 2000)

Animal Enterprise Terrorism Act, S. 3880, 109th Cong., Pub. L. No. 109-374, 120 Stat. 2652 (2006) (enacting 18 U.S.C. § 43).

Ethan Carson Eddy, *Privatizing The Patriot Act: The Criminalization Of Environmental And Animal Protectionists As Terrorists*, 22 PACE ENVTL. L. REV. 261 (2005) (suggested, not in reader)

Session 6:

Tuesday, July 28

Laws and regulations concerning animal experimentation, performing animals, animal fighting, and other captive animals; including the federal Animal Welfare Act.

Taub v. State, 463 A.2d 819 (Maryland 1983)

ALDF v. Glickman, 204 F.3d 229 (D.C. Cir. 2000)

Doris Day Animal League v. Veneman, 315 F.3d 297 (D.C. Cir. 2003)

LePage et al. v. Wizard of Claws, Inc. et al., No. 0714015, Broward Co. Cir. Ct. (filed June 18, 2007)

ALDF v. Woodley, No. 04-1248 (N.C. April 12, 2005)

The Humane Society of the United States v. Amazon.com, Inc., et al., Civ. No. 07-0623 (D.D.C. filed Jun. 6, 2007)

ALDF v. Yost, No. 05-1066 (C.D. Cal., filed Nov. 18, 2005)
Chimps Inc. v. Primarily Primates, No. 08-6097 (D. Or., filed Mar. 25, 2008)
ASPCA v. Ringling Bros. Barnum & Bailey Circus, 502 F.Supp.2d 103 (D.D.C. 2007)
America Zoo Association, *Joining Forces for the “Suarez Six”* (2003)

Session 7:

Wednesday, July 29

Laws and regulations concerning farm animals; including federal laws (Humane Slaughter Act, Twenty-Eight Hour Law, Federal Meat Inspection Act).

D. Wolfson, *Foxes In The Henhouse: Animals, Agribusiness, And The Law*, ANIMAL RIGHTS (2004)
ALDF v. Provimi Veal Corp., 626 F. Supp. 278 (D. Mass. 1986)
In re: The HSUS: Petition to Apply 28 Hour Law to Truck Transport of Farm Animals (Oct. 4, 2005) (excerpt)
Levine v. Conner, 540 F.Supp.2d 1113 (N.D.Cal. 2008).
New Jersey Soc. for Prevention of Cruelty to Animals v. N.J. Department of Agriculture, 2007 WL 486764 (N.J. Super., Feb. 16, 2007)
East Bay Animal Advocates, *Complaint to the Better Business Bureau Concerning Foster Farms Inc.* (Dec. 16, 2005)
People of the State of Cal. v. Navarro, et al., Felony Complaint and Supporting Documents (2008)

Session 8:

Thursday, July 30

Laws and regulations concerning wildlife and trade; including federal laws (Endangered Species Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Wild Horses and Burros Act, Animal Damage Control Act, CITES, International Convention for the Regulation of Whaling, Migratory Bird Conventions).

Animal Welfare Institute v. Kreps, 561 F.2d 1002 (D.C. Cir. 1977)
Humane Society of U.S. v. Gutierrez, 523 F.3d 990 (9th Cir. 2008)
The Fund For Animals v. Norton, 281 F.Supp.2d 209 (D.D.C. 2003)
Fund For Animals v. Hall, 448 F.Supp.2d 127 (D.D.C. 2006)
Humane Soc. of the U.S. v. Dep’t of Com., 432 F.Supp.2d 4 (D.D.C. 2006)
Born Free, USA v. Norton, 278 F.Supp.2d 5 (D.D.C. 2003)
Anderson v. Evans, 314 F.3d 1006 (9th Cir. 2002)

Session 9:

Friday, July 31

The movement to obtain legal recognition of the rights of animal; historical and philosophical connections with Nineteenth Century social movements such as the

protection of children and the abolition of slavery; the question of animal “rights” vs. animal “welfare;” rhetorical choices in advocating on behalf of animals; and the future of animal protection in the United States.

ANIMAL RIGHTS (2004), pgs. 19-90

Laurence H. Tribe, *Ten Lessons Our Constitutional Experience Can Teach Us About The Puzzle of Animal Rights: The Works of Steven M. Wise*, 7 ANIMAL L. 1 (2001)

Jonathan R. Lovvorn, *Animal Law In Action: The Law, Public Perception, And The Limits Of Animal Rights Theory As A Basis For Legal Reform*, 12 ANIMAL L. 133 (2006)

Patricia Roberts-Miller, *John Quincy Adam’s Amistad Argument: The Problem of Outrage: Or, The Constraints of Decorum*, 32 RHETORICAL SOCIETY QUARTERLY 5 (2002)