

ANIMAL LAW
SYLLABUS FOR FALL SEMESTER 2021
Willamette University College of Law
Scott Beckstead, Adjunct Professor

Contact Information:

Scott Beckstead:

Telephone: (541)530-3460

E-mail: sbeckste@willamette.edu

Required Course Materials:

David S. Favre, Animal Law: Welfare, Interests, and Rights, Third Edition (Wolters Kluwer Law & Business 2020).

- Suggested supplemental reading: Joan Schaffner & Julie Fershtman, Editors, Litigating Animal Law Disputes: A Complete Guide for Lawyers, (ABA Publishing 2009); Adam Karp, Understanding Animal Law, (Carolina Academic Press 2016).

Course Description:

In order to receive credit for this course, the ABA expects that you will be conducting at least 2 hours of out-of-class work for every hour you are meeting with your instructor.

Attendance will be taken and reported to OSA for each class. Class attendance will require both video and audio participation. Failure to enable the video aspect of Zoom will mean that the student is marked absent for the class. That begin said, technology problems are foreseeable. You should therefore contact me in advance (please test your technology regularly and, in any event, before each class) so that I can connect you with WITS.

Most classes in Animal Law are devoted primarily, if not exclusively, to the philosophical and theoretical bases for advancing the cause of animal protection in the law. While those discussions are lively and interesting, I believe they do not adequately prepare students to practice law in this rapidly-developing field. While we will spend some time talking about the concept of “animal rights” and the ethical justifications for granting animals legal protection, most of our time will be spent talking about real cases, real fact patterns, and the real legal work a lawyer would undertake in practicing in the field of animal law.

I have a rich store of anecdotes from my 17 years of practice that will illustrate the legal concepts we will study. In addition, I will invite guest lecturers who have special experience and knowledge in the various areas of animal law. I may also call upon veterinarians, food animal producers, and other representatives of various animal industries to give their point of view. I feel this is the best way to encourage students to think critically about the issues in animal law and gain a better understanding of the real effects of the animal protection movement on those who make their living with animals. This too is a missing component in most other Animal Law courses, most of which are really devoted to “Animal Rights Law,” with little or no attention paid to alternative points of view.

All of these components will give the class an exciting and practical “real-world” quality that I believe is lacking in most of the Animal Law courses taught at other law schools. And, judging from my students’ remarks in their course evaluations over the years, this is an approach that they really appreciate and enjoy.

Lectures will be enhanced by readings from David B. Favre’s book, Animal Law: Welfare, Interests and Rights, 3d Ed. In my view, this is the best casebook on the subject, as it takes a more practical view of animal law, using fact patterns from real cases in addition to readings of court opinions that are instructive on the various points of law.

Evaluation:

Student grading will be based on attendance and participation (which includes a short, ungraded personal essay) (25%); and completion of two legal writing assignments (75%). These two assignments require legal writing skills (one is a contract, the other is a pleading in a civil case), and you will be expected to turn in “lawyer-quality” work that reflects an understanding of proper legal writing and pleading principles and rules.

Two of the three writing assignments will call upon practical skills for drafting legal documents and pleadings that are commonly used by lawyers practicing in the field of animal law, such as animal adoption contracts and pleadings in civil proceedings. I will provide the fact patterns and other materials for students’ reference in completing these assignments.

Class attendance and participation are an important component of a successful academic and students will be expected to be ready to discuss the assigned reading for each session. The class will rely heavily on lively discussions of both the theoretical and philosophical underpinnings of animal law, as well as the real-world application of those ideas in the everyday work that an animal law attorney is likely to need.

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 semester progresses, and there will likely be occasions where the subject from one class will carry over to the next.

Learning Outcomes:

By the end of this course, students will be able to identify the major themes in the rapidly developing field of animal law, including how animals are classified in the law and how the law is changing to reflect evolving ethics over the humane treatment of animals. Students will be able to articulate the rights of animal owners in the context of the police power of the state to regulate animal ownership, identify and explain the available theories of relief in tort cases involving harm to or by animals, and understand criminal law and process as it pertains to cruelty to animals. Because of the outsized roles regulatory agencies play in the field of animal law, students will also be able to explain the role of those agencies, especially at the state and federal agencies, in regulating commercial activities involving animals, with special attention given to state wildlife agencies, state environmental and agriculture regulatory agencies, the US Department of Agriculture, Bureau of Land Management, and the US Fish & Wildlife Service. Students will also achieve a basic understanding of modern industrial animal agriculture, covering topics such as vertical integration, CAFO policy, the commodity checkoff program, intensive confinement, the role of subsidies, and other topics that affect how food animals are raised and processed. And finally, students will be able to articulate the fundamentals of modern wildlife management and be familiar with the public trust doctrine and the North American Model of wildlife management, along with the major federal laws designed to protect and conserve wildlife, including the Endangered Species Act.

Schedule and Reading:

August 23: General overview of class; Service animals, therapy animals, and the disabled.

August 30: Chapter 1: p. 1-28: Discussion of the various classifications of animals and how they are viewed and treated as a matter of law.

Read: vMcWilliams, James: "Citizen Canine, Comrade Cow: Toward a New Kind of Animal Rights."

<http://www.vqronline.org/essays-articles/2016/07/citizen-canine-comrade-cow>

September 6: Labor Day (No Class)

September 13: Equines and the law: Protecting horses both domestic and wild from cruelty and abuse.

Read: Kleppe v. New Mexico, 426 US 529 (1976)

September 20: Chapter 2: Animal Ownership

September 27: Chapter 5: State Regulation of Ownership

October 4: Legal and regulatory issues in modern animal agriculture (additional reading materials TBA).

Read: National Meat Association v. Harris, 599 F.3d 1093 (1012)

- *Comments submitted in opposition to mega-dairy in eastern Oregon*
- *Chicago Tribune: "The Price of Cheap Pork,"*
<http://www.chicagotribune.com/news/watchdog/pork/>

October 11: Chapter 3: Veterinary Malpractice

October 18: Chapter 4: Torts (Injury to animals, Fair Market Value, Intrinsic Value)

October 25: Wildlife Law (additional reading materials TBA).

- *"Overview of the Lacey Act,"* <https://www.animallaw.info/article/overview-lacey-act-16-usc-ss-3371-3378>
- *"Brief Summary of the Endangered Species Act,"*
<https://www.animallaw.info/intro/endangered-species-act-esa>
- *CITES, Articles I-XXV, with Appendices I, II, and III*

November 1: Chapter 6, p. 198 - 226, Chapter 7, p.242 -262: Criminal Law and Procedure in Cases of Animal Abuse and Neglect

November 8: ORS 167.310-439: Criminal Law and Procedure in Oregon

November 15: Focus on public lands, livestock grazing, and native carnivores

Read: [Taylor Grazing Act of 1934 - Wikipedia](#)
<https://www.blm.gov/sites/blm.gov/files/PublicLandStatistics2019.pdf>

November 22: Fall Break (No Class)

November 29: COVID-19 and animals: the role of wildlife markets, the wildlife trade, and factory farms in the pandemic.

Assignments:

First Writing Assignment, due September 13: Personal History with animals, Theoretical Bases for Animal Protection, Personal Philosophy on Animal Protection

Second Writing Assignment, due October 18: Animal Adoption Contract

Final Writing Assignment, due December 10: Summary Judgment Memorandum in Animal Law Tort Case