

ANIMALS AND THE LAW - ENV 5307

Fall 2021

Professor Delcianna Winders

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SYLLABUS AND COURSE INFORMATION

(updated Aug. 30, 2021)

Course Description

This survey course provides an overview of the evolution of animal law and the breadth of issues encompassed by this rapidly developing field. At the same time, the course affords the opportunity for in depth deliberation of a number of the salient issues in current animal law practice and scholarship. Because animal law necessarily implicates virtually every field of law, including administrative law, constitutional law, property law, criminal law, and torts, students will be required to develop and apply their knowledge of these other fields in class discussions.

Course Objectives and Learning Outcomes

- Students will comprehend and be able to effectively communicate fundamental animal law concepts.
- Students will understand the underlying policies and values that influence the development of animal law.
- Students will demonstrate the ability to apply these policies, values, and concepts to analyze emerging animal law issues.

Course Materials

- ANIMAL LAW: CASES AND MATERIALS (Bruce A. Wagman, Sonia S. Waisman, & Pamela D. Frasch eds., 6th ed., 2019) (hereinafter "ANIMAL LAW").
- Supplemental Materials Provided Electronically.

Class Meeting Information

Tuesdays and Thursdays, 9:55-11:10 AM, Oakes Hall, 110

Attendance Policy

Class attendance is required. VLS Academic Regulations require students to attend all classes except where religious observance, serious illness, personal emergency, or a reason that is adequate in the judgment of the professor prevents attendance. If you are unable to attend a given session due to medical, religious, or other circumstances truly beyond your control, you must email me as soon as practicable. Unexcused absences will impact your participation grade. In addition, pursuant to VLS Academic Regulations, if you are absent from twenty percent of the regularly scheduled classes without adequate excuse, you will be automatically withdrawn from the course with a grade of F- Wd.

Grading

- Class participation: 25%: Regular attendance, demonstrated engagement with all assigned materials through thoughtful participation in class discussions. Absences or low class participation will impact your grade.
- Research paper: 75%:
 - o Précis and outline, due September 30 (10%)
 - o Substantially complete first draft, due November 2 (30%)
 - o Final draft, due December 9 (35%)

Accommodations

If you need an accommodation for an illness or disability, please contact the Vice Dean for Students Joe Brennan, jbrennan@vermontlaw.edu.

Office Hours

By appointment

Course Outline and Assignments

Tuesday, August 31: What Is Animal Law?

- ANIMAL LAW xxxi-xxxvi.
- [Kristen Stilt, *Law, in CRITICAL TERMS FOR ANIMAL STUDIES* \(Lori Gruen, ed. 2018\).](#)
- [Steven Wise, *Proposal for a New Taxonomy of Animal Law* \(Dec. 12, 2017\).](#)

Thursday, September 2: What Is an “Animal”?

- ANIMAL LAW 3-18, 901-02.
- [VT. STAT. ANN. TIT. 13, § 351\(1\)](#) (Vermont cruelty code definition of “animal”).
- [7 U.S.C. § 2131\(g\)](#) (federal Animal Welfare Act definition of “animal”).

Tuesday, September 7: Classifications of Animals

- ANIMAL LAW 18-45.
- [Morgan v. Kroupa, 702 A. 2d 630 \(Vt. 1997\).](#)

Thursday, September 9: Being Property

- ANIMAL LAW 47-82.

Tuesday, September 14: Navigating Fraught Analogies

- [Angela P. Harris, *Should People of Color Support Animal Rights?*, 5 J. ANIMAL L. 15 \(2009\)](#) (starting at page 7 of pdf).
- [Sherry F. Colb, *Decoding “Never Again,”* 16 RUTGERS J. L. & RELIGION 254 \(2015\).](#)

Thursday, September 16: Introduction to Animals and Criminal Law

- ANIMAL LAW 83-115.
- [ANIMAL LEGAL DEF. FUND, ANIMAL PROTECTION: U.S. STATE LAWS RANKING REPORT \(2020\).](#)

Tuesday, September 21: Criminal Cruelty: Affirmative Acts Failure to Act, Restitution, and Costs of Care

- ANIMAL LAW 115-52, 173-75.

Thursday, September 23: Linking Animal Abuse and Human Violence

- ANIMAL LAW 222-32.
- [Emily G. Patterson-Kane & Heather Piper, *Animal Abuse as a Sentinel for Human Violence: A Critique*, 65 J. SOC. ISSUES 589 \(2009\)](#) (first 27 pages of pdf).

Tuesday, September 28: Problematizing Criminal Animal Law

- [Justin F. Marceau & William Dewey, *Friends of Every Friendless Beast: Carceral Animal Law and the Funding of Prosecutors*, 5 CAN. J. COMP. & CONTEMP. L. 233 \(2019\).](#)
- [Lukas Leitinger, *Criminalizing Animal Cruelty Does Not Help Non-Human Animals: An Anti-Carceral Perspective*, GLOBAL COMMENT \(Dec. 18, 2020\).](#)
- [Sloane M. Hawes, Tess Hupe & Kevin N. Morris, *Punishment to Support: The Need to Align Animal Control Enforcement with the Human Social Justice Movement*, 10 ANIMALS 1902 \(2020\).](#)
- [Amanda Arrington & Michael Markarian, *Serving Pets in Poverty: A New Frontier for the Animal Welfare Movement*, 18 SUSTAINABLE DEV. L. & POL’Y 40 \(2017\).](#)

Thursday, September 30: Restorative Justice and Animal Law

**PAPER PRÉCIS AND OUTLINE DUE*

- [Lorenzo Bertolesi, *Victims and Responsibility Restorative Justice: A New Path for Justice Towards Non-Human Animals?*, 5 RELATIONS. BEYOND ANTHROPOCENTRISM 111 \(2017\).](#)

Tuesday, October 5: Introduction to Animals and Tort Law

- ANIMAL LAW 233-78.
- [Stefano Bloch & Daniel E. Martínez, *Cops Are Also Shooting Pets in Black and Brown Communities at Much Higher Rates*, SLATE \(July 6, 2020\).](#)

Thursday, October 7: Animal and Tort Law: Damages and Valuation

- ANIMAL LAW 278-32.

– NO CLASS TUESDAY, OCTOBER 12 – FALL RECESS –

Thursday, October 14: Animal Law and Standing: Standing for Humans

ANIMAL LAW 363-98.

Tuesday, October 19: Animal Law and Standing: Standing for Animals?

ANIMAL LAW 398-428.

Thursday, October 21: Animal Law and Standing: The Latest

- [Naruto v. Slater, 888 F.3d 418 \(9th Cir. 2018\).](#)
- [TransUnion LLC v. Ramirez, No. 20–297, -- U.S. -- \(Mar. 30, 2021\).](#)

Tuesday, October 26: Breed-Specific Legislation

- ANIMAL LAW 428-42.
- [Malcolm Gladwell, *Troublemakers: What Pit Bulls Can Teach Us About Profiling*, NEW YORKER \(Jan. 29, 2006\).](#)
- [Ann Linder, *The Black Man's Dog: The Social Context of Breed Specific Legislation*, 25 ANIMAL L. 51 \(2018\).](#)
- [PETA, PETA's Position on Pit Bulls \(last updated Nov. 18, 2019\).](#)

Thursday, October 28: Animal Law and the First Amendment

- ANIMAL LAW 442-83.
- [Mariann Sullivan, *Consistently Inconsistent: The Constitution and Animals*, 19 ANIMAL L. 213 \(2013\).](#)

Tuesday, November 2: Introduction to Farmed Animals and the Law

****FIRST DRAFT OF PAPER DUE***

- [David J. Wolfson & Mariann Sullivan, *Foxes in the Hen House: Animals, Agribusiness, and the Law: A Modern American Fable*, in ANIMAL RIGHTS: CURRENT DEBATES AND NEW DIRECTIONS 205–33 \(Cass R. Sunstein & Martha C. Nussbaum, eds., 2004\).](#)
- [John Hadidian, Bernard Unti, & John Griffin, *Measuring Humaneness: Can It Be Done, and What Does It Mean If It Can?*, PROC. 26TH VERTEBRATE PEST CONF. 443 \(2014\).](#)
- ANIMAL LAW 485-520 (through end of note 2).

Tuesday, November 4: Farmed Animals and the Law, Continued

- ANIMAL LAW 520-578.

Tuesday, November 9: Slaughter Laws and Related Issues

- ANIMAL LAW 578-619.

Thursday, November 11: Ag-Gag Laws and the Future of Farmed Animal Law

- ANIMAL LAW 619-39.
- [Cheryl L. Leahy, *Large-Scale Farmed Animal Abuse and Neglect: Law and Its Enforcement*, 4 J. ANIMAL L. & ETH. 63 \(2011\).](#)
- [Mariann Sullivan, *Farmed Animals: The Past Is Prologue, the Future Is \(Almost\) Here*, 25 ANIMAL L. 435 \(2019\).](#)

Tuesday, November 16: Animals in Research and the Animal Welfare Act

- ANIMAL LAW 639-54.
- [OFFICE OF INSPECTOR GEN., U.S. DEP'T OF AGRIC., AUDIT REPORT NO. 33601-000141, ANIMAL AND PLANT HEALTH INSPECTION SERVICE OVERSIGHT OF RESEARCH FACILITIES \(Dec. 2014\).](#)

Thursday, November 18: Companion Animals and the Animal Welfare Act

- ANIMAL LAW 654-80.
- [OFFICE OF INSPECTOR GEN., U.S. DEP'T OF AGRIC., AUDIT REPORT NO. 33002-4-SF, ANIMAL AND PLANT HEALTH INSPECTION SERVICE ANIMAL CARE PROGRAM INSPECTIONS OF PROBLEMATIC DEALERS \(May 2010\).](#)

Tuesday, November 23: The Animal Welfare Act's Interaction with Other Laws

- ANIMAL LAW 680-98.
- [Ani B. Satz & Delcianna J. Winders, *Animal Welfare Act: Interaction with Other Laws*, 25 ANIMAL L. 185 \(2019\) \(or: \[watch video of these presentations\]\(#\)\).](#)

– NO CLASS THURSDAY, NOVEMBER 25 – THANKSGIVING –

Tuesday, November 30: Animals and Contract Law

- ANIMAL LAW 699-758.

Thursday, December 2: Wills and Trusts Governing Animals

- ANIMAL LAW 759-804

Tuesday, December 7: Animals in the Constitutional State; Animals and Rights of Nature

- [Jessica Eisen, *Animals in the Constitutional State*, 15 INT'L J. CON. L. 909 \(2018\).](#)
- [Kristen Stilt, *Rights of Nature, Rights of Animals*, 134 HARV. L. REV. F. 276 \(2021\).](#)
- [Center for Animal Law Studies, *Re-Thinking the Rights of Nature to Encompass New Protections for Wild Animals* \(Mar. 20, 2021\).](#)
- [GLEN WRIGHT, ANIMAL RIGHTS AND THE RIGHTS OF NATURE: A BRIEF OVERVIEW \(2012\).](#)

Thursday, December 9: Global Animal Law

**FINAL PAPER DUE*

- [Anna Peters, *Introduction*, STUDIES IN GLOBAL ANIMAL LAW \(Anna Peters, ed., 2020\).](#)
- [Anna Peters, *Toward International Animal Rights*, in STUDIES IN GLOBAL ANIMAL LAW \(ANNA PETERS, ED., 2020\).](#)