ANIMAL LAW SEMINAR
Syllabus
Course No. LAW-LW.11551
New York University Law School
Professor Jonathan R. Lovvorn
Wednesdays 610-8pm
FH 316

Contact Information

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Course Description

This course will examine the application of the law to non-human animals, the rules and regulations that govern their treatment, and the concepts of “animal welfare” and “animal rights.” The course will explore the historical and philosophical treatment of animals, discuss how such treatment impacts the way judges, politicians, lawyers, legal scholars and lay people see, speak about, and use animals; survey current animal protection laws and regulations, including overlap with such policy issues as food and agriculture, climate change, and biodiversity protection; describe recent political and legal campaigns to reform animal protection laws; examine the concept of “standing” and the problems of litigating on behalf of animals; discuss the current classification of animals as “property” and the impacts of that classification; and debate the merits and limitations of alternative classifications, such as the recognition of “legal rights” for animals.

Course Materials

C. Sunstein, ANIMAL RIGHTS (2004), and materials posted on the course website.

Evaluation

Class attendance and participation are an important component of a successful seminar, and student grading will be based on a final paper (60%) and class participation (40%). Class participation includes your contribution to the discussion, as well as the reports and exercises discussed below.

Schedule and Reading

The syllabus sets forth the basic reading assignments for class sessions, which may be supplemented each week. Exact assignments may change as the course progresses. Materials that are not readily available from public sources will be posted on the course website.
**Laptops**

Laptop computers are disfavored but permitted in the seminar to the extent students wish to keep course materials online rather than being required to print. However, excessive use of laptops can inhibit intellectual engagement and make the seminar less enjoyable for everyone involved. The use of laptops may be restricted during certain portions of class.

**Short Student Reports & Class Exercises**

After the first session, you will be assigned to prepare brief group presentations of 10 minutes or less on the factual aspects of one of the major areas of animal use in society. Presentations will take place at the beginning of each of the first several sessions to develop the groups’ factual understanding of animal law. This is not a suggestion to adopt a particular point of view. You should present the facts as you find them in your research.

The course also will include a handful of case studies, in which students will be divided into groups to represent various stakeholders in discussion of selected animal law and policy issues.

**Session 1:**
Jan. 17, 2018

**Introduction to Animal Law**

Overview of the class, introduction to animal law, and the history of animal protection law.

**Assigned Reading**

J. Haddian et al., *Measuring Humaneness: Can It Be Done, and What Does It Mean If It Can?* (2014)
Oliver v. Anaheim, No. 11-55492 (9th Cir. 2012)

**Session 2:**
Jan. 24, 2018

**Legal Rights of Animals**

An introduction to the legal philosophy of animal law, including animal welfare and animal rights, and the differing strategic models for advancing animal law.
Assigned Reading

**ANIMAL RIGHTS** (2004), pgs. 19-41; 51-74

Session 3:
Jan. 31, 2018

**The Constitution and Animal Law**

Although nonhuman animals are not recognized by courts as constitutional subjects in the United States, the laws that protect or implicate nonhuman animals often generate constitutional issues. In this session, we will review cases raising free speech, religious liberty, and other constitutional issues that potentially conflict with and limit the recent expansion of state and federal laws to protect animals.

Assigned Reading

Church Of The Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993)
International Dairy Foods Association v. Amestory, 92 F.3d 67 (2nd Cir. 1996)
Chinatown Neighborhood Ass’n v. Harris, 794 F.3d 1136 (9th Cir. 2015)
Ass’n des Eleveurs de Canards v. Harris, – F.3d – (9th Cir. 2017)

Session 4:
Feb. 7, 2018

**Access to Courts to Protect Non-Human Animal Interests – Part I: Standing**

Standing is one of the most important prerequisites for federal litigation (and in many state courts), and a chief reason many animal protection suits do not reach the merits. We consider its impact by reading cases and a leading article concerning this critical barrier to consideration of animal interests in court.

Assigned Reading

Sierra Club v. Morton, 405 U.S. 727 (1972)
Baur v. Veneman, 352 F.3d 625 (2nd Cir. 2003)
The Cetacean Community v. Bush, 386 F.3d 1169 (9th Cir. 2004)
Access to Courts to Protect Non-Human Animal Interests – Part II: Causes of Action

Both standing and a cause of action are required before animal interests may be heard in court. These cases provide examples of different causes of action that might be used, with varying degrees of success, to protect animals.

Assigned Reading

ALDF v. Woodley, 640 S.E.2d 777 (N.C.App. 2007)
Brown v. Battle Creek Police Dep’t, No. 16-1575 (6th Cir. Dec. 19, 2016)

The Animal Welfare Act

The federal animal welfare act would seem to be among the most important tools advocates have to address animal abuse. We will discuss how this law operates, as well as its strengths and weaknesses.

Assigned Reading

Taub v. State, 463 A.2d 819 (Maryland 1983)
ALDF v.Glickman, 204 F.3d 229 (D.C. Cir. 2001)
USDA Office of the IG, Inspections of Problematic Dealers (May 2010)
USDA Office of the IG, Oversight of Research Facilities (Dec. 2014)
Session 7:  
Feb. 28, 2018

**Companion Animals**

We will read cases concerning laws and regulations affecting the interests and status of companion animals. An overarching issue will be the special legal status afforded to companion animals, and its contrast with the legal framework for other nonhuman animals.

**Assigned Reading**

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

Session 8:  
Mar. 7, 2018

**Wildlife**

Wild animals are an interesting exception to the relatively weak protections the law affords animals, because they often fall under America's environmental statutes. We will read cases in which advocates sought to protect animals using the Endangered Species Act, the Marine Mammal Protection Act, and other wildlife laws. An overarching issue is whether the special status of wild animals is truly protective of their interests, and whether a similar framework could be applied to other animals.

**Assigned Reading**

State v. Couch, 147 P.3d 322 (Or. 2006)
Humane Society of U.S. v. Gutierrez, 523 F.3d 990 (9th Cir. 2008)
Humane Soc. of the U.S. v. Glickman, 217 F.3d 882 (D.C. Cir. 2000)

March 14, 2018 - No Class
Session 9:
Mar. 21, 2018

Case Studies – Trophy Hunting and Captive Orca Displays

This session will explore how animal protection law and policy is implemented in practice by dividing students into different stakeholder groups to debate two current controversies in animal law – trophy hunting of imperiled species and captive display of marine mammals.

Assigned Reading

(Hour 1) Cecil the Lion & Trophy Hunting

U.S. House of Representatives, House Committee on Natural Resources, Democratic Staff Report, Missing the Mark: African Trophy Hunting Fails to Show Consistent Conservation Benefits (June 13, 2016)
Declaration of J. Jackson, PETA v. FWS (June 19, 2015) (paragraphs 13-33)
Cruise, Is Trophy Hunting Helping Save African Elephants?, National Geographic (Nov. 17, 2015)
Bale, U.S. Hunters Banned from Importing Trophies from Captive Lions, National Geographic (Oct. 21, 2016)

(Hour 2) Sea World & Captive Orcas

Order Granting Defendants’ Motion for Summary Judgment, People for the Ethical Treatment of Animals v. Miami Seaquarium, No. 15-cv-22692, slip op. (S.D. Fla. June 1, 2016)

Session 10:
Mar. 28, 2018

Farmed Animals – Part I – Cruelty and Commerce

Farmed animals make up 99% of all animals kept, used, or killed by society, but enjoy far fewer legal protections than companion animals such as cats and dogs. We will address the overwhelming ethical problem of farm animal mistreatment – examples of which vastly outnumber acts of violence against companion animals – and explore ways in which advocates can improve the lives of farm animals within the limits of current law.
Assigned Reading

D. Engber, *How the Chicken Became the Unlikely Focus of the Animal Rights Movement*, Slate (August 18, 2016)

*HSUS v. Rose Acre Farms, Inc.*, FTC (June 16, 2010)

Session 11:
April 4, 2018

**Farmed Animals – Part II – Intersectional Farmed Animal Issues**

The treatment of farmed animals in society has strong connections to other social issues, including race, gender, worker rights, environmental protection, and food safety. This session will explore these issues, with a special focus on the degree of protection provided to farmed animals by food safety and environmental laws and regulations.

**Assigned Reading**

*Winter v. Gourley*, No. 77-CV-14-933 (Minn. Dist. Ct., Feb. 8, 2016)
*HSUS & United Farm Workers v. Hamburg*, No. 14-04933 (N.D. Cal. 2014)

Session 12:
April 11, 2018

**Climate Change and Animals**

In this session we will explore the threat of climate change to humans and animals, its discriminatory impacts on the economically disadvantaged, people of color, women, children, and animals; the relative disengagement of the animal protection community despite the impending death of billions of wild
animals from climate change; and whether the legal tactics deployed by the animal protection movement
over the last decade – wherein major animal abuses have been controlled through consumer education,
consumer protection litigation, and corporate pressure – could be a model for a new cross-disciplinary
effort to control climate emissions in an era where climate regulatory control measures being rolled back.

Assigned Reading

Jonathan Lovvorn, Climate Change Beyond Environmentalism Part I: Intersectional Threats
Jonathan Lovvorn, Climate Change Beyond Environmentalism Part II, 30 Geo. Envtl. L.
Peter Lehner, Feed More With Less, The Environmental Forum May/June 2017

Session 13:
April 18, 2018

Case Studies - International Animal Law

This session will provide an introduction to international animal law and policy by dividing students into
different stakeholder groups to debate domestic and international whaling.

Assigned Reading

(Hour 1) Domestic Whaling

Metcalf v. Daley 214 F.3d 1135 (9th Cir. 2000)
Anderson v. Evans, 314 F.3d 1006 (9th Cir. 2002)
Bernton, NOAA study could set stage for Makah whaling to resume, The Seattle Times
(Mar. 7, 2015)

(Hour 2) International Whaling

(summary)
Morell, Japan says it will hunt whales despite science panel’s opposition, SCIENCE MAGAZINE
(Apr. 16, 2015)
Darby, Japan rejects international court jurisdiction over whaling, Sydney Morning
Herald (Oct. 19, 2015)
Technological Innovation and the Future of Animal Use

The future of animal law and policy, and the role of emerging alternative animal meat, fiber and fur production technologies in changing the way we conceptualize and use animals.

Assigned Reading

G. Blease, Silicon Valley gets a taste for food: Tech startups are moving into the food business to make sustainable versions of meat and dairy products from plants, The Economist (Mar. 5 2015)
L. Garfield, Hampton Creek Says It’s Making Lab-Grown Meat That Will Be In the Supermarkets by 2018, Business Insider (June 27, 2017)