

SYLLABUS FOR FARMED ANIMALS: LAW & POLICY

June 14 - 27, 2011

Visiting Professor Joyce Tischler

M-F 9:00 a.m. - 12:00 noon, Seminar Smith Wood Hall

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GOALS OF THE COURSE

Ninety-eight percent of all animals in the U.S. are farmed animals, that is, animals who are born, raised and slaughtered for food. The purpose of this course is to familiarize students with the conditions in which those animals are raised, transported and slaughtered, the policy arguments, statutory and case law relevant to the present farmed animal production system and the cultural values and economic pressures that underlie our legal system's treatment of farmed animals.

The course will focus heavily on policy issues, how the present factory farming system came to be, its impacts on the animals, consumers of animal products, the environment and small family farmers. The status and protection of farmed animals in the U.S. will be compared to that of farmed animals in the U.K., Europe and Australia. Students will be asked to participate in discussions and debates about the protections offered or withheld from farmed animals under various legal systems. Because this is a dynamic subject, we will incorporate into our discussion references to developments and issues that are occurring presently.

COURSE REQUIREMENTS

1. Students are expected to attend all of the classes, read assigned text and participate regularly and respectfully in class discussions.
2. The course will include two simulations, in which students will be assigned to review legislation and make presentations to the class.
3. Final exam.

COURSE READING MATERIALS

Wagman, Bruce A., *et al.* [Waisman, Sonia S., Frasch, Pamela D.], 2010, *Animal Law*, 4th Edition, *Cases and Materials*, Carolina Academic Press, Durham, North Carolina (referred to below as "ANIMAL LAW").

Reproduced materials.

GRADING

This is an intensive two-week class and students will be expected to attend every session, unless there is an excused absence. Attendance, reading and participation in class are essential. Grades will be based on presence and participation in class, working knowledge of the assigned readings, participation in class simulations and a final exam.

1. The final exam will constitute 60 % of the final grade.
2. Participation in simulations will constitute 10 % of the final grade.
3. Attendance and participation in class will constitute 30 % of the final grade. Class participation will be tracked as followed for each session:
 - 0 points = no show (no prior notice)
 - 1 point = excused absence
 - 2 points = attendance
 - 3 points = attendance and participation

COURSE OUTLINE AND READING ASSIGNMENTS

Day 1:

June 14

Introduction. What is (and is not) a “farmed animal?” Which species and in what contexts are animals defined as “farmed or farm animals,” “livestock,” “poultry” (and other related terms); what are the legal implications of such definitions and what are the underlying public policies that support disparate contextual standards?

Readings:

ANIMAL LAW 24-33.

CA Penal Code Sec. 598b, c and d.

Rakhyun E. Kim, *Dog Meat in Korea: A Socio-Legal Challenge*, 14 Animal L. 201 (2008). Read pages 201 – 212.

Common factory farming practices in the U.S.; the differing perspectives offered by the animal agribusiness industry, scholars focused on animal agriculture, individual family farmers and animal welfarists.

Reading:

David J. Wolfson and Mariann Sullivan, *Foxes in the Hen House: Animals, Agribusiness, and the Law: A Modern American Fable*, in ANIMAL RIGHTS: CURRENT DEBATES AND NEW DIRECTIONS 205-233 (Cass R. Sunstein & Martha C. Nussbaum eds., Oxford U. Press 2004)

Day 2:

June 15

Common factory farming practices, continued:

Readings:

U.S. Department of Agriculture (USDA), *Animal Welfare Issues Compendium*, A

Collection of 14 Discussion Papers, Sept. 1997. Redacted.

Putting Meat on the Table: Industrial Farm Animal Production in America, A Report of the Pew Commission on Industrial Farm Animal Production, Executive Summary (2008).

(U.S.) federal Humane Methods of Slaughter Act, federal Humane Transport Act.

Readings:

ANIMAL LAW 420, 485-506.

Twenty-Eight Hour Law of 1877, 49 USC § 80502.

Humane Methods of Livestock Slaughter Act, 7 U.S.C. § 1901.

W. Ron DeHaven, Administrator, U.S. Department of Agriculture, Letter to Peter A. Brandt, Humane Society of the U.S., Sept. 22, 2006.

Day 3:

June 16

State criminal anti-cruelty (and other federal and state) laws relevant to farmed animals and exemptions from coverage.

Readings:

ANIMAL LAW 421-443, 445-452.

Animal Welfare Act, 7 USCS § 2132 (g)

National Meat Association v. Brown, 599 F.3d 1093 (9th Cir. 2010)

Day 4:

June 17

Environmental issues relevant to farmed animal agricultural practices. Application of the federal Clean Air Act and Clean Water Act; state environmental laws, nuisance and abatement claims, CAFO applications and licenses, impact of animal agriculture on climate change.

Readings:

Union of Concerned Scientists, *CAFOs Uncovered: The Untold Costs of Confined Animal Feeding Operations*, (2008). Read Executive Summary, Introduction and Chapter One.

Concerned Area Residents for the Environment v. Southview Farm, 34 F.3d 114 (2nd Cir. 1994).

Assateague Coastkeeper v. Hudson Farm, 727 F. Supp. 2d 433 (D. Md. 2010).

National Pork Producers Council v. Environmental Protection Agency, 2011 U.S. App. LEXIS 5018 (2011).

Day 5:

June 20

Litigation and Legislation Brought by or on Behalf of the Agriculture Industry

Readings:

ANIMAL LAW 477

David J. Wolfson, *McLibel*, 5 Animal L. 21 (1999)

Engler v. Winfrey, 201 F.3d 680 (5th Cir. 2000).

Handouts: current legislative efforts to ban photographing or videotaping at farm facilities.

Day 6:

June 21

Factory farming legislation and practices outside the U.S.

Readings:

Peter Stevenson, *European and International Legislation: A Way Forward for the Protection of Farm Animals*, in ANIMAL LAW IN AUSTRALASIA 307- 332 (The Federation Press 2009)

Katrina Sharman, *Farm Animals and Welfare Law: An Unhappy Union*, in ANIMAL LAW IN AUSTRALASIA, 35- 56 (The Federation Press 2009).

European Convention for the Protection of Animals Kept for Farming Purposes
Additional Protocol to the European Convention for the Protection of Animals Kept for Farming Purposes

European Convention for the Protection of Animals for Slaughter

European Convention for the Protection of Animals During International Transport

Swiss Federal Act on Animal Protection and Swiss Animal Protection Ordinance

Norwegian Animal Welfare Act

German Animal Welfare Act

[Simulation]

Day 7:

June 22

Targeting a specific practice -- force feeding birds as part of the production of foie gras

Readings:

ANIMAL LAW 458-59, 481-82

Lovenheim v. Iroquois Brands, 618 F.Supp. 554 (D.D.C. 1985).

IL Restaurant Ass'n v. City of Chicago, 492 F.Supp. 2d 891 (N.D. Ill. 2007).

Israeli Federation of Animal Protection Orgs v. Attorney General, Piskei Din 57 (6) 212 (Isr.S.C. 2003) HCJ 9232/01 NOAH, Verdict of the Supreme Court of Israel, August 2003.

Petition Before the U.S Department of Agriculture, Food Safety Inspection Service (to prohibit introduction of force-fed foie gras into the human food supply) (2007).

Philip S. Derfler, USDA FSIS, Letter to Peter Petersan, HSUS (2009).

Day 8:

June 23

Consumer preferences: Humane labeling of farmed animal products.

Consumer protection laws and cases: food-borne disease; public health issue.

Readings:

ANIMAL LAW 460-478.

Carter Dillard, *False Advertising, Animals and Ethical Consumption*, 10 Animal L. 25, (2004).

Humane Society of the U.S. v. Schafer, No. 08-337 (D.D.C. filed Feb. 27, 2008) Complaint.

[Speaker]

Day 9:

June 24

The use of initiatives to improve conditions for farmed animals in the U.S.

Readings:

Jonathan R. Lovvorn & Nancy V. Perry, *California Proposition 2: A Watershed Moment in Animal Law*, 15 Animal L. 149 (2009).

Jayson L. Lusk, *The Effect of Proposition 2 on the Demand for Eggs in California*, Journal of Agric. & Food Indus. Org., Vol 8, Iss. 1, Article 3 (2010).

Californians for Humane Farms v. Schafer, No. C 08-03843, 2008 U.S. Dist. LEXIS 74861 (N.D. Cal. 2008).

[Simulation].