

ENVIRONMENTAL JUSTICE SEMINAR

University of Florida Levin College of Law

SPRING 2023 SYLLABUS – LAW 6936 – 2 CREDITS

Instructor

Professor James M. Van Nostrand

Office: HOL 339

Office Phone: (352)-273-0978

Cell Phone: (304) 777-6050

Email: vannostrand@law.ufl.edu

Office Hours: 3:00 to 4:00 pm on Mondays and Wednesdays

Class Schedule and Location

The class meets on Tuesday afternoons from 4:00 to 6:00 in HOL 359.

Course Description and Objectives

This two-credit seminar covers the foundations of, and current developments in, the field of environmental justice, and cultivates lawyering skills to proactively engage in this area of law and policy. Environmental justice—as a field of study, practice, and citizen activism—grew out of the civil rights movement, supported by statistical evidence that marginalized and disenfranchised communities, often of color and lower income, are more likely to be proximate to industrial activities with residents exposed to negative environmental and public health conditions. Although the course focus is largely on U.S. environmental justice issues and practice, readings and discussions will address environmental concerns that extend beyond U.S. borders—including climate justice and disaster justice.

Student Learning Outcomes

A student who completes this course should have knowledge and understanding of key legal, regulatory, and policy issues the field of environmental justice, and of relevant tools and strategies to engage with environmental justice concerns. At the end of this course, students should be able to:

- Demonstrate a basic understanding of the history of environmental justice, and key federal and state legal, regulatory, and policy developments.
- Describe the expansion of the environmental justice field over time to include climate, disaster, and social justice, broader concepts of equity, inclusion, and lived experience, and accompanying evolving terminology.
- Identify the role of lawyers in responding to environmental justice based conflict, including a variety of practice placements, including nongovernmental organizations, government (local/state/federal/tribal), in-house counsel, private firms, or policy advisors.
- Articulate strategies for empowering clients in communities with environmental justice concerns.
- Identify remedies for environmental and public health burdens in the affected communities, including litigation, application of administrative procedures, constitutional law, civil rights law, environmental dispute resolution, civil and criminal enforcement, voluntary

agreements such as community benefits agreements, supplemental environmental projects, and substantive changed outcomes as compared to procedural change.

- List the basic concepts of risk assessment, access to information, and the application of mapping and technical tools to understand a community's environmental exposures.

The course will also undertake an environmental conflict simulation from the Harvard Program on Negotiation.

Required Reading Materials

The casebook we will be using is ENVIRONMENTAL JUSTICE: LAW, POLICY & REGULATION, Villa, Ahmad, Bratspies, Lin, Rechtschaffen, Gauna & O'Neill, (Carolina Academic Press, 3d Ed. 2020).

Please be sure to register for the Canvas course and have any required materials with you in print or easily accessible electronic form in class. You are responsible for checking your Canvas page and the e-mail connected to the page on a regular basis for any class announcements or adjustments.

Course Expectations and Grading Evaluation

This seminar is structured in such a way as to satisfy the College of Law's Advanced Writing Requirement, as set forth in the UF Law Student Handbook & Academic Policies:

All J.D. candidates must complete—under close faculty supervision—a major, written product that shows evidence of original scholarship based on individual research. Students often satisfy this requirement in a seminar course. . . . If fulfilled in an advanced course, the required writing may take the form of one or a number of finished written products that together demonstrate these qualities. The general standard for fulfillment of the advanced writing requirement is one or more papers that are cumulatively at least 25 pages of double-spaced, 12-point text or the equivalent.

To fulfill this requirement in this seminar, students have two options: (1) three reaction papers totaling about 25 pages, or (2) a longer, research paper. Both will satisfy the College of Law's Advanced Writing Requirement. These two options are described in greater detail below:

Option #1: Three Reaction Papers: Students will write three papers (roughly 8 to 10 pages of double-spaced text, 12-point font) during the course of the term. Each paper should relate to the ideas or issues raised in the readings for a given week, which will help us focus discussion for that week. Each reaction paper will be given equal weight in calculating your grade, and should incorporate outside research.

Please sign up for specific weeks on Canvas, and post your papers to Canvas so we can all learn from them for discussion. To receive credit for a reaction paper, you must submit it by 8 pm on the Monday preceding the Tuesday class in which the subject will be discussed. Although you can choose the sessions for which you will write papers, you must write your first paper for one of the first four class sessions, in order to spread your assignments throughout the semester. So your first reaction

paper must be posted no later than Monday, February 13, for discussion during the class on Tuesday, February 14.

The deadline for the final reaction paper is 8:00 pm on Monday, April 17.

Option #2: Research Paper: Students have the option of writing one paper, at least 25 pages of double-spaced text, 12-point font or the equivalent (approximately 8,000 words) on a subject that is related to the subject matter of the course, as further established in the reading assignments, and based on your own research. Students choosing this option will be subject to the following deadlines to ensure reasonable progress on the paper throughout the semester:

Approval of topic	Tuesday, February 7
Outline	Tuesday, February 28
Rough Draft ¹	Tuesday, April 18
Final Draft	Thursday, May 11

I am happy to meet with any student interested in writing a paper to discuss topics, even if students do not start out with any sense of the topic on which they wish to write.

Class Attendance Policy

Attendance in class is required by both the ABA and the Law School. Attendance will be taken at each class meeting. If you miss more than two classes for any reason, you may be administratively withdrawn from the course or your grade may be lowered. Absences during the drop/add period (through the first week of classes) will not count toward your two permitted absences. As a matter of professionalism, you are expected to be on time for class. If you arrive late, it is your responsibility to see me after class to make sure I have marked you late rather than absent (in my discretion, but tardiness of 10 minutes or more will generally count as an absence). The law school's policy on attendance can be found [here](#).

Compliance with UF Honor Code

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Law Honor Code located [here](#). The UF Law Honor Code also prohibits use of artificial intelligence, including, but not limited to, ChatGPT and Harvey, to assist in completing quizzes, exams, papers, or other assessments.

Information on UF Law Grading Policies

The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

¹ Submitting a rough draft is optional, but strongly encouraged. If you submit a rough draft, I will provide you with my comments and suggested revisions on the draft within one week, which would give you the opportunity to incorporate the suggestions, as you wish, in the final draft.

Letter Grade	Point Equivalent	Letter Grade	Point Equivalent
A (Excellent)	4.00	C (Satisfactory)	2.00
A-	3.67	C-	1.67
B+	3.33	D+	1.33
B	3.00	D (Poor)	1.00
B-	2.67	D-	0.67
C+	2.33	E (Failure)	0.00

The law school grading policy is available [here](#).

Observance of Religious Holidays

UF Law respects students' [observance of religious holidays](#).

- Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith.
- Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence.
- Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances.

Statement Related to Accommodations for Students with Disabilities

Students requesting accommodations for disabilities must first register with the Disability Resource Center (<https://disability.ufl.edu/>). Once registered, students will receive an accommodation letter, which must be presented to the Assistant Dean for Student Affairs (Assistant Dean Brian Mitchell). Students with disabilities should follow this procedure as early as possible in the semester. It is important for students to share their accommodation letter with their instructor and discuss their access needs as early as possible in the semester. Students may access information about various resources on the UF Law Student Resources Canvas page, available at <https://ufl.instructure.com/courses/427635>.

Student Course Evaluations

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Click [here](#) for guidance on how to give feedback in a professional and respectful manner. Students will be notified when the evaluation period opens and may complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluer.com/ufl/>. Summaries of course evaluation results are available to students [here](#).

Recordings of Class

All classes will be recorded via Mediasite in case students must miss class for health reasons. The Office of Student Affairs will work with faculty to determine when students may have access to these recordings, and the recordings will be password protected. It is the student's responsibility to contact the Office of Student Affairs as soon as possible after an absence.

ABA Out-of-Class Hours Requirements

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every “classroom hour” of in-class instruction. The Environmental Justice Seminar has two (2) “classroom hours” of in-class instruction each week, requiring at least four (4) hours of preparation outside of class. (This is independent of the time spent completing the writing assignments.) You should diligently devote that weekly minimum to preparing your readings and discussion problems, as well as reviewing and outlining material previously covered.

Course Schedule of Topics and Assignments

This syllabus is offered as a guide to the direction of the course. Our pace will depend in part on the level of interest and the level of difficulty of each section and is subject to change.

Date	Assignment	Reading
Tues., Jan. 17	The Environmental Justice Movement: Overview and Foundations	Chapter 1, <i>Introduction</i> , pp. 3-7, 9-18, 23-30; skim Executive Order 12898 (be prepared to discuss how you would update this Order); skim Executive Order 14008 (Biden Executive Order on Tackling Climate Justice); watch video for discussion (Chester, PA Case Study (8 min))
Tues., Jan. 24	Current Topics in Environmental Justice	Review White House Environmental Justice Advisory Council and overview of National Environmental Justice Advisory Council Chapter 14, <i>Climate Justice</i> , pp. 492-495, 505-509, 517-519 Chapter 15, <i>Disaster Justice</i> , pp. 521-528, 535-537, 558-560
Tues., Jan. 31	Causation, Environmental Standards	Chapter 2, <i>Theories of Causation</i> , pp. 40-47, 52-55, 62-64 Chapter 5, <i>Standard Setting</i> , pp. 172-178, 189-193, 195-202
Tues., Feb. 7	Land Use, Food Justice	Chapter 11, <i>Land-Use Planning</i> , pp. 394-396, 398-401 Michigan EGLE Letter to EPA Administrator Regan (November 2021) Chapter 16, <i>Food Justice</i> , pp. 563-566, 574-583 Emerging Contaminants: Skim EPA PFAS Roadmap

Tues., Feb. 14	Environmental Justice and the Constitution, Civil Rights	Chapter 4, <i>Constitutional and Civil Rights Claims</i> , pp. 124-132, 140-143, 154-155 Visit EPA's Office of External Civil Rights Compliance site and skim postings Read Texas Title VI Complaint (2019) and EPA's Response (2020)
Tues., Feb. 21	Key Principles of Risk Assessment	Chapter 3, <i>Risk and Health</i> , pp. 83-91, 95-100, 113-117 Watch video on human health risk assessment (4 min); watch video on environmental risk assessment (4 min)
Tues., Feb. 28	Environmental Permits, State Environmental Justice Initiatives	Chapter 6, <i>Environmental Permits</i> , pp. 207-210, 213-218, 226-229, 238-247 Chapter 10, <i>Governmental Initiatives to Promote Environmental Justice</i> , pp. 363-366, 383-391 Skim New Jersey Environmental Justice Law (2020) Skim Washington State Environmental Justice Law (2021)
Tues., Mar. 7	Enforcement and Remedies	Chapter 7, <i>Public Enforcement</i> , pp. 257-267, 269-274 Chapter 8, <i>Environmental Justice and Contaminated Sites</i> , pp. 299-305, 316-321 Chapter 13, <i>Citizen Enforcement and Common Law Remedies</i> , pp. 441-446, 455-459, 469-475
Tues., Mar. 14	SPRING BREAK	
Tues., Mar. 21	Maps and Data	Read Reuters Article on Big Data Please spend time before class exploring one of these tools, and we will discuss them: EPA EJScreen , Climate and Economic Justice Screening Tool , CalEnviroScreen , EPA ECHO , North Carolina DEQ Community Mapping System , HHS EJ Index
Tues., Mar. 28	Environmental Justice in Energy Proceedings	Read <i>Energy and Environmental Justice: How States Can Integrate Environmental Justice Into Energy-Related Proceedings</i> , available at https://works.bepress.com/james-vannostrand/3/

Tues., Apr. 4	Harvard Program on Negotiation - Siting an Asphalt Plant in the City of Madrona	Materials to be provided 3/28/23; prepare for negotiation in advance; come to class ready to negotiate; debrief
Tues., April 11	Deeper Dives: Energy Justice and the ESG Movement	Council for Inclusive Capitalism, Achieving a Just Energy Transition: A Framework for Company Action ; Harvard Law School Forum on Social Governance, ESG: 2021 Trends and Expectation for 2022 ; Reuters Article on ESG Trends
Tues., April 18	TOPIC TO BE DETERMINED	