

Professor Anderson
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ENVIRONMENTAL JUSTICE

Fall 2011, 272.2, CCN 49829
(9/1)

COURSE INFORMATION

Class will meet Fridays from 10 – 12:40. Class is cancelled on November 11 and 25 (school holidays) and November 18 (when I'm hosting a conference on campus). The first and second make-up sessions will be the combination of a Friday afternoon “toxic tour” in the City of Richmond (organized by Students for Environmental and Economic Justice) (date to be determined) and a lunchtime session on October 13 with Phoebe Seaton and Juan Carlos Cancino of California Rural Legal Assistance. A third make-up session will take place on the afternoon of September 30 from 2-4:40.

I will hold office hours open to this course on Fridays from 2:30 – 4 in my office, 589 Simon. You may sign up to claim specific times on a scheduling sheet outside 597 Simon Hall or request an appointment over email with Leslie Stone (lstone@law.berkeley.edu). Do not contact me directly to sign up for office hours. Office hours are cancelled on September 30 (during our make-up class) and on November 11, 18 and 25.

REQUIREMENTS & GRADING

Attendance, Participation, and Case Study – 40%

All students are expected to attend class and participate in discussions. Quality contributions will be rewarded, and unexcused poor attendance could result in a reduced grade or being dropped from the course. If for any reason you do not feel comfortable taking part in class discussions, please let me know what I can do to make the atmosphere more conducive to your participation.

Participation in the class will be largely voluntary—it's up to you to get involved and speak up. However, I will assign call panels for our classes starting on class 4. Each student will be on call twice: once during a class with no guest speaker and once during a class with a guest speaker. In the later case, you may not be called on by name, but you will be expected to prepare carefully for class and proactively prepare to engage the speaker. The on-call list will be posted on bspace when enrollment is set.

I welcome you to find and share interesting supplementary materials that are relevant to our class. These might include: newspaper, magazine, or blog articles; artwork, plays or literature; or other materials. Please use the bspace forum link to post your materials—do not send them to me directly.

Once during the semester, each student will present a strictly timed 10-minute in-class presentation on an assigned case study topic. Case study focused on a community introduction, an overview of litigation history, community organizing history, lawsuit outcomes, your presentation might include images (e.g., Google Earth), maps, video/audio footage, descriptive information, chronologies, etc. that consider things such as:

- Community location
- Community race and socioeconomic demographics
- Community physical conditions (e.g., housing stock, infrastructure or services needs, etc.)
- Neighboring land uses
- Land use plans, redevelopment plans, or proposed changes thereto
- A history of community organizing and activist efforts, including community leadership
- A history of legal interventions, including lawsuits and other forms of representation over time (rather than looking like a Keycite history of a dispute, these should focus our attention on the legal strategies/theories as they developed over time and the outcomes of those efforts)
- The legal history of a particular cause of action
- The gains to a community from its EJ organizing strategy

For those students doing a presentation on an innovative local government or state agency, law or program for EJ, your goal is identify 2-3 interesting examples of the ways local and state governments can support environmental justice.

After class, please forward electronic copies of your visual presentation to lstone@law.berkeley.edu to post on bspace.

Final Exam – 60%

You will complete an 8-hour take-home exam during the examination period. We'll discuss the format of the exam in class.

COURSE MATERIALS & SYLLABUS

This syllabus provides an overview of the major topics and readings we will cover in the course of the semester. We may add or delete topics to account for the pace of our discussions, new developments in the law, etc. Supplemental readings may be announced in class and on the course website.

Materials will be located on the resources link of the bspace class website or through Westlaw/Lexis. Each reading assigned for class on bspace will be labeled with its unit number.

You may wish to purchase two books for this class, both of which I recommend highly and have drawn from selectively for our course readings.

- Luke Cole & Sheila Foster, *FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT* (2001)
- Michael B. Gerrard & Sheila R. Foster, *THE LAW OF ENVIRONMENTAL JUSTICE: THEORIES AND PROCEDURES TO ADDRESS DISPROPORTIONATE RISKS* (2009)

Unit	Reading Assignments	Date
<i>Introduction</i>		
1. What is Environmental Justice? Introduction, Principles, and History of the Movement <i>No student case study</i>	-First National People of Color Environmental Leadership Summit, “Principles of Environmental Justice” (1991) (bspace) -Cole and Foster, “A History of the Environmental Justice Movement” in FROM THE GROUND UP (2001) (bspace)	8/26
2. Race, Place, & Toxics: Is there a problem? Why? <i>No student case study</i>	- “Life and Death From Unnatural Causes, Alameda County” (2008) (bspace) (Exec Summ (pp vii-xvi) + Air Quality (pp 89-96) - Morello-Frosch & Lopez, “The Riskscape and the Color Line” (bspace) (Intro and Parts 1, 2, 3, 5) - Richard Thompson Ford, “The Boundaries of Race: Political Geography in Legal Analysis” (excerpt from Crenshaw et al, eds., CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (1995)) (bspace) - Anderson & Plaut, “Implicit Bias and the Spatial Colorline” (bspace) (Intro + Part III)	9/2
3. Toxic Tour: Richmond (make up class)	-Background reading on Asian Pacific Environmental Network and Chevron Refinery in Richmond (URL, bspace) -“Asthma epidemic sickens thousands of Bay Area Kids,” SF Chronicle (URL, bspace)	Date TBD
<i>Community-Based Lawyering & Advocacy</i>		
4. The Practice of Environmental Justice Lawyering <i>Case Studies (Hunter’s Point):</i> Hunter’s Point Community Introduction, Advocacy and Organizing around the Shipyard; East Palo Alto Community Introduction and Advocacy Profile	- Cole, <i>Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law</i> , 19 ECO. L.Q. 619 (1992) (Westlaw/Lexis) - Rechtschaffen, <i>Fighting Back Against A Power Plant</i> , 14 HASTINGS W.-N.W. J. ENVTL. L. & POL’Y 537 (2008) (Westlaw/Lexis)	9/9
<i>Key Legal Tools for Environmental Justice</i>		
5. Title VI <i>Student case studies (all on South Camden):</i> (1) Community Introduction & Community Organizing History and Practices, (2) Litigation History of the Title VI claim	-Mark, “Title VI” in Gerrard & Foster ABA GUIDE (read pages 23-41) (bspace) -Cole, “Expanding Civil Rights Protections in Contested Terrain: Using Title VI” (pp 187-98) (bspace)	9/16
6. Local Administrative Law & Public Participation	- Cole & Foster, “The Struggle for Kettleman City” in FROM THE GROUND UP (2001)	9/23

<p><i>Student Case Studies (all on Kettleman City):</i> (1) Community Introduction, and Litigation Overview, (2) Community Groups and Organizing History, (3) Legal Fight Against the Waste Incinerator <i>Guest Speaker:</i> Ingrid Brostrom, Staff Attorney, Center for Race, Poverty and the Environment</p>	<p>(bspace) - CRPE, Letter to Revive Title VI Complaint - Kettleman City 1994 Title VI Complaint (read pages 1-10, and skim the rest) (bspace) - Kettleman City Expansion State Complaint (read the Introduction, III(A)-(D)) (bspace)</p>	
<p>7. Innovative Legal Strategies & EJ Laws (Common Law Nuisance and Local/State Laws) <i>Student case studies:</i> (1) Introduction to East LA and Mothers of East LA Community Group, (2) South Camden Public Nuisance Action, (3-4) Innovative Local Legislation for EJ, (5-6) Innovative State Legislation for EJ</p>	<p>-Drury, “Moving a Mountain: The Struggle For EJ in East LA” -“South Camden excerpt (2003 Opinion)” (bspace) -“South Camden excerpt (2006 Opinion)” (bspace) -“Rest of Torts (public nuisance)” (bspace)</p>	<p>9/30</p>
<p>8. The Federal Fair Housing Act, § 3604b <i>Student case studies (Modesto):</i> (1-2) Community Introduction, Overview of Litigation History, Outcomes</p>	<p>- Text, Federal Fair Housing Act § 3604b (bspace) - Crawford, “Fair Housing Act Section 3604(b)” in Gerrard & Foster’s ABA GUIDE (bspace) - <i>The Committee Concerning Community Improvement v. City of Modesto</i>, 583 F.3d 690 (2009) (Westlaw/Lexis)</p>	<p>9/30 2pm – 4:40pm (make up class)</p>

<p><i>Special Unit: Rural Environmental Justice</i></p>		
<p>9. Tension Between Affordable Housing & Neighborhood Quality? <i>Student case studies (Duroville):</i> (1-2) Community Introduction, Overview of Litigation History, Outcomes</p>	<p>-Larson, <i>Informality, Illegality, and Inequality</i>, 20 YALE L. & POL’Y REV. 137 (2002) (Intro, Parts I, II, IV-B, V, VI) (Westlaw/Lexis) -Delgado, <i>Rodrigo’s Twelfth Chronicle: The Problem of the Shanty</i>, 85 GEO. L.J. 667 (1997) (Westlaw/Lexis) -Fischel, <i>Homevoter Hypothesis</i> (excerpt)(bspace)</p>	<p>10/7</p>

10. Strategies for Rural Environmental Justice: Introduction to the Community Equity Initiative, California Rural Legal Assistance	-Anderson, <i>Mapped Out of Local Democracy</i> , 62 STAN. L. REV. 931 (2010) (Intro, Parts I-II) (Westlaw/Lexis)	10/13 Lunchtime presentation
11. Environmental Justice in the Central Valley: Key Issues & Cases <i>Guest speakers:</i> Phoebe Seaton & Juan Carlos Cancino of California Rural Legal Assistance <i>Student case study (Matheny Tract):</i> Community Introduction, Overview of EJ Challenges	-Anderson, <i>Cities Inside Out</i> , 55 UCLA L. REV. 1095 (2008) (Intro, Part I-A, I-B, I-D, II) (Westlaw/Lexis) -CRLA Letter to LAFCO 4-7-10 (bspace) -CRLA Letter to LAFCO 8-3-10 (bspace) -Cal. Govt. Code § 56668 (bspace) -Curtin's <i>CA Land Use Planning</i> on LAFCOs (bspace)	10/14

<i>EJ in Indian Country</i>		
12. Waste, Preservation, & Sacred Resources <i>Student case studies:</i> Uranium mining in Indian Country; Mountaintop Removal <i>Guest speaker:</i> Caitlin Sislin (Boalt Alum), Advocacy Director, Women's Earth Alliance	-Laurence, <i>American Indians and the Environment</i> (bspace) (basic primer) -Noriko Ishiyama, <i>Environmental Justice and American Indian Tribal Sovereignty</i> (bspace) -James Grijalva, <i>Closing the Circle, Environmental Justice in Indian Country</i> (excerpt) (bspace) -Sislin, <i>This Saturday, Prayer for the Peaks</i> , HIGH COUNTRY NEWS (bspace)	10/21
<i>The Green Jobs and Cooperatives Movement</i>		
13. Transactional Lawyering for Environmental Justice: Individual Empowerment, Green Jobs, and Cooperatives <i>Student case study:</i> Evergreen Cooperative, Cleveland <i>Guest Speakers:</i> Camille Pannu, EJW Fellow, Center for Race, Poverty and the Environment & Sushil Jacob, East Bay Community Law Center	-Scott Cummings, <i>Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice</i> , 54 STAN. L. REV. 399 (2001) (Intro, Part I-A-3, Part III) (Westlaw/Lexis) -Carmen Huertas-Noble, Jessica Rose and Brian Glick, <i>The Greening of Community Economic Development: Dispatches from New York City</i> , 31 W. NEW ENG. L. REV. 645 (2009) (Westlaw/Lexis)	10/28
<i>Climate Justice</i>		
14. EJ Concerns in Policymaking to Reduce Greenhouse Gas Emissions <i>No student case studies</i> <i>Guest Speakers:</i> Adrienne Bloch, Staff Attorney, Communities for a Better Environment & Alegría De La Cruz (Boalt Alum), Legal Director, Center for Race, Poverty and the	-Lin, "Understanding Climate Change: An Equitable Framework" (PolicyLink report) (bspace) (browse this report for a broad issue overview, as needed) -Sze, London et al, "Best in Show? Climate and Environmental Justice Policy in California" (in <i>Environmental Justice</i> 2009) (bspace) -Shonkoff, Morello-Frosh, et al., "Minding the Climate Gap: Environmental Health and Equity	11/4

Environment	Implications of Climate Change Mitigation Policies in California,” (in <i>Environmental Justice</i> 2009) (bspace)	
Review session	-No reading	TBD