

# **Social Justice Lawyering**

LAW6816, Section 2D72

3 credits

Fall 2017

Holland 284

M,T,W 11:00-11:50

## **Joan Flocks**

### **Director, Social Policy Division**

Center for Governmental Responsibility

Levin College of Law

234B Bruton-Geer

(352) 273-0837

[flocks@law.ufl.edu](mailto:flocks@law.ufl.edu)

*Office Hours: MTW 2:00 – 3:00 or by appointment*

*Available anytime via email.*

## **Co-instructor:**

Kirsten Anderson, Attorney

Southern Legal Counsel, Inc.

1229 NW 12<sup>th</sup> Ave.

Gainesville, FL 32601

(352) 271-8890

[Kirsten.anderson@southernlegal.org](mailto:Kirsten.anderson@southernlegal.org)

## **MATERIALS**

**Required:** The main text will be Martha R. Mahoney, John O. Calmore, and Stephanie M. Wildman (MCW), “Cases and Materials on Social Justice: Professionals, Communities, and Law,” **Second Edition (2013). ISBN: 9780314926982.** Available at the Law School bookstore.

*Supplementary articles and cases are posted on TWEN as noted on the syllabus. TWEN readings are italicized in the syllabus.*

## **COURSE PURPOSE AND LEARNING OUTCOMES**

This course explores how those in the legal profession can work to advance social justice. First, the course will examine the meaning of social justice and the variety of structural factors that contribute to legal inequality. Then it will explore ways in which legal assistance is funded and delivered to low-income and underrepresented individuals; different substantive legal arenas in which social justice is pursued; and the diverse ways in which individuals can work for social justice, both in and out of the courtroom.

The course is designed to be introspective, interactive, and applied. There is an applied project in addition to a final exam. The purpose of the project is to encourage students to become engaged in broader social justice communities and become proactive in pursuing paid or pro bono work that focuses on social justice after graduation.

By the end of this course, students will have:

- Discussed the historical origins and various theories of lawyering for social justice in the United States;
- Compared skills and methods used by public interest and social justice lawyers with those used by traditional lawyers;
- Evaluated landmark case law in substantive areas of social justice such as antidiscrimination, education, voting rights, reproductive rights, and immigration;

- Developed and performed individual and group strategies for addressing specific social justice issues under the supervision of a licensed attorney.

## **COURSE REQUIREMENTS AND POLICIES**

### **Attendance and Participation:**

Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>. After Week 1, attendance will be self-reported on a class roster distributed at the beginning of each class. Tardiness and absences can affect grades.

As with all law school courses, it is essential that students are prepared and ready to participate in class. Being prepared means having read the materials carefully enough to understand, summarize, discuss, and form an opinion about them. If cases are included in the readings, being prepared means being able to brief the cases. It is anticipated that you will spend an average 2 hours out of class reading and/or preparing for every 1 hour in class. After the first week, an on-call system will be established.

### **Class requirements:**

There will be an applied service learning group project and a final exam.

***Service Learning Project:*** This applied project includes an experiential learning process, written products, and a final presentation. More detailed instructions for this assignment will be discussed in class and can be found on the TWEN site. In general:

1. Students will sign up for one of the projects posted on TWEN. All projects require students to work in teams of no more than five.
2. Students will work for a legal organization or a community group to complete the projects under the supervision of a lawyer and consistent with the rules of professional responsibility.
3. The projects have been developed so that students can increase their awareness of broader social justice issues and sense of community connectedness while they acquire social justice lawyering skills. Additionally, students will have the opportunity to make a meaningful contribution to the selected causes.
4. Students are required to develop a plan outlining the exact scope and timeframe of work for successful completion of project. Template and instructions are available on TWEN.
5. Each project requires a final work product.
6. Individuals working in teams will also submit a synopsis of their individual effort and the project process.
7. Final work products and individual synopses are due the last week of class. Students will make brief presentations about their project at the end of the semester.
8. All written assignments must be submitted on TWEN. Assignments completed by the group can be submitted under one group member's name.

***Final exam:*** There will be a short answer **final exam** based on material covered during the semester. An exam review will be held on the last days of class, after class presentations are completed.

### Grading Policies:

Grading for Social Justice Lawyering is calculated as follows:

- Attendance and participation – 10%
- Service Learning Project – 45%
- Final exam - 45%

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:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

### Classroom Electronics Use:

**Please silence and store your cell phones during class time.** If you have an emergency where you must have access to your phone, you must inform the instructor before class.

**Impermissible use of a laptop during class WILL affect your grade.** Please note the following excerpt from the College of Law’s Computer Policy: “*Students may use laptops in the classroom for notetaking and for class purposes as directed by the professor. Other uses are not permitted, including, but not limited to, email, chat rooms, instant messaging, ecommerce, game playing, etc.*” **The instructor reserves the right to ban the use of ALL laptops during class time, if any student’s laptop use becomes disruptive to the class.**

### UF POLICIES

**Accommodating Students with Disabilities:** Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the College of Law Dean of Student Affairs, Rachel Inman, when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

**Academic Misconduct:** Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

**Online course evaluation:** Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

### **CLASS SCHEDULE**

This following represents current plans and objectives. This schedule is subject to change in order to enhance the class learning opportunity. Such changes, communicated clearly, are not unusual and should be expected.

Weeks 1 - 4 will develop the professional framework for the practice of law in the social justice arena. Weeks 5 - 11 will focus on the foundation for and implications for social justice lawyering within a variety of substantive areas of the law. During these weeks we will be reviewing landmark and recent Supreme Court decisions. Week 12 will examine examples of social justice lawyers in action. During Weeks 13 and 14 students will make their Service Learning Project presentations and we will conduct a final exam review.

#### **Week 1: Introduction to Social Justice Lawyering**

**8/14: Readings:** *“Theoretical Foundations for Social Justice Education”* (Lee Anne Bell); *“The Complexity of Identity – ‘Who Am I?’”* (Beverly Daniel Tatum) - Available on TWEN.

**8/15: Readings:** *“A Call to Context: The Professional Challenges of Cause Lawyering at the Intersection of Race, Space, and Poverty”* (John Calmore) pp. 1932-1940; *“Resistance Redux”* (Victor Li) - Available on TWEN.

**In Class:** DVD Start “William Kunstler – Disturbing the Universe.”

**8/16: In Class:** DVD Finish and discuss “William Kunstler – Disturbing the Universe.”

#### **Week 2: The Legal Profession, Legal Services and Access to Justice**

**8/21: Readings:** MCW Chapter 2 (The Legal Profession. . .), Section 2 – Litigation and Inequality and (97- 102); Section 3(A) – The Politics of Funding Legal Work for Social Justice (102-110 and 114-118) and 3(C) (120-124).

**8/22: Readings:** MCW Chapter 2 cont’d Section 4(A) – Structuring Alternative Visions of Legal Practice . . . (125-146).

**8/23: Readings:** MCW Chapter 2 cont’d Sections 4(B) – Funding Legal Representation (146-155) and 4(C) Civil Rights Cases . . . (155-164 and 168-172).

**Assignment:** Sign up for Service Learning Project on TWEN by 5 pm.

#### **Week 3: Facets of Representation – from Individual to Communities**

**8/28: Readings:** MCW Chapter 3 (Social Justice Lawyers in Context), Section 1 – Reflections on Social Justice Lawyering (173-179); Section 2(B) - Understanding Communities... (199-209).

**8/29: Readings:** MCW Chapter 5 (From Individual Clients to Groups and Communities), Section 1 – The Client Centered Model of Representation (294-301 and 313-322); Section 3 – The Lawyer-Client Relationship in the Context of Representing Group and Community Clients (335-343).

- 8/30:** *In Class:* Guest Speaker Andrea Costello (Attorney, Southern Legal Counsel)  
*Assignment: Meet with Service Learning Project group this week and assign responsibilities, begin work on plan.*

**Week 4: Political Struggles, Shaping Claims, and Legal Transformation in Social Justice Cases**

**9/4:** *Labor Day – no class*

**9/5:** *Readings:* MCW Chapter 11 (Lawyers and Political Struggles toward Transformation), Section 2 – Community Empowerment and the Role of the Lawyer (787-803); “*Paying for Free Speech*” (David L. Hudson) - Available on TWEN.

**9/6:** *Readings:* MCW Part 2 Intro – (445-446); Chapter 7 (The Political Nature of Rights Claims), Section 1(A) – The Example of Reconstruction (447-450); Section 1(B) – The Efficacy of Rights Claims; Section 1(D) – The Transformative Potential of Rights Claims (473-478). MCW Chapter 11, Section 4 – Lawmaking and Transformation (834-844).

**Week 5: Topics in Social Justice Lawyering – Residential Segregation**

**9/11:** *Readings:* MCW Chapter 7 (451-459); *Shelley v. Kraemer 334 U.S. 1 (1948)* - Available on TWEN; MCW Chapter 12, The Movement Toward a New Fair Housing . . . (852-855); Section 2 – The Context and Conditions of Spatial Inequality and Injustice (861-872).

**9/12:** *Readings:* MCW Chapter 12, Section 2 cont’d (872- 883); *Bank of America v. City of Miami, Florida, 581 U.S. \_\_\_\_\_ (2017)* - Available on TWEN.

**9/13:** *Readings:* MCW Chapter 12, Section 3 - Moving Beyond Fair Housing Toward Justice in Place (894-898 & 903-913).

*Assignment: Service Learning Contract/Work Plan due, submit on TWEN by 5 pm.*

**Week 6: Topics - Environmental Justice**

**9/18:** *Readings: Excerpts from Environmental Justice – Law, Policy & Regulation* (Clifford Rechtschaffen, Eileen Gauna, and Catherine O’Neill) - Available on TWEN.

**9/19:** *Readings:* MCW Chapter 12, Section 3 - Moving Beyond Fair Housing Toward Justice in Place (913-922); “*Theorising Environmental Justice: The Expanding Sphere of Discourse*” (David Schlosberg) – Available on TWEN.

**9/20:** *Readings:* “*Using Civil Rights Laws for Environmental Justice Along the Texas Gulf Coast*” (Erin Gaines & Kelly Haragan) Available on TWEN.

*In class: DVD “Come Hell or High Water: The Battle for Turkey Creek.”*

**Week 6: Topics – Residential Segregation and Environmental Justice**

**9/18:** *Readings:* MCW Chapter 7 (451-459); *Shelley v. Kraemer 334 U.S. 1 (1948)* - Available on TWEN; MCW Chapter 12, The Movement Toward a New Fair Housing . . . (852-855); Section 2 – The Context and Conditions of Spatial Inequality and Injustice (861-872).

*Assignment: Service Learning Contract/Work Plan due, submit on TWEN by 5 pm.*

**9/19:** *Readings:* MCW Chapter 12, Section 2 cont’d (872- 883); *Bank of America v. City of Miami, Florida, 581 U.S. \_\_\_\_\_ (2017)* - Available on TWEN.

**12pm – 1pm:** Make up session - *Excerpts from Environmental Justice – Law, Policy & Regulation* (Clifford Rechtschaffen, Eileen Gauna, and Catherine O’Neill) - Available on TWEN.

**9/20:** **Readings:** MCW Chapter 12, Section 3 - Moving Beyond Fair Housing Toward Justice in Place (894-898 & 903-922). “*Using Civil Rights Laws for Environmental Justice Along the Texas Gulf Coast*” (Erin Gaines & Kelly Haragan) Available on TWEN.

**12pm – 1pm:** Make up session - DVD “Come Hell or High Water: The Battle for Turkey Creek.”

### **Week 7: Topics - Education**

**9/25:** **Readings:** “*Brown at 50: Educational Inequality from Reconstruction to Resegregation*” (Leland Ware); *Brown v. Board of Education* 347 U.S. 483 (1954); “*Brown v. Board of Education – Why was it a Hard Case and How Did the Decision Matter?*” (Michael Karman) - Available on TWEN.

**9/26:** **Readings:** MCW Chapter 9 (Participation in Democratic Society), Section 2A Education (645-660). “*Right to Learn*” (Lorelei Laird) – Available on TWEN.

**9/27:** **Readings:** MCW Chapter 9 (Participation in Democratic Society), Section 2D (671-681); *Fisher v. University of Texas at Austin et al.*, 579 U.S. \_\_\_\_ (2016). Available on TWEN. Summary at <https://www.oyez.org/cases/2015/14-981>

### **Week 8: Topics - Voting Rights**

**10/2:** **Readings:** “*The Color of Law*” (Louis Menand). Available on TWEN; MCW Chapter 9, Participation in Democratic Society, Section 1 – Voting, Community Activism and Political Participation (607-617).

**10/3:** **Readings:** *Shelby County v. Holder*, 570 U.S. \_\_ (2013). Available on TWEN. Summary at <https://www.oyez.org/cases/2012/12-96>. “*Voting Rights Roundup 2017*” (Brennan Center for Justice) - Available on TWEN.

**10/4:** **Readings:** “*The Battle for North Carolina*” (Vann Newkirk); NC State Conference of NAACP v. McCrory, 831 F.3d 204 (4<sup>th</sup> Cir. 2016) (214-233); “*Strict North Carolina Voter ID Law Thwarted After Supreme Court Rejects Case*” (New York Times) – Available on TWEN.

**Assignment:** *Service Learning Project progress report due, submit on TWEN by 5 pm.*

### **Week 9: Topics - Reproductive Rights**

**10/9:** **Readings:** “*To Have and To Hold – Reproduction, Marriage, and the Constitution*” (Jill Lepore); *Understanding Reproductive Justice* (Loretta Ross) – Available on TWEN.

**In Class:** DVD “No Más Bebés.”

**10/10:** **Readings:** *Whole Woman’s Health v. Hellerstedt*, 579 U. S. \_\_\_\_ (2016). Summary at <https://www.oyez.org/cases/2015/15-274>; “*Two Days, Four Major Victories for Reproductive Rights at the Supreme Court*” (Hannah Levintona) – Available on TWEN.

**10/11:** **Readings:** *Gainesville Woman Care, LLC v. State*, 210 So.3d 1243 (Fla. 2017); *Florida Constitution Excerpts*; *Florida's Parental Notice of Abortion Act, Florida Statute s. 390.0114* – Available on TWEN.

**In Class:** Co-instructor Kirsten Anderson (Attorney, Southern Legal Counsel)

### **Week 10: Topics - Sexual Minorities**

- 10/16: Readings:** MCW Chapter 13 (Sexual Minorities: The Movement for Equality and Liberation), Sections 1B & 1C (960-974) (977-985); Section 3 (1017-1031).
- 10/17: Readings:** MCW Chapter 13 cont'd, Section 4(C) – Progress, Backlash, and Social Justice Movements ... (1051-1074); *Excerpt from Obergefell v. Hodges*, 576 US \_ (2015); *Pavan v. Smith*, 137 S.Ct. 2075 (2017) – Available on TWEN.  
*In Class:* Simone Chriss (Southern Legal Counsel)
- 10/18: Readings:** “*Transgender Students Turn to Courts as Government Support Erodes*” (Liam Stack); *U.S. DOE/DOJ Dear Colleague Letter - Title IX* (Feb. 22, 2017); *Whitaker v. Kenosha Unified Sch. Distr.*, 858 F.3d 1034 (7th Cir. 2017); *G.G. v. Gloucester County Sch. Bd.*, 853 F.3d 729 (4th Cir. 2017) – Available on TWEN.  
*In Class:* Co-instructor Kirsten Anderson and Simone Chriss (Attorneys, Southern Legal Counsel).

### **Week 11: Topics – Globalization and Immigration**

- 10/23: Readings:** MCW Chapter 8 (Work, Caregiving & Dependency), Section 2 – Globalization, Work, and Social Justice (508-529).
- 10/24: Readings:** “*How the United States Immigration System Works*” (American Immigration Council); “*Closing the Gap in Understanding Immigrant Rights as Civil Rights*” (Cecilia Chen and Robin Goldstein) – Available on TWEN.
- 10/25: Readings:** *Trump v. International Refugee Assistance Project and Trump v. Hawaii*, 582 US \_\_\_ (2017); “*Understanding the Supreme Court’s Action on President Trump’s Refugee and Muslim Ban 2.0*” (National Immigration Law Center) – Available on TWEN.

### **Week 12: The Judiciary and Social Justice Lawyers in Action**

- 10/30: Readings:** MCW Chapter 10 (The Judiciary and Access to Courts), Section 1 – The Judiciary: Who are the Judges and How are they Chosen? Section 2 – The Role of the Judiciary (730-754). “*Guide for Florida Voters – Questions and Answers about Florida Judges, Judicial Elections and Merit Retention*” (The Florida Bar). Available on TWEN.
- 10/31: Readings:** “*The History Test*” (Jill Lepore) – Available on TWEN
- 11/1: In class:** DVD “*Cruz Reynoso – Sowing the Seeds of Justice.*”  
*Assignment: Service Learning Project Rough Draft due, submit on TWEN by 5 pm.*

### **Week 13: Social Justice Lawyers in Action cont’d and Service Learning Project Presentations**

- 11/6: In class:** Dominique Lochridge-Gonzales, (Attorney, Three Rivers Legal Services, Inc.)
- 11/7:** Student Presentations.
- 11/8:** Student Presentations.

### **Week 14: Presentations cont’d and Final Exam Review**

- 11/13:** Student Presentations.
- 11/14:** Final exam review.
- 11/15:** Final exam review.

### **Week 15:**

- 11/20: Assignment:** *Service Learning Project Final Product and Individual Reports.*
- 11/21: No class** – constructive Friday. Submit final assignments on TWEN by 5 pm.

**FINAL EXAM: Friday, 12/4/17, 1:00-4:00 pm. Room TBA.**