

Course Name:	Law 353 - Environmental Law Clinic
Unit Value:	1.5 or 2.0 (negotiable with instructor according to assumed workload; must be confirmed in writing by the Add/Drop date)
Hours per week:	3 classroom hours (Tuesdays 6-9pm) plus attendance at Board and other workgroup and committee meetings
Instructor:	Professor Chris Tollefson (ctollef@uvic.ca)

Objectives:

1. gain an appreciation of the theory and practice of public interest lawyering
2. acquire basic law office and case management and planning skills
3. develop legal interviewing, research, analysis, writing and oral advocacy skills by working with clients involved in public interest environmental law issues or disputes
4. gain practical experience working in a non-profit sector setting and a basic familiarity with associated legal and practical obligations and responsibilities including financial control, liaison with funders and clients, and reporting to the Board
5. become familiar with a range of public interest environmental law issues, players and clients, and with the strategies and opportunities for using the legal and political system to advocate on behalf of the environment

Methodology:

In-class seminar; small group work; clinical work with clients; student presentations

Materials:

Readings available either in the ELC filing cabinet, on Moodle ([201101 LAW 353 \(23323\)](#)), or online (see: <http://www.elc.uvic.ca/clinic/course-materials.html>).

Assignments:

Intake Memo & File Opening Form

Retainer letter

Project Outline

Draft of Final Project

Media Release

Final Project, Transfer and Exit Memo, Closing Letter, Time sheets

Due date:

Jan 14 (by 9am)

Jan 21

Feb 25

Mar 18

Mar 25

Apr 21

Evaluation:

Students will be evaluated on a pass-fail basis. This evaluation will be ongoing throughout the term and involve an assessment of their performance on:

- skills exercises (memo to Board; client interview; retainer letter; EAB hearing; media release)
- a major project (e.g. memo, factum or other work product approved by the instructor as the student's major term project)

Introduction

Week One –Jan 4, 2011

- Overview of the Clinic, the ELC, and course expectations
- Discussion regarding conflict of interest procedures and confidentiality
- Signing of confidentiality agreements
- Discussion of course scheduling and requirements including readings
- Overview of past and pending research initiatives; identification of projects for this term
- ELC Administrator to introduce office and file administration procedures
- Overview of skills development:
 - o conducting a client interview
 - o drafting an intake memo and presenting it to the ELC Board
 - o drafting retainer letter
 - o drafting a press release
 - o presenting a brief to the Environmental Appeal Board

READINGS:

1.1 Professional Conduct Handbook:

Chapters 5, 6 and 7: http://lawsociety.bc.ca/publications_forms/handbook/chapter-05.html

Office Procedures and Client Interviews

Week Two – Jan 11, 2011

- Discussion and assignment of term cases/projects
- Interview skills instruction and practice

READINGS:

2.1 Golini, Ronald. "Interviewing, Counseling, Negotiating";
(www.rongolini.com/Interviewing.html)

2.2 Sheer, Avrom. Ch 1-4 (pp 1-12; 17-30; 42-59; 72-75; 86-95; 107-110) *Client Interviewing for Lawyers* 1986

Law 353A students:

- Work on group project

ASSIGNMENT DUE: INTAKE MEMOS & FILE OPENING FORM JAN 14, 2011 (9AM)

ELC Board Meeting (6 to 8:30 pm) * Room 152*****

Week Three – Jan 18, 2011

- Students to present intake memos for ELC Society Board approval (memos to be prepared according to course template; at meeting, students provide Board with verbal overview and answer questions)

ASSIGNMENT DUE: RETAINER LETTERS JAN 21, 2011

Overview of Canadian Environmental Law and Policy

Week Four – Jan 25, 2011

- Instructor will provide an overview of the main principles, concepts and institutions of environmental law and policy
- Discussion of environmental law clinic models, approaches and challenges

READINGS:

- 4.1 Elgie, Stewart. Ch 8 (pp 185-213) "Environmental Groups and the Courts: 1970-1992"
Environmental Law and Business in Canada
- 4.2 Tollefson, Chris. (pp 175-195) "Advancing an Agenda? A Reflection on Recent Developments in Canadian Public Interest Environmental Litigation" 51 U.N.B.L.J. 2002
- 4.3 Price, Matt. (pp 2-16) "Greening the Beaver: Power, Profit, and the Canadian Dream"
- 4.4 Visit PIEL websites including www.ecojustice.ca, www.earthjustice.org, www.wcel.org

Law 353A students:

- Parallel session w/Calvin Sandborn

Freedom of Information Overview

Week Five – Feb 1, 2011

Overview of Freedom of Information (FOI) requests and BC's *Freedom of Information and Protection of Privacy Act*

READINGS:

- 6.1 *A Citizen's Guide to FOI, How to Get Government Records*

Law 353A students:

- Parallel session w/Calvin Sandborn

Working with Environmental and Community Organizations

Week Six – Feb 8, 2011

Potluck event with guest clients

- environmental and conservation movement politics and players
- the lawyer-client relationship; lawyer's role in campaigns

READINGS:

- 5.1 Buchanan, Ruth & Trubek, Louise G. (pp 687-719) "Resistances and Possibilities: A Critical and Practical Look at Public Interest Lawyering." 19 *Review of Law and Social Change* 1992
- 5.2 Lopez, Gerald P. (pp 315-323) "An Aversion to Clients: Loving Humanity and Hating Human Beings" 31 *Harvard Civil Rights-Civil Liberties Law Review* 1996

Working with First Nations

Week Seven – Feb 15, 2011

Consideration of the particular challenges and opportunities of working with First Nation organizations and communities

READINGS:

- 7.1 Taiaiake, Alfred. (pp 1-20, 41-65) *Peace, Power and Righteousness: An Indigenous Manifesto*. Oxford University Press 1999
- 7.2 Ross, Rupert. Ch 3 and 5 (pp 52-55, 101-130) *Returning to the Teachings*. Viking/Penguin 1996

Reading Break – no class

Feb 22, 2011

ASSIGNMENT DUE: PROJECT OUTLINE FEB 25, 2011

Administrative Hearings: Rules and Strategy

Week Eight—Mar 1, 2011

Discussion of rules, tactics and strategies in administrative advocacy. Preparation for the advocacy exercise.

READINGS:

- 8.1 Sandborn, Calvin. (pp 1-18) "Administrative Hearings" (Summarized from *Administrative Hearings Manual*. New England Training Consortium 2000)
- 8.2 EAB Procedure Manual: http://www.elc.uvic.ca/clinic/readings/EAB_Proc_Manual_2010.pdf
- 8.3 EAB Policy Guide: <http://www.elc.uvic.ca/clinic/readings/8.3-EAB-polguide.pdf>

Law 353A students:

- Parallel session w/Calvin Sandborn

Advocacy Exercise: Office of the Environmental Appeal Board

Week Nine—Mar 8, 2011

Will conduct moot of the facts contained in *Smurthwaite v. Government of BC* [FAC Decision No. 2005-FOR-015(a)]

READINGS:

See *Houweling Nurseries Limited v District Director of the Greater Vancouver Regional District* [FAC Decision No. 2003-WAS-004(c)] <http://www.eab.gov.bc.ca/ema/2003was004c.pdf>

NO CLASS

Week Ten—Mar 15, 2011

ASSIGNMENT DUE: PROJECT DRAFT MAR 18, 2011

Individual Interviews

Week Eleven—Mar 22, 2011

Students work on their ELC projects and meet with instructor and program administrator for individual file reviews.

ASSIGNMENT DUE: MEDIA RELEASE MAR 25, 2011

Working with Media

Week Twelve—Mar 29, 2011

Review media rules and ethical, practical and strategic issues:

- workshop of student press releases by professional journalist
- media skills
- accessing information
- strategizing on how to work with the media

READINGS:

- 10.1 Brown, David. (pp 283-325) "What Can Lawyers Say in Public?" 78 *The Canadian Bar Review* 1999 (also available on the Law Society of BC webpage under Practice Resources: http://www.lawsociety.bc.ca/practice_support/articles/docs/WhatToSayInPublic.pdf)
- 10.1.1 Ura, Michael. "Making the News: A Guide to Using the Media" West Coast Environmental Law Association website: <http://www.elc.uvic.ca/clinic/readings/10.2-WCEL->

[Making%20The%20News-scan.pdf](#) (“Introduction”, “What is News”, “How News is Made” and “Tools for Using the Media”)

Transition Potluck Event

Week Thirteen – Apr 5, 2011

- project presentations
- discussion of transition to next session
- future projects and prospects and lessons learned

ASSIGNMENT DUE: FINAL PROJECT AND CLOSING DOCUMENTS APR 21, 2011

Key Points Summary

1. This is a pass-fail course
2. There will be no exam
3. The requirements are:
 - Attendance at all twelve classes is mandatory, excusable only for medical, family or similar pressing reasons. Permission to miss a class should be obtained ahead of time from either the instructor or the Associate Dean. Unexcused absences may be grounds for failure;
 - Class preparation based on assigned readings (on reserve and by handout);
 - Satisfactory completion of case/project memorandum or brief on a subject to be determined in consultation with the instructor;
 - Satisfactory completion of skills development assignments (*e.g.*, client interview; intake memo; retainer letter; waiver; advocacy moot, press release, transition memo or closing letter)
 - Satisfactory maintenance of the legal file on the case, with comprehensive recording of time devoted to case.

NB: Both the client and instructor must be satisfied with the project before the student receives a grade. Note also that all assignments and all correspondence pertaining to legal issues or information MUST be approved by the instructor BEFORE being sent to the client.

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For examples of projects and other ELC work, see our website at www.elc.uvic.ca.