

Law 226.3
Local Government in Action: Workshop on
Affirmative Litigation in the City of San Francisco
(Spring 2007)

Units: 2
CCN (2Ls/3Ls): 49750

Instructor: Rick Frank
Email: rfrank@law.berkeley.edu
Location: 144 Boalt
Time: Wednesdays 6:10-8:00

Course Description:

The San Francisco City Attorney's office has been at the forefront of using litigation to benefit and protect the citizens of San Francisco and the nation at large. Recent efforts have included lawsuits against: the tobacco industry which led to fundamental reforms in the industry's marketing practices, the gun industry for contributing to violence in the City, and the lead paint industry for creating a wide spread public nuisance in the City's housing. The City Attorney's Office has also challenged the constitutionality of California's marriage laws and the Partial Birth Abortion Ban Act of 2003.

This course will provide students an opportunity to help develop innovative public policy litigation to be pursued by the City of San Francisco. It will also offer an overview of municipal law, focusing on the unique role of a Charter City in California. Finally, it will provide instruction on the various litigation tools available to the City and County of San Francisco.

The first half of the class will include background reading and lectures from members of the San Francisco City Attorney's office. In the second half of the semester, students will break into working groups. Each working group will focus on one of three topic areas in which the students will develop and research ideas for possible litigation for presentation to the City Attorney's Office. The three areas of focus will be: the environment; youth and family issues; and education reform. These working groups will be led by Deputy City Attorneys and faculty from Boalt Hall. At the end of the semester, each working group will research and write a memorandum describing their litigation proposals and present that proposal to the entire class. Each memorandum will also be presented to the City Attorney's affirmative litigation task force for consideration as a possible candidate for litigation.

If the San Francisco City Attorney's Office decides to pursue any of the ideas developed by the working groups, students will have the opportunity to assist in drafting the complaint and working on the litigation. That opportunity may also include a summer externship with the City Attorney's office for some members of the course.

Syllabus

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| Class 1 – January 10 | Introduction of Faculty, City Attorney Instructors, and Students; Introductory lecture on the City of San Francisco's standing in affirmative litigation cases and the most common theories under which San Francisco brings affirmative cases – Owen Clements, Deputy City Attorney Introduction of the type of affirmative litigation cases brought by San Francisco using example of the City's Tobacco Litigation – Owen Clements |
| Class 2 – January 17 | Overview of City-State Relationship; San Francisco as a Charter City; and History of San Francisco City Attorney's Office – Buck Delventhal, Deputy City Attorney |

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| Class 3 – January 24 | Overview of prominent affirmative litigation cases and discussion of origination, litigation strategy and associated legal theories <ol style="list-style-type: none"> 1. Planned Parenthood Case – Kathleen Morris, Deputy City Attorney 2. Same-Sex Marriage Cases – Terry Stewart, Chief Deputy City Attorney |
| Class 4 – January 31 | Lecture on claims brought under: <ol style="list-style-type: none"> 1. California's broad Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200-17210 Deputy City Attorney Owen Clements Professor Rick Frank 2. False Claims Act Deputy City Attorney Owen Clements 3. Writ of Mandate Deputy City Attorney Kathleen Morri |
| Class 5 – February 7 | Overview of Affirmative Litigation Issues and Ideas on Youth and Family Issues led by Professor Joan Hollinger and Deputy City Attorneys Danny Chou, Jennifer Williams, Vince Chhabria and Ann O'Leary |
| Class 6 – February 14 | Overview of Affirmative Litigation Issues and Ideas on the Environment led by Professor Rick Frank and Deputy City Attorneys Kristin Jensen, Tina Poplawski and Owen Clements |
| Class 7 – February 21 | Continuation of Overview on Children, Youth & Families and Environmental Issues |
| Class 8 – February 28 | Meeting of respective working groups on the environment and youth and family issues led by the professors and deputy city attorneys listed above |
| Class 9 – March 7 | Meeting of respective working groups on the environment and youth and family issues led by the professors and deputy city attorneys listed above |
| Class 10 – March 14 | Meeting of respective working groups on the environment and youth and family issues led by the professors and deputy city attorneys listed above |
| Class 11 – March 21 | Meeting of respective working groups on the environment and youth and family issues led by the professors and deputy city attorneys listed above |
| No class – March 28 | <u>Spring Break</u> |
| Class 12 – April 4 | Meeting of respective working groups on the environment and youth and family issues led by the professors and deputy city attorneys listed above |
| Class 13 – April 11 | Presentations by youth and family working group on affirmative litigation idea and strategy |
| Class 14 – April 18 | Presentations by environment working group on affirmative litigation idea and strategy |
| Class 15 – April 25 | Remaining presentations |