Mary K. Wimsett

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Adoption Law

Tuesdays, 8-10 a.m.

OFFICE HOURS

By appointment. Please email me to schedule. If you have questions, please do not hesitate to email or request a meeting and we can meet by phone, zoom or in-person if feasible.

COURSE OBJECTIVES

Upon completion of the course, students should be able to:

1) Describe the common law and statutory foundations of adoption and their application to jurisdiction and venue in the state and federal courts.

2) Demonstrate an understanding of the procedural rules and statues that govern the processes of adoption.

3) Understand and explain the complex ethical issues involved in the practice of adoptions.

4) Understand and identify the more complicated legal issues in adoptions such as paternity, grounds for termination of parental rights, ICWA and ICPC.

The goal of this class is to help the student think critically about the law governing adoptions. As a class, we will explore broad themes, interpret cases and statutes, and identify complex issues.

GRADES & EVALUATION

Students will be evaluated on class preparation and participation. Each student must complete a final examination, which will constitute 90% of your final grade. Grades will be awarded pursuant to the law school grading policy, <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>. Participation in class will constitute 10% of your final grade.

PARTICIPATION

Agreement, disagreement, intelligent debate and thoughtful argument are appreciated and encouraged. Adoptions often have an emotional aspect and all students will be required to be cognizant of being polite and respectful to their peers. As long as you are present and prepared, you will receive credit for class participation. It is the quality, not the quantity, of your contribution that will be considered.

ATTENDANCE POLICY

Class attendance is mandatory. It is your responsibility to sign the attendance sheet during class. You may not sign for anyone except yourself. If you are more than fifteen minutes late, you will be considered absent. I will allow two unexcused absences per semester. If it should be necessary for you to miss more than two classes, you must explain the reasons for each additional absence. If you know in advance that you have to miss a class, please make arrangements with me in advance. You will have no more than seven days after the time of the unanticipated occurrence to bring the reasons for your absence to my attention, provided however, that I will not accept any excuses offered after our last session of the semester. Any unexcused absence that exceeds the allowance will lower your grade by one level. For example, one additional unexcused absence will lower a B to a B- or a C+ to a C.

COURSE MATERIALS

Adoption Law: Theory, Policy and Practice—Second Edition by Cynthia Mabry and Lisa Kelly (Hein 2010). You will also need access to Chapter 63 of Florida Statutes. Additional materials will be distributed throughout the semester.

PREPARATION

Adequate preparation includes reading and digesting any assigned materials prior to class. You should expect to spend at least two hours preparing for every one hour of class.

SUPPLEMENTAL MATERIAL

Adoptions are often the focus of interest in the media and public discourse. If you wish to share any materials with the class, please send to me in an email and I will consider sharing with the class. If you submit a material that I discuss in class, it will enhance your participation grade in the course.

ACCOMODATIONS FOR STUDENTS WITH DISABILITIES

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-395-8565) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester. <https://drc.dso.ufl.edu/>

DIVERSITY POLICY

We celebrate differences in culture, race, religion, sexual orientation, gender identity and expression, age, life choice, and physical and mental abilities. We strive to create a safe space where each person can fully self-express and feel supported and safe physically, socially and personally. The expectation is that we will all be respectful of the humanism in all.

RELIGIOUS HOLIDAYS

The Florida Board of Education and state law govern university policy regarding observance of religious holidays. The following guidelines apply:

Students, upon prior notifications 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 or from class or other scheduled academic activity because of religious observances. If a faculty member is informed or is aware that a significant number of students are likely to be absent from class because of a religious observance, the faculty should not schedule a major exam or other academic event at that time.

A student who is to be excused from class for a religious observance is not required to provide a second party certification of the reason for the absence. Furthermore, a student who believes that he or she has been unreasonably denied an education benefit due to religious beliefs or practices may seek redress through the student grievance procedure.

ONLINE COURSE EVALUATIONS 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 receive notice of the specific times when they are open. Summary results of these assessments are available to students at https://evaluations.ufl.edu/results/

PROFESSIONALISM

Students are expected to behave in a respectful and professional manner at all times. Any unprofessional conduct that is in any way disrespectful to other students, disruptive, distracting or has a negative effect on the classroom atmosphere is prohibited. Any unprofessional conduct will be handled on a case by case basis. Such conduct may result in removal from the course or a grade reduction.

COURSE ETHICS UF students are bound by The Honor Pledge which states, “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code.” On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.” The Honor Code specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with your professor. The student honor code can be located at https: //www. dso.ufl.edu/sccr/process/student-conduct/

FINAL EXAM DELAY The final exam may only be continued for one of the acceptable reasons under the multiple exam policy or illness as approved by the Assistant Dean for Student Affairs.

HEALTH AND WELLNESS U Matter, We Care: If you or a friend is in distress, please contact umatter@ufl.edu or 352 392-1575 so that a team member can reach out to the student.

Counseling and Wellness Center: 392-1575; and the University Police Department: 392-1111 or 9-1-1 for emergencies. http: //www.counseling.ufl.edu/cwc/Default.aspx.

Sexual Assault Recovery Services (SARS): Student Health Care Center: 392-1161.

University Police Department: 392-1111 (or 9-1-1 for emergencies).  <http://www.polic.ufl.edu/>

CLASS TOPICS/ASSIGNMENTS Below is a list of class topics and initial assignments. This information will be supplemented and updated at least one week prior to the date of each class.

Please note this schedule may change as we proceed in our semester or a guest lecturer needs accommodations.

8.25.20 INTRODUCTION

Reading: pages 1-40; Review Florida Statute Chapter 63. We will review this Chapter in detail throughout the semester. For the first class, please review the statute generally so you are familiar with the layout, terms and concepts.

9.1.20 CONSENT, REVOCATION OF CONSENT, TERMINATION OF PARENTAL RIGHTS, RIGHT TO COUNSEL, BURDEN OF PROOF, PROCEDURAL SAFEGUARDS

Reading: pages 56-65; pages 67-75; W.T. v. DCF, 846 So.2d 1278, Edwards v. Maxwell, 215 So.3d 616, Children’s Home Society of Florida v. V.D., 188 So.3d 920, Heart of Adoptions v. JA, 963 So.2d 189, Doe, 543 So.2d 741, JCJ, 989 So.2d 32; OAH v. RLA, 712 So.2d 4; J.B. v. DCF, 170 So.3d 780; Florida Statute 39.806.

\*\*Breakout Consent Interview Exercise

9.8.20 SUITABILITY OF ADOPTIVE PARENTS/SAME SEX COUPLES/ STATUTE OF REPOSE, WHO MAY ADOPT, WHO MAY BE ADOPTED

Reading: pages 113-147; In re: Matter of Adoption of X.X.G., 45 So.3d 79, Adoption of DPP, 158 So.3d 633, In re S.N.W., 912 So.2d 368, In re K.A.G., 152 So.3d 1272, R.L. and J.M., 147 So.3d 1054, Goodman v. Goodman, 126 So.3d 310, Martin v. In Re: the Adoption of L.M.D., 64 So.3d 758, MDC v. BNMJ, 117 So.3d 489, Rodriguez v. Rodriguez, 219 So.3d 944.

\*\*Guest Lecturer, Amy Imber, Founder and Owner of Connecting Hearts

9.15.20 ETHICAL ISSUES IN ADOPTION, ADOPTION ENTITY DUTIES, SUROGACY, PRE-PLANNED ADOPTION, SAFE HAVEN, DISRUPTION

Reading: pages 637-62, 611-636; Florida Bar v. Joyce Dove, 985 So.2d 1001; Florida Statute 383.50, 383.51, 63.0423, 63.039, 63.212, 63.213.

\*\*Guest Lecturer, Nicole Moore, Esq., Law Office of Jeanne Tate

9.22.20 PUTATIVE FATHER REGISTRY AND LEGAL FATHERS

Reading: S.D. v. A.G., 764 So.2d 807, D.S. v. J.L. and Miracles Adoption Agency, Inc., 18 So.3d 1103, HRS v. Privette, 617 So.2d 305, A.D.A. and M.J.L. v. D.M.F., 204 So3d 523, K.H. v. CHS, 120 So.3d 104.

9.29.20 LIVING EXPENSES, FEES, ADOPTION TAX CREDIT, SPECIAL NEEDS ISSUES, ADOPTION SUBSIDY

Reading: pages 169-180; Florida Statute 409.166, 63.097, 63.132; In re adoption of a child by I.T. and K.T., 397 A2d 341; Brod, 522 So.2d 973; Home at Last Agency, Inc. v. J.L.C-W and R.C.C.-W, 98 So.3d 699.

\*\*Guest lecturer (9 am-10 am): Courtney Smith, Esq., Department of Children and Families, Adoption and Permanency Manager

10.6.20 JURISDICTION, VENUE, UCCJEA, CHOICE OF LAW

Reading: pages 156-60; Brookshire v. Blackwell, 682 SE2d 295, CLW, 467 So.2d 1106, Balestrieri, 622 So.2d 561, Baby Boy D, 769 A.2d 508, JDS 893 P.2nd 732, S.J. and I.J. v. W.L. and L.L., 755 So.2d 753, Makaros v. Chiechocki, 159 So.3d 957.

\*\*Guest Lecturer (9 am-10am): Jeanne Tate, Esq., The Law Office of Jeanne Tate

10.13.20 ICWA, INTERCOUNTRY ADOPION, RE-ADOPTION, IMMIGRATION, CITIZENSHIP, RACE AND ADOPTION

Reading: pages 271, 282-92, 307-31, 411-54; Adoptive Couple v. Baby Girl, 133 S.Ct. 2552

10.20.20 ICPC

Reading: pages 455-96; Florida Statute 409.401; ICPC Regulation 12

\*\*Guest Lecturer (8 am-9am): Steve Pennypacker, CEO of Partnership for Strong Families

10.27.20 ADULT, RELATIVE, STEPPARENT ADOPTIONS, PUBLIC VS. PRIVATE ADOPTION, ADMINISTRATIVE PROCEDURES AND APPEALS, CUSTODY ALTERNATIVES TO ADOPTION (GUARDIANSHIP, TEMPORARY CUSTODY)

Reading: pages 187-204, 709-17; Florida Statute 63.112; Tarver, 533 So.2d 765

\*\*Guest Lecturer (8 am-9 am): Joann Humburg, Esq., DCF, Assistant General Counsel

11.3.20 ADOPTION INTERVENTION

Reading: Florida Statute 63.082(6); case law to be provided prior to class

\*\*Guest lecturer: Thomasina Moore, Esq., Director of Appeals, Statewide Guardian ad Litem Program

11.10.20 CONFIDENTIALITY, PRIVACY, ACCESS TO RECORDS, OPEN ADOPTION, POST ADOPTION CONTACT

Reading: pages 533-48, 552-57, 571-74; Florida Statute 63.162, 63.085, 63.0427.

\*\*Guest lecturer (9 am-10am): Birth mother panel

11.17.20 REVIEW FOR FINAL EXAM, Q&A, EVALUATIONS