

SYLLABUS: COURSE REQUIREMENTS & SCHEDULE

FACULTY CONTACT INFORMATION

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MEETING TIME/PLACE

Tuesday, 5:30-7:35 p.m.
Gates Hall, Room, 212-213
Office hours: Tues, 3:30-5:30 p.m., by appointment, or drop in if my door is open

READINGS

Our readings will be drawn primarily from law review articles. In the schedule below cites are provided and in some cases links to the assigned reading. A few readings that are not otherwise accessible will be posted on the website, or placed on reserve in the library.

COURSE OBJECTIVES

This seminar will explore Access to Justice. I think of Access to Justice as encompassing two broad themes captured in the title. The “access” theme captures questions of funding for legal services to low- and moderate-income persons and alternative approaches to ensuring that no one is excluded from the justice system. The “justice” theme will give us an opportunity to consider what it means to provide justice, if everyone can access the legal system.

By the end of this course you should be able to:

- Differentiate between access and justice in thinking about the phrase “Access to Justice”
- Explain to others current efforts to ensure that everyone has access to the legal system and the many obstacles to that goal;
- Apply your knowledge about access to justice to identify solutions to new ATJ problems

In addition to thinking about these big-picture systemic questions, this course provides an opportunity to consider access to justice from a more personal standpoint and to think about where you will stand in the fight for access to justice. The course objectives for these personal issues are for you to be able to:

- Recognize the effects that legal education has had on your goals;
- Identify the issues, settings, and approaches to social justice work that make your eyes light up;

- Identify the barriers you face in doing work towards social justice;
- Inspire you either to find paid work that is focused on social justice or to engage regularly in meaningful *pro bono* work after you graduate.

COURSE STRUCTURE AND GRADING

This course will use a combination of teaching methodologies, including lectures, guest speakers, discussions, and independent learning. Most of the class sessions will be student facilitated. The success of the course will depend on your active participation – as both a contributor and as an active listener. This course is graded on a Credit/No Credit basis. **You will receive credit for this class if you take seriously and complete the following requirements:**

- **Attend Class.** Attend at least 7 of the 8 class sessions.
- **Prepare and Facilitate a Class or Take on a “Devil’s Advocate” Role for 3 Class Sessions.**

With other students, facilitate a class discussion for a particular topic. Facilitators will:

- Choose five focus questions concerning the readings and explicitly link the topic and the questions to the course objectives. The focus questions are submitted to me as a single document by the facilitator group by 5 p.m. on the Wednesday before the class session. They should be formatted using the sample on the CANVAS site as a template. I will select and distribute 3 to 5 of the discussion questions prior to class;
- Develop a plan for the class that uses a variety of teaching methods. You may, but *need not*, recruit a guest speaker for no more than one half of the class. Please do so only if your group thinks a guest speaker would add to the class;
- Schedule and attend a meeting with me to discuss your plan for the class no later than the Tuesday before the class you are facilitating; if possible, plan to meet with me class during my Tuesday, 3:30-5:20 p.m. office hours;
- Guide the discussion portion of the session using a variety of teaching methods.

Or, up to four students may each volunteer to take on the role of “devil’s advocate” for three class sessions. Your job will be to pleasantly but firmly challenge the positions taken in the readings and in the class discussions or guest lectures to make sure that our discussion. The goal is to ensure that the class does not fall prey to intellectually laziness, if it does not reflect a broad range of opinion. For each of your “devil’s advocate” classes, prepare and provide to me in advance a set of viewpoints, questions or issues you will ensure are addressed.

- **Post Three Reflective Responses.** Post in writing via CANVAS reflective responses, minimum 500 words to the questions distributed for **two** of the student-led discussions, due ***in advance*** of class discussion, **and** a reflection on the readings and the discussion at the Community Forum on Reversing the Effects of Mass Incarceration: Implementing Criminal Justice Reforms on April 29, **due by 5:30 p.m. on Friday, May 2.** You ***may*** answer the questions for the class you facilitate. If

you miss a class, post an additional set of reflective responses for any class session you missed, remembering that you may miss no more than one class session.

- **Prepare a Final Project.** Post via the CANVAS by Friday, May 30, 2014, or an alternative date you request, a final writing project of at least 1000 words, normal margins, single spaced, 11 or 12 point font consisting of **one of the following**:
 - **Interview an Attorney.** Summarize and reflect on an interview with an attorney performing access to justice related work that appeals to you. This may be either paid work or volunteer work.
 - Your interview should address the following questions and any others that are important to you:
 - Describe how you arrived at your current professional position? To what extent was your path one you anticipated in advance? To what extent is it a matter of “serendipity”? Explain. Do you expect to move on to other positions at some point? If so, what else would appeal to you, and why? If not, why not?
 - Have you had any professional positions that were not a good fit for you? Please describe them and explain what you learned about yourself from the experience.
 - How have you incorporated access to justice and/or social justice issues in your career? What challenges have you faced to doing so?
 - What has been the most rewarding aspect of your professional career so far?
 - What is the most stressful aspect of your current professional career? What strategies have you developed for dealing with that stress in a healthy way?
 - What would you have done the same, or differently, if you knew what you know now when you attended law school?
 - Your reflection should address the following questions:
 - What strikes you about the person’s work or career as surprising? Influential? Rewarding? Frustrating?
 - What critical choices did the person make, and risks did s/he take?
 - How did s/he exercise leadership? Bring about change? Would it be easier or harder today to have the effect that this person has had?
 - What about the person’s work and career do you find instructive? Would you like to emulate? Do differently or avoid?
 - **Plan Your ATJ Path.** Research and draft a plan for how you will engage in access to justice activities after you graduate. Your plan should identify and describe existing *pro bono* opportunities in the geographical area where you expect to practice; and either identify the opportunities that make your eyes light up and how you will work them into your busy life, or identify opportunities that should exist, but don’t, and what steps you would take to help develop them.

- **Propose ATJ Improvements.** Draft a proposal for improving access to justice in Washington State, or a different state in which you intend to practice.

Due Date Extensions. Extensions of the final project due date are granted automatically upon your emailing me with an alternative due date, so long as you commit to having the paper in by June 12, the day before grades are due, without my having to remind you.

SEMINAR ETIQUETTE

We will talk about seminar etiquette at our first meeting and develop ground rules for the class. Ground rules for previous classes have included:

- This is a gathering of equals;
- Discussion should be civil and respectful;
- Participants should balance talking and listening;
- All participants should be included in the discussion;
- The discussion should stay largely on topic.

Please read the syllabus carefully. If you must miss class, it is **your** responsibility to be up-to-date regarding any changes to the syllabus..

DISABILITY-RELATED NEEDS

Disability-related needs: To request academic accommodations due to a disability, please contact Disability Resources for Students (DRS), 448 Schmitz, (206) 543-8924 (V/TTY). If you have a letter from DRS, please present the letter to me so we can discuss the accommodations you might need in this class.

CLASS SCHEDULE

Tues, 4/1
5:30-7:35

Introductions

The Legal Profession and Work for Social Justice: Entering the Profession

Introductions: Participants & Class

Goals and responsibilities; communication, expectations & requirements

Aspirations: Why did you choose law school? Legal education and its impact on ideals

Read:

- William P. Quigley, Letter to a Law Student Interested in Social Justice, 1 DePaul J. for Soc. Justice 7 (2005)
- Jane Aiken, *Provocateurs for Justice*, 7 Clinical L. Rev. 287, 287-98, 305-06 (2001)
- Note: *Making Docile Lawyers: An Essay On The Pacification Of Law Students*, 111 Harv. L. Rev. 2027 (1998)
- Focus questions on the course CANVAS site

Also of interest:

- Duncan Kennedy, *Legal Education as Training for Hierarchy*, in D. Kairys, ed. The Politics of Law (1982, 2nd ed. 1990, 3d ed. 1998)
- James Elkins, *The Legal Persona: An Essay on the Professional Mask*, 64 Va. L. Rev. 735 (1978)
- Nisha Agarwal, Jocelyn Simonson, *Thinking Like a Public Interest Lawyer: Theory, Practice, and Pedagogy*, 34 N.Y.U. Rev. L. & Soc. Change 455 (2010)

Assignment #1 for Externs:

Read: Excerpts, Leah Wortham, Setting Goals for the Externship, from Ogilvy, Wortham & Lerman, Learning From Practice, 2nd ed., CANVAS
Fan & Maranville, Top 5 Things to Look for in a Legal Job: People, Tasks, Case/Project Features, Demands & Rewards
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2404627

Do: Schedule appointment with Maranville for next week to discuss your goals

Upcoming Journal #1, Identify goals for your externship
1-2 pages, single spaced, post at least 24 hours before your appointment

Tues, 4/8

Access to Justice: Civil Legal Services – History, Funding, Current Issues

Funding for Civil Legal Services: Legal Services Corporation, Interest on Lawyers Trust Accounts (IOLTA) program, Pro Bono as an Alternative to Staffed Legal Services Programs

Guests: Aurora Martin, Ex. Dir. Columbia Legal Services
Theresa Mulligan, Director, Pro Bono Services

Read:

- **Overviews: History, Funding and Current Issues in Civil Legal Services**
 - Scott L. Cummings & Jeffrey Selbin, Poverty Law: United States, INTERNATIONAL ENCYCLOPEDIA OF BEHAVIORAL SCIENCES, 2d Ed. (forthcoming 2015), available on course website or at <http://papers.ssrn.com/sol3/Results.cfm>
 - Louise Trubek, *Public Interest Law: Facing the Problems of Maturity*, 33 U. Ark. L. Rev. 1 (2011)
- **Attorney's Fees as a Funding Source**

- Jennifer S. Wagner, Funding Legal Services Programs with Attorney Fee Awards, 46 Clearinghouse Rev. 509 (2013)(Available on Lexis only)
- **Pro Bono as an Alternative to Staffed Legal Services Programs**
 - Scott L. Cummings & Rebecca L. Sandefur, Beyond the Numbers: What We Know – and Should Know -- About American Pro Bono, 7 Harv. L. & Pol’y Rev. 83 (2013), **read through section III**, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2239433
- **Focus questions** on the CANVAS site

Also of interest:

- Quintin Johnstone, Law and Policy Issues Concerning the Provision of Adequate Legal Services for the Poor, 20 Cornell J. Law & Pub. Pol. 571 (2011)(If you find you need more background information on any of the issues mentioned in the Cummings & Selbin encyclopedia entry, this 70 page article with a table of contents is a helpful resource)

Assignment for Externs

Meet: Maranville in person or by Skype or Facetime to discuss your goals

Review: Student Checklist on Canvas

Read: Student Time Log Instructions and Sample Time Logs # 1 and #2

Post: Weekly time log on CANVAS by 5:30 p.m., Tuesday, April 8

Journal Entry #1, Goals at least 24 hours before your meeting with Maranville

Tues, 4/15

Current Efforts to Improve Access to Justice:

Access to Justice Commissions, Access to Justice Efforts in Washington

Efforts to Establish a Right to Counsel in Civil Cases

The Problem of Pro Se Litigants

Guest: Hon. Anne Ellington

Facilitators:

Recent decades have seen a variety of efforts to address the challenge of increasing numbers of unrepresented litigants. Efforts include creating Access to Justice Commissions, the so-called “Civil Gideon” movement seeking a right to counsel in at least some civil cases, changing conceptions of the judicial role in litigation with unrepresented parties, providing unbundled legal services, facilitating self (pro se)-representation, and most recently in Washington State, authorizing Limited License Legal Technicians.

Access to Justice Commissions

- Robert Echols, Examples of State Access to Justice Commissions: Creations, Structure and Accomplishments, Management Information Exchange Journal, pp. 15-18 (2008) on CANVAS (read the section on WA, browse the sections on other states)
- **ATJ Efforts in Washington**
 - Brooks Holland, The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice, 82 Miss. L. J. 75, 78-87 (2013)
 - Hon. Greg Trip, The Alliance for Equal Justice; Greg Dallaire and Lynn Greiner, The State Plan: Delivering Civil Legal Aid to Low-Income People; CLEARing the Path to Civil Legal Aid; Scott A. Smith and J. Richard Manning, The Alliance: Where Does the Money Come From; Encouraging Pro Bono Participation, [Wash. State Bar News](#), pp. 28-20, 20, 32, and 34 (May 2008)
 - [Rule of General Application 32](#)

- [The Justice Index](#). Review the components of the rankings and how Washington, or the state here you intend to practice, compares with other states on each.
- **The Civil Right to Counsel Movement**
In contrast to the broad right to counsel in criminal cases, the U.S. Supreme Court has recognized a civil right to counsel only in limited contexts. Advocates around the country are trying to change that. Efforts in Washington State stalled.
 - [National Coalition for a Civil Right to Counsel](#), Read the first 4 tabs under About the Issues, and the first four tabs under Advances, and note the Washington State connections
 - American Enterprise Institute, *The Trouble with Civil Gideon*, www.aei.org/outlook/28441
 - Jeffrey Selbin, Jeanne Charm, Anthony Victor Alfieri and Stephen Wizner, Service Delivery, Resource Allocation and Access to Justice: Greiner and Pattanayak and the Research Imperative, [122 Yale L.J. ONLINE 45](#), pp. 1-9 only (2012)
- **Pro Se Litigants & The Changing Role of Judges**
 - Russell Engler, [Ethics in Transition](#): Unrepresented Litigants and the Changing Judicial Role, 22 Notre Dame J. Ethics & Pub. Pol’y 367, pp. 374-380(IIB-C), pp. 382-383, 388-391 (2008)
- Student facilitators’ focus questions to be circulated by email and posted on the CANVAS site

Also of interest:

- Louis S. Rulli, On the Road to Civil Gideon: Five Lessons From the Enactment of a Right to Counsel for Indigent Homeowners in Federal Civil Forfeiture Proceedings, 19 J. L. & Pol’y 683, esp. 686-90, 692-704 (2011)
- Russell Engler, Reflections on a Civil Right to Counsel and Drawing Lines: When Does Access to Justice Mean Full Representation by Counsel and When Might Less Assistance Suffice?, 9 Seattle J. Soc. Justice 97 (2010)
- Jean Charn, Legal Services for All: Is the Profession Ready?, 42 Loy. L.A. L. Rev. 1021 (2009)
- Gary Blasi, Framing Access to Justice: Beyond Perceived Justice for Individuals, 42 Loy. L.A. L. Rev. 913 (2009)

Assignment for Externs

Read: Sample Journals on Canvas

Post: Weekly time log by 5:30 p.m., Tuesday, 4/15

Upcoming Journal Entry #2 by 5:3, Tuesday, April 22

(If your placement is a civil aid agency, please reflect on how it fits into the Access to Justice landscape; if it is with a judge, reflect on the role of judges in ATJ; otherwise, reflect on a topic of your choice)

Tues, 4/22

Private Attorneys, Foundations, Alternative Service Delivery Models Limited License Legal Technicians, Low-Bono & WSBA Moderate Means Program, Technology Facilitators:

Read

- **Social Justice Law Firms**

- Scott L. Cummings and Ann Southworth, *Between Profit and Principle: The Private Public Interest Firm* in Robert Granfeld and Lynn Mather (ed.), *Private lawyers & the Public Interest* (2009), on reserve in law library, or available at SSRN http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1338342

- **Foundations**
 - INCITE, Women of Color Against Violence (ed.), Introduction, The Revolution Will Not Be Funded (2007), CANVAS
- **Para-professionals**
 - Washington's [Limited License Legal Technician](#) Rule, [Admission to Practice Rule 28](#)
- **Low-Bono, Moderate Means Programs, Incubators**
 - Luz. E. Herrera, Rethinking Private Attorney Involvement Through a "Low Bono" Lens, 43 Loy. L.A. L.Rev. 1, 33-49 (2009), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1524433
 - [WSBA Moderate Means Program](#)
- **Technology**
 - On-line Legal Services, Excerpts, Richard Suskind, Tomorrow's Lawyers: An Introduction to Your Future (2013), pp. 39-49, 84-91, CANVAS. The book is on reserve. It's a quick read, so I encourage you to read pp. 1-38 also.
 - Look at some of these websites: <http://en.wikipedia.org/wiki/Elawyering>; www.LegalZoom.com; <http://www.rocketlawyer.com/>; www.exari.com; <http://www.equivio.com/>; <http://www.neotalogic.com/>
- Student facilitators' focus questions to be circulated by email and posted on the CANVAS site

Also of interest:

- Louse G. Trubek, Embedded Practices: Lawyers, Clients, and Social Change, 31 C.R.-C.L. Rev. 415, esp. 418-25, 228-33, 436-37 (1996)

Assignment for Externs

Post: Weekly time log, and Journal Entry #2 by 5:3, Tuesday, April 22

Tues, 4/29

Access to Justice: Responding to Mass Incarceration: De-Criminalization, Diversion, Problem - Solving Courts

Note: I will be out of town for this class session. Fortuitously, during most of our class time, on April 29, 6-7:30 p.m., UW Law is hosting a Community Forum on Reversing the Effects of Mass Incarceration: Implementing Criminal Justice Reforms. Class members will attend that forum instead of our regular class session and post a minimum 500 word reflection on the readings and the discussion by Friday, May 2, 5:30 p.m.

- **Mass Incarceration**
 - Listen to Michelle Alexander, [The future of race in America](#), TEDx Columbus (2013) (23 min.) or read the transcript of her Gates Public Service Law Speaker [talk](#), or read the book, The New Jim Crow: Mass Incarceration in an Age of Color Blindness (2010)
 - Read: James Forman, Jr., Racial Critiques of Mass Incarceration: Beyond the New Jim Crow, 87 N.Y.U.L. Rev. 21 (2012)
- **De-Criminalization**
 - Look at [Wikipedia](#)'s map of states that have legalized or de-criminalized marijuana
- **Diversion**
 - Listen to: Harm Reduction Coalition [Podcast 85](#) (May 15, 2013), presentation from Seattle Police Department Deputy Police Chief Pugel from International AIDS Conference and interview with Kris Nyrop of the Defender Association, one of the non-profit public defense agencies incorporated into the King County Department of Public Defense (35 min.)
 - Look at the LEAD [website](#) (Home and About LEAD tabs)

- **Problem-Solving Courts**

- Read: Ben Kempinen, Problem-Solving Courts and the Defense Function: The Wisconsin Experience, 62 Hastings L.J. 1349 (2011)
- Read: Morris B. Hoffman, Problem-Solving Courts and the Psycholegal Error, 160 Pa. L. Rev. PENnumbra 129 (2011)
- Learn about King County's [Drug Diversion Court](#) (scroll down for the program description), [Regional Mental Health Court](#), and [Regional Veterans Court](#) from their webpages

Also of interest:

- Allegra M. MacLead, Decarceration Courts: Possibilities and Perils of a Shifting Criminal Law, 100 Geo. L.J. 1587 (2012)

Assignment for Externs

Post: Weekly time log by 5:30 p.m., Tuesday, April 29

Upcoming: Journal Entry #3 by 5:3 p.m., Tuesday, May 6

(If your placement is with a criminal prosecution or defense agency, reflect on ATJ issues in the criminal context. Otherwise, reflect on a topic of your choice.)

Tues, 5/6

Access to Justice: Implementing the Constitutional Right to Counsel;

Facilitators:

- ***A Little History***

- Seattle Times series: [An Unequal Defense](#): The Failed Promise of Justice for the Poor, April 4 through April 6, 2004

- ***Recent Developments in the wake of the Seattle Times series***

- Scan [Standards for Indigent Defense](#) (Proposed by WSBA and adopted by Washington Supreme Court in 2013)
- Read *Wilbur v. Mt. Vernon*, [Memorandum of Decision](#) (W.D. WA 2013)
- Browse Initiatives of the Washington [Office of Public Defense](#), which now administers indigent defense services in specific areas, as well as quality improvement funding under [RCW 10.101.050](#), enacted in 2005
- Read [RPC 1.8\(m\)](#)

- ***Motivating Public Defenders***

- Abbe Smith, Too Much Heart and Not Enough Heat, 37 U.C.Davis L. Rev. 1203 (2004)

- Students Facilitators' focus questions to be circulated by email and posted on the CANVAS site

Also of interest:

- *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)
- Report of the National Right to Counsel Committee, [Justice Denied](#): America's Continuing Neglect of Our Constitutional Right to Counsel (2009)
- Background for RPC 1.8(m), letter quoted on p. 795, Jacqueline McMurtrie, *Unconscionable Contracting For Indigent Defense: Using Contract Theory To Invalidate Conflict Of Interest Clauses In Fixed-Fee Contracts*, 39 Mich. J. of L. Ref. 773 (2006)
- Charles J. Ogletree, Jr. & Yoav Sapir, Keeping Gideon's Promise: A Comparison of the American and Israeli Public Defender Experiences, 29 N.Y.U. Rev. L. & Soc. Change 203 (2004)

Assignment for Externs

Post: Weekly time log and Journal Entry #3 by 5:30 p.m. on Tuesday, 5/6

Tues, 5/13

Clients & Lawyers, Privilege & Power

Facilitators:

An important aspect of “access to justice” is whether people who need a lawyer can obtain one. But how lawyers view their role and exercise their power as attorneys can make a significant difference in the quality of justice and in cross-difference equity.

Read:

- Julie Su, *Making the Invisible Visible: The Garment Industry’s Dirty Laundry*, 1 J. Gender Race and Justice 405 (1998)(13 pp.)
- Nancy Polikoff, *Am I My Client? The Role Confusion of a Lawyer Activist*, 31 Harv. CR-CL L.Rev. 443 (1996)(29 pp.)
- Gary Bellow, *Steady Work: A Practitioner’s Reflections on Political Lawyering*, 31 Harv CR-CL L. Rev. 297 (1996)(13 pp.)
- Gerald P. López, *An Aversion to Clients*, 31 Harv. CR-CL L.Rev. 315 (Summer 1996)(9pp.)
- Students Facilitators’ focus questions to be circulated by email and posted on the CANVAS site

Assignment for Externs

Post: Weekly time log

Journal Entry # 4. Reflect on diversity. Consider the following questions from J.P. Ogilvy, *Journals*, in Ogilvy, Worthan & Lerman, *Learning From Practice*, 2nd. Ed.:

“Diversity – difference and sameness. What is the demographic composition of your organization? How do sex, race, sexual orientation, age, national origin, religion, education level, physical appearance, family background, home location, and other differences affect people’s roles in the organization and relationships with one another? How are the persons with whom you most closely work in the organization different from you? In what ways are they similar? How does your awareness of differences and similarities affect your work within the organization?”

Tues, 5/20

Communities, Lawyers and Strategies for Change

Facilitators:

Working with communities, as opposed to individuals, presents special challenges.

Read:

- Gerald P. López, REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE, pp. 11-14, 17-18, 20-21, 30-38 (1992)(available on the course website)
- Luke Cole, *Macho Law Brains, Public Citizens & Grass Roots Activists: Three Models of Environmental Advocacy*, 14 Va. Env’tl. L.J. 687, focus esp. on 692-698 (1995)
- Angela Harris, Margaretta Lin, Jeff Selbin, From “The Art of War” to “Being Peace”: Mindfulness and Community Lawyering in a Neoliberal Age, 95 Cal. L. Rev. 2073 (2007)(26 pp. plus footnotes)
- Students Facilitators’ focus questions to be circulated by email and posted on the CANVAS site

Also of interest:

- Orly Lobel, *The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics*, 120 Harv. L. Rev. 937 (2007)

- Zenobia Lai, Andrew Leong & Chi Chi Wu, *From the Community Lawyer's Lens: The Case of the "Quincy Four" and the Challenges of Securing Civil Rights for Asian Americans*, 15 *Asian Amer.L.J.* 73 (2008)
- Marc Galanter, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, classic article, among the most widely cited of all time
- Donald R. Songer, Reginald S. Sheehan & Susan Brodie Haire, *Do the "Haves" Come Out Ahead Over Time? Applying Galanter's Framework to Decisions of the U.S. Courts of Appeals, 1925-1988*, 33 *Law & Soc'y Rev.* 811 (1999)

Assignment for Externs

Post: Final Time Log by 5:30 p.m. on Monday, June 2
 Final Report " "

If you are at your externship past May 23, you may ask for an extension of the due date.