

**Immigration Litigation Clinic**  
**SPRING SYLLABUS**

Antonin Scalia Law School  
Fall 2023 – Spring 2024  
Hazel Hall TBD (4 credits)  
Thursdays 1:50-3:50p.m.  
Legal Aid Justice Center

**Professors**

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**Clinic Overview**

Students will meet for a 2-hour seminar once a week, virtual or in-person team supervision, and virtual and in-person client and case work. Virtual client work may be conducted in person as well as via video chat (Zoom, WhatsApp, etc.) or by phone. All students should have or set up a Google Voice number for contacting clients.

In this clinic, students will represent clients in a range of immigration litigation matters before the immigration court in Arlington, the Board of Immigration Appeals in Falls Church, the federal district court in Alexandria, and/or the U.S. Court of Appeals for the Fourth Circuit. This clinic may also include work on immigration-related federal litigation cases, and comment on proposed federal regulations. The focus of clinic students' efforts is their casework outside the classroom on behalf of immigrant clients.

The Immigration Litigation Clinic is year-long, and open to second and third-year law students.

**Office Hours**

In addition to any lectures or class meetings, you will be required to attend weekly individual case reviews with your Clinic Supervisor. These will take place via Zoom or in-person, according to the preferences of instructors and students.

We are regularly available at additional times by appointment, and available by phone and email. We are not available outside of normal working hours, so please do not expect responses to emails or calls in the evenings or on the weekends.

**Course Materials**

Readings will be provided to you by handout, links, Westlaw/LexisNexis, or books on reserve at the Law Library.

## **Course Requirements**

### 1) Attendance and class participation

NOTE: Attendance requirements for academic credit will follow the policies set forth in Academic Regulation 4-1. Should a student anticipate the possibility of missing a substantial number of class sessions (e.g. a serious illness), please immediately contact the Assistant Dean, Student Academic Affairs.

### 2) Client representation and case work

### 3) Confidentiality and sensitivity with clients

### 4) Communicating with your supervisor with respect to representations, counseling, and intakes

Note: The Immigration Law Clinic meets for two hours a week but students will receive four credits total because of meetings and work required outside of the regularly scheduled classroom time. Each credit requires approximately 60 hours of work. Plan to spend approximately 10 hours of work per week on casework in addition to your weekly seminar and readings. Please bring your laptop to every class, every supervision meeting, and every client meeting or intake. *Please note, however, that professors reserve the right to hold meeting sessions where students are required to close their laptops to engage in conversation or classroom activities.*

## **Learning Outcomes**

By the end of the course, students should be able to:

- Understand the structure of the immigration system
- Understand the basic elements of asylum, Withholding of Removal, CAT, and immigration detention and bond, and draft briefing in support of legal claims
- Conduct client interviews effectively
- Write legal declarations
- Understand basic legal justifications for immigration detention and different kinds of advocacy for release
- Gather and marshal evidence, including expert reports, to support a legal claim

Presenting a case at a hearing in the immigration court depends on the court's scheduling of the clinic's cases, which is highly unpredictable given turbulent and constantly shifting dockets in the wake of the COVID-19 pandemic, and thus cannot be guaranteed to every student this academic year.

## **Assignments**

### 1) Course Readings & Assignments

Some course assignments will be changed, subtracted, or added throughout the semester, because of the rapidly changing landscape of immigration law. Assigned readings must be completed prior to each class session, *including the first session.*

### 2) Client representation

Includes meeting with clients, gathering and presenting facts of client cases, client counseling, keeping meticulous case notes, documenting time, and work product/legal writing.

### 3) Court observation

NOTE: Due to COVID 19 – court observation will depend on court accessibility. If a student is unable to attend court hearings in person, we have included video assignments to take the place of court observation.

### 4) Self-Evaluations

Students will be expected to complete a short mid-semester and end of semester self-evaluation in the form of reflection papers.

### **Grading**

There will be no final exam. The grade will consist of 30% class participation during seminar; 20% participation and preparation for supervision meetings, including case reviews during seminar; and 50% case work product. Work product includes written case work, including case notes, timekeeping and client representation (25%), and also includes client interviews, client preparation, and, if applicable, representation of clients in immigration court (25%).

### **Instructor Expectations & Course Rules and Structure**

- Students must promptly provide their availability for client work for the Spring Semester to clinic instructors.
- For virtual meetings and seminars, videos must be on. Active participation is expected.
- Each student or student team will send a weekly email or submit a weekly case update to supervisor
- Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by the clinic director. This is extremely important as confidential case information will frequently be discussed during class.

**COVID HEALTH & SAFETY REQUIREMENTS:** Please refer to the most up-to-date University policies [here](#). If students meet with clients in person at the LAJC office, students and clients must follow the policies laid out in the LAJC clinic manual or provided by your supervisor. Please consult with your supervisor to obtain permission to meet with a client in person and review current COVID protocols.

## **Week 1 (January 18): Case review, Overview of Detention and Bond, Writing Workshop I**

We will review case assignments for the semester during this class and then begin a writing workshop incorporating the reading materials on detention and bond. During class, you will complete an outline of a bond motion based on the materials reviewed and include a Table of Contents.

### Assignments:

- Please come to class prepared to offer your reflections on any legal writing you did in fall 2023.
- INA § 236(a)(2)(A)–(B)
- INA § 236(c)(1)(A)–(D)
- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)
- *Matter of Patel*, 15 I&N Dec. 666 (BIA 1976)
- Sample bond motion, saved in Sharepoint under Class 01\_Jan 18 Folder
- Mock client file, saved under Class 01\_Jan 18 Folder--> Mock bond client

### Optional:

- “Organizing A Legal Discussion” before class, which is available [here](#) and saved to the clinic’s Sharepoint Folder.

## **Week 2 (January 25): Detention and Bond (continued); Writing Workshop II**

### Assignments:

- You do not need to prepare readings and assignments for this class. We will review legal writing for the first portion of class and then you will have approximately 90 minutes to continue working on your bond motion. You will then submit the written product at the end of class.

## **Week 3 (February 1): Writing Workshop III: Incorporating Feedback**

### Assignments:

- You do not need to prepare any readings and assignments before this class. You will receive feedback on your bond motion 24 hours before we gather. During class, we will review expectations for incorporating feedback. You will then be given class time to edit your bond motion into a version you would be comfortable filing with the immigration court.

## **Week 4 (February 8): Bond Moot and Detention Conditions**

### Assignments:

- Prepare for mock bond hearing. You must be prepared to act as Respondent's counsel AND DHS Counsel. During the moot, you will offer a brief statement on bond eligibility and respond to arguments from the opposing side.
- Detention Watch Network: *Local Lockup Quotas and The Immigrant Dragnet* (available on Sharepoint)
- Public Law 114-4, March 4, 2015 (bottom of page 4- top of page 6 only), available on Sharepoint
- You may skim the following assignments, but come to class prepared to share at least one finding from these readings that stood out to you:
  - DHS Office of Inspector General, *ICE's Inspections and Monitoring of Detention Facilities Do Not Lead to Sustained Compliance or Systemic Improvements* (available on Sharepoint)
  - DHS Office of Inspector General, *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards* (available on Sharepoint)

## **Week 5 (February 15): Moot for upcoming ICH**

### Assignments:

- Please read the brief and filed evidence for the case that students will be arguing and be prepared to act as DHS. Emily Lopynski will attend class and serve as the immigration judge for the moot.

**Week 6 (February 22)**--no class. Please attend ICH at Annandale Immigration Court at 8:30am. Details will be provided closer to the hearing date.

## **Week 7 (February 29): ICH Debrief, Case Review, and Introduction to Post-Order Detention**

### Assignments:

- Please come to class ready to provide your impressions and feedback on the ICH
- All students will present the status of their on-going case work thus far and share their priorities for case work
- 8 U.S.C. § 1231(a)
- 8 U.S.C. § 1231(b)
- 8 C.F.R. § 241.4(c)-(k)

- *Zadvydas v. Davis*, 533 U.S. 678 (2001), majority opinion only
- ICE policy memoranda on post-order detention (available on Sharepoint)

**Week 8 (March 7): Spring Break, no class**

**Week 9 (March 14): Post-order detention (continued)**

Assignments:

- TBD (will likely re-assign any readings on post-order detention not covered during February 29 class period)
- By Friday, March 15, submit your mid-semester reflection paper. It should be 2-3 pages long and contain:
  - Brief list and overview of your cases and your role in each case (explain team division of work)
  - Self-evaluation of work so far (effort, time, improvement, strengths, weaknesses)
  - Goals for remaining semester

**Week 10 (March 21): Beyond Immigration Court: Advocating with ICE and OPLA**

Assignments:

- AILA Featured Issue: Prosecutorial Discretion, available at: <https://www.aila.org/library/featured-issue-prosecutorial-discretion>
- Alejandro Mayorkas, Guidelines for the Enforcement of Civil Immigration Law (available on Sharepoint)
- ICE Directive 1105.3, Using a Victim-Centered Approach with Noncitizen Crime Victims (available on Sharepoint)
- ICE Directive 11064.3, Interests of Noncitizen Parents and Legal Guardians of Minor Children or Incapacitated Adults (available on Sharepoint)

**Week 11 (March 28): Writing Workshop IV (tentative)**

Assignments

- Come to class having read the mock client profile saved under this week's reading on Sharepoint. During class you will write a release request to ICE and submit what you have by the end of class.

## **Week 12 (April 4): Writing Workshop V and case review**

### Assignments:

- You do not need to prepare any readings in advance of this class. You will receive feedback on your PD request and release request 24 hours before this class. You will have at least one hour during this class to incorporate feedback into your written product, and we will review a sample of final versions in class together.

## **Week 13 (April 11): Moot for upcoming ICH**

Please note this class is subject to change, depending on the scheduling of the ICH.

### Assignments:

- Please read the brief and filed evidence for the case that students will be arguing and be prepared to act as DHS and/or the Immigration judge during class.
- **Spring Semester Reflection Paper DUE April 16, 2024**
  - 3-5 pages
  - *Brief* list and overview of your cases and your role in each case (explain team division of work)
  - Self-evaluation of work over the course of the semester and year (effort, time, improvement, strengths, weaknesses)
    - One thing you learned that you will take with you in your practice
    - One thing you improved over the course of the year in clinic
    - One thing you will focus on improving as you continue in your legal studies/career
  - Feedback for the clinic
    - What would you change? What would you keep the same? Any classes you wish you had? Classes you wish you didn't have? How do you feel about the relationship between material in first and second semester?

## **Week 14 (April 18): Final class**

- Case Closing, transition memos, structured reflections on the year based on submitted reflection paper
- We may also have a guest speaker attend this class. Details TBD.

### Assignments

- **Ensure all hours are recorded in Justice Server**