

## **Immigration Litigation Field Placement**

### **FALL SYLLABUS**

Antonin Scalia Law School

Fall 2024 – Spring 2025

Thursdays 1:50-3:50 p.m.

Legal Aid Justice Center

### **Professor**

Elizabeth Schmelzel

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### **Field Placement 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. All students should have or set up a WhatsApp number for contacting clients.

In this field placement, students will represent clients in a range of immigration litigation matters before the immigration court in Annandale and Sterling, Virginia. Students may also work on applications to be submitted to USCIS. The focus of students' efforts is their casework outside the classroom on behalf of immigrant clients.

The Immigration Litigation Field Placement 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 Field Placement Supervisor. These will take place via Zoom or in-person, according to the preferences of instructors and students.

I am regularly available at additional times by appointment, and available by phone and email.

### **Course Materials**

Readings will be provided to you by handout or links. Cases listed on this syllabus are all available online.

### **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 Litigation Field Placement 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. 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 historical and political forces informing the U.S. immigration system
- Understand the basic elements of Asylum, Withholding of Removal, CAT
- Understand the basic elements of immigration detention and bond
- Conduct client interviews effectively
- Write client affidavits in partnership with clients, centering their voices and experiences
- Gather and marshal evidence, including expert reports, to support a legal claim
- Maintain organized, coherent files for every client
- Submit a professional, complete, and organized filing to an immigration tribunal in asylum and bond cases, among others
- Schedule permitting, participate in at least one hearing before an immigration tribunal, which may include: presenting preliminary arguments, conducting direct and redirect examination of a client and witnesses, presenting closing arguments

Presenting a case at a hearing in the immigration court depends on the court's schedule, which can be highly unpredictable., 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

Students must regularly communicate and meet with their clients throughout the life of a case. I will supervise some, but not all, client meetings. Regardless of whether the supervisor is present, students will use client meetings to gather facts and construct a client declaration that will be submitted to the immigration court. Students will also prepare clients for trials and hearings through extensive revision of the client declaration and moots with the client. During moots, students and clients will practice direct and cross examination questions and address any other issues likely to arise during an immigration hearing.

Client representation also includes preparing the legal brief, expert reports, and other evidence into a high-quality filing to be submitted to the immigration court or adjudicatory body. Students must build ample time for compiling the filing and drafting the brief. Students should expect no less than three rounds of revisions and up to ten, until the work product is sufficient for an adjudicator's review.

### 3) Court observation

Students will observe mock hearings or real hearings. When one student pair has a trial, other students are expected to attend, provided the client concedes.

### 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%).

**COVID HEALTH & SAFETY REQUIREMENTS:** Please refer to the most up-to-date University policies. If students meet with clients in person at the LAJC office, students and clients must follow the policies laid out in the LAJC 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.

### **LAJC Policies**

#### **Integration into the Law Firm**

Students in this class are members of the Legal Aid Justice Center (LAJC) team and operate as agents of our office. Students should be familiar with LAJC and can learn about the organization on our website, including about our mission, our programs, our leadership and staff, and our office locations: <https://www.justice4all.org/>.

### **Professional Conduct**

As students working under the supervision and bar license of practicing attorneys at LAJC, students are obligated to follow the [Virginia Rules of Professional Conduct](#). These include, but are not limited to, the following obligations:

#### 1. CONFIDENTIALITY

All information received and all work done on behalf of LAJC shall be considered confidential. Discussions concerning client information or work shall occur only with authorized individuals and only in a manner that protects the confidentiality of the material discussed. This includes information about impact campaigns, strategy, investigations, and internal firm operations.

## 2. PROMPT AND DILIGENT REPRESENTATION

Students are responsible for thoroughly investigating matters, both factual and legal, raised by the client. Case assignments should be completed promptly. Procrastination is a significant disservice to the client and the legal case.

### Student Availability

Students are expected to generally be available to respond to time-sensitive client matters that arise during the semester. Students must inform their supervising attorney if they will be without cell service or Wi-Fi for a significant period of time during business hours. In such situations, the student and supervising attorney will make arrangements to have the students' cases covered during the absences.

Students are responsible for frequently checking phone messages and e-mail regarding their cases.

## 3. CLIENT COMMUNICATIONS

### Student Role

When students open any case or begin working on a case that is already open, students should introduce themselves and explain their role to the client. Client consent to student representation is also a part of our standard retainer agreement.

Students should explain to their clients that most of the work on their case will be done by the student. Students must explain that an attorney will provide supervision and share their supervisor's contact information. Students should ensure that clients understand that the students are not lawyers.

In general, students should follow LAJC's case handling procedures and communicate honestly and frequently with their clients.

### Accommodations and Nondiscrimination

It LAJC policy that our office shall take reasonable steps to provide Limited English Proficient (LEP) persons with meaningful access to all programs and activities conducted by LAJC. This policy is based on the principle that it is OUR responsibility—not our clients' responsibility—to ensure that communications are not impaired by the limited English proficiency of individuals seeking our services. During intake, clients' English proficiency and preferred language should be recorded in the corresponding fields in Legal Server. Students should not use clients' family members, friends, or others who may accompany clients as interpreters--particularly children or significant others--for any substantive communications. Supervisors can assist in securing an interpreter for client communications.

Likewise, it is the policy of LAJC to take reasonable steps to provide accommodations to persons with disabilities to ensure they have access to our programs and activities. Students must be mindful when choosing mode of communication, setting in-person meetings, and asking clients

to complete tasks whether the client may need modifications or accommodations to fully participate in their legal case and access LAJC's services.

Students needing class-specific accommodations to be able to fully and meaningfully participate in the course, please contact the professor.

#### 4. MAINTENANCE & INTEGRITY OF CLIENT FILES

##### File Maintenance

All files should be organized, easy to read, and up to date. A client file should be maintained in such fashion that a staff member of LAJC, called upon to substitute for an absent law student, may review the file and become completely informed and current with the client's situation. Cross-references to materials kept in other locations should be clear and easy to understand.

Student work product will be stored in case files that are accessible to the LAJC team (including other students and interns) for the purpose of client representation and advocacy. Participation in field placement constitutes consent to share this information for this purpose.

##### Timekeeping

It is very important for students to keep an accurate record of the time spent on each client's case and a record of the activities performed. Field placement students use the LAJC timekeeping database to record time. Please record all activities. Even activities that may seem insignificant at the time may end up being important (such as attempting to call someone and not being able to leave a message).

Students also need to keep track of time spent on the field placement generally. In addition to time spent on client matters, field placement time may include reading for class, weekly journals, attending lectures by guest speakers and court observation, and working on tasks such as policy work or outreach.

LAJC keeps time in increments of tenths of an hour. So, the minimum time you spend on any activity should be .1 of an hour. Thus, for example, if you make a phone call and leave a message, record that time as taking .1 of an hour.

#### 5. CONFLICTS OF INTEREST

LAJC intake workers conduct a conflict-of-interest check during the initial intake with the prospective client to determine if any conflict exists with a present or prior LAJC client. When assigned a case, students are responsible for identifying any personal conflicts of interest. Further, LAJC has a continuing obligation to avoid conflicts. At any time, if a potential conflict is discovered, students should report it to their supervising attorney.

##### Logistics

##### Mileage and Expense Reimbursement

LAJC will reimburse student mileage when the purpose of the travel is necessary to advance a client's case. Travel with the primary purpose of student education (such as court observation of a case the student has not personally worked on) is not reimbursable.

To obtain travel reimbursement, students must email their supervisors within a week of travel and include the date of travel, the addresses (to/from), the case number, and the purpose.

Students generally should not use their personal funds for costs associated with client representation. In the event this happens, such as to pay a filing fee or to mail documents, students must email their supervisors within a week of the expense and include the receipt, the case number, and the purpose.

### **Class Expectations**

- Students must promptly provide their availability for client work for the fall semester to the instructor.
- This course will likely be the most demanding course you take this year. Students are expected to consider themselves student attorneys, holding primary responsibility for a real person and a real case. Therefore, students should avoid scheduling any vacations or extracurricular activities in the two weeks before a filing deadline for a trial and in the seven days before a filing deadline for a bond case. Students should avoid scheduling any vacations or extracurricular activities ten days before a trial and five days before a bond hearing.
- Students will receive extensive feedback on written work. I will provide most feedback through edits and comments on Microsoft Word documents. **Students must respond to every comment.**
- Throughout the academic year, students will likely moot their cases in class. All students must fully participate in these moots, which requires students to read the case file, identify weak arguments, and prepare to act as opposing counsel and the immigration judge by the day of the moot.
- Student pairs will attend weekly supervision meetings with the instructor. Students are responsible for coming to that meeting with the agenda already written and questions prepared. The agenda or notes must include an "action items" section, where we will assign someone each action item for the next week.
- For virtual meetings and seminars, videos must be on. Active participation is expected.
- 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 field placement director. This is extremely important as confidential case information will frequently be discussed during class.

## CLASS ASSIGNMENTS

### **Week 1 (August 22): Course Introduction, Case Introduction, and Introduction to U.S. asylum law.**

We will introduce ourselves to the one another and set expectations for the academic year. We will briefly review the history of immigration law in the United States, with an overview of federal statutes since 1790. We will then review the agencies involved in adjudicating immigration cases and identify where our clients fit among those agencies. Students will then continue reviewing their own case files and, time permitting, present their cases to the class.

#### Required Assignments:

- Prepare a brief (2-3 minutes) presentation that communicates what your supervisor and fellow students should know about you and what you bring to the class. You may want to include things like your work preference (morning versus evening), your favorite foods, or your reason for taking this class, among other topics. You can simply prepare a few words to share, or you can use tools such as:
  - Power Point
  - Playlists
  - Photos
  - Art
  - Poetry/spoken word
- Migration Policy Institute, Timeline of Major US Immigration Laws, 1790-Present (available on SharePoint)
- American Immigration Council, “Asylum in the United States” (available on SharePoint)
- Please review the Word document on SharePoint entitled “Agencies”
- Look up and read:
  - 8 U.S.C. § 1101(a)(42)(A) - definition of “refugee”
  - 8 U.S.C. § 1158
- American Immigration Council, “The Difference Between Asylum and Withholding of Removal” (available on SharePoint)

### **Week 2 (August 29): Elements of Asylum, Withholding of Removal, and Protection under the Convention Against Torture; Drafting Client Declarations**

In this class, we will break down the elements of Asylum, Withholding of Removal, and CAT and begin brainstorming how you can prove each element in your client’s case. Time permitting, each student pair will draft an elements chart, with a list of evidence next to each element. Student pairs will use that chart in case planning and strategizing throughout the semester. Because a client declaration is always a key piece of evidence, we will discuss drafting and updating client declarations.

Required Assignments:

- Please watch the following videos in advance of class:
  - Well-founded fear:  
<https://www.youtube.com/watch?v=yxFL55MDp6k&list=PLLxxzZq76ixxL4Umxuyp9mqwvdWwWG682&index=4>
  - Persecution  
<https://www.youtube.com/watch?v=mgHAgkoS1kI&list=PLLxxzZq76ixxL4Umxuyp9mqwvdWwWG682>
  - On account of:  
<https://www.youtube.com/watch?v=7xtc4TdWCTc&list=PLLxxzZq76ixxL4Umxuyp9mqwvdWwWG682&index=5>
  - One-year filing deadline:  
<https://www.youtube.com/watch?v=cGAFxeIuAIo&list=PLLxxzZq76ixxL4Umxuyp9mqwvdWwWG682&index=2>
  
- Please also read the following assignments before class:
  - 8 C.F.R. § 1208.16, regulations for withholding of removal under the INA and withholding of removal under the Convention Against Torture
  - ILRC, *Qualifying for Protection Under the Convention Against Torture* (available on SharePoint)
  - Client Interviewing and Declaration Writing
    - Standards and Indicators for Cultural Competence, National Association of Social Work, 2015, [NASWCulturalStandards2003.Q4.11 \(socialworkers.org\)](#) (available on SharePoint, **pages 19-31 only**)
    - Center for Gender and Refugee Studies, *Declaration Outline and Presentation Tips* (available on SharePoint)
    - Sample declaration (available on SharePoint)

**Week 3 (September 5): Elements of Asylum, Withholding, and Protection Under the Convention Against Torture (continued)**

The readings for this week will help you identify the protected ground on which you believe your client will be persecuted and the reasons your client might be tortured. Come to class prepared to explain both of those points, if relevant, to the rest of the class. We will then review these cases together and discuss next steps in each group's case planning.

Required Assignments:

- Protected Grounds for Asylum and Withholding
  - Particular Social Group
    - *Matter of Acosta*, Interim Decision #2986 (page 232-end only)
    - *Matter of M-E-V-G-*, 26 I&N Dec. 227 (BIA 2014)



- Note: you should be able to identify all three elements of a particular social group by the time you complete these readings
  - Race
  - Religion
    - *Chicas-Machado v. Garland*, 73 F.4th 261 (4th Cir. 2023) (please note that this case also addresses PSGs)
  - Actual and Imputed Political Opinion
    - *Lagos v. Barr*, 927 F.3d 236 (4th Cir. 2019)
- Convention Against Torture
  - *Rodriguez-Arias v. Whitaker*, 915 F.3d 968 (4th Cir. 2019)
  - *Matter of J-F-F-*, 23 I&N Dec. 912 (A.G. 2006)
    - Please be able to articulate how you think *Rodriguez-Arias* and *Matter of J-F-F-* interact
  - *Suarez-Valenzuela v. Holder*, 714 F.3d 241 (4th Cir. 2013)

#### **Week 4 (September 12): Bars to Asylum and Withholding of Removal; Withholding and Deferral under the CAT**

##### Required Assignments:

- Bars to asylum, in general
  - [Asylum Bars | USCIS \(use link\)](#)
- 8 C.F.R. § 208.4: one-year filing deadline and exceptions
- IRLC practice advisory on particularly serious crime bars for asylum and withholding of removal (available on SharePoint)
- Serious Nonpolitical Crime bar:
  - *Matter of E-A-*, 26 I&N Dec. 1 (BIA 2012)
  - *Matter of W-E-R-B-*, 27 I&N Dec. 794 (BIA 2020)
- 8 C.F.R. § 208.16 (please read the entire regulation, but pay close attention to subsection c)
- After completing these readings, you should be prepared to explain to the class what, if any, bars are present in your case

#### **Week 5 (September 19): Case Rounds and Contextualizing Client Experiences**

Each student pair will provide any case updates, including successes and challenges in their representation. We will then spend the class time discussing the broader context within which our clients seek to exercise their rights. Please come to class have thoroughly read and engaged with all of the material listed under required assignments.

##### Required Assignments:

- American Immigration Council, “Why Don’t Immigrants Apply for Citizenship?” (available on SharePoint)
- The Atlantic, “America Never Wanted the Tired, Poor, Huddled Masses” (available on SharePoint)

- *United States v. Carrillo-Lopez*, -- F.Supp.3d --, 2021 WL 3667330 (D. Nev 2021) (available on SharePoint)
- Peter L. Markowitz, *Abolish ICE: and then what?* (available on SharePoint)

Optional:

- Karla M. McKanders, *Sustaining Tiered Personhood: Jim Crow and Anti-Immigrant Laws*, 26 Harvard Journal on Racial & Ethnic Justice. 163 (2010) (available on SharePoint)

### **Week 6 (September 26): Legal Writing for Immigration Court: outlines, drafts, and feedback**

In this class, we will focus on the legal writing process for the briefs you are drafting in your cases. We will review expectations for your writing process and the final product. Please come to class prepared to offer any reflections on the legal writing process you have used in other classes, internships, or jobs thus far in your legal career.

#### Required Assignments:

- Columbia Law School, “Organizing a Legal Discussion” (available on SharePoint)
- You must submit your mid-semester reflection via email **before** class meets on September 26

### **Week 7 (October 3): Mechanics of Immigration Court**

In this class, we will begin to explore how hearings in immigration court happen. We will also discuss oral advocacy and begin public speaking exercises in class.

#### Required Assignments:

- Review sample motions for law student appearance and form E28 (available in SharePoint)
  - Please note we will draft student motions to appear in class. You do not need to prepare them in advance.
- Review sample Notice to Appear, available on SharePoint
- Please watch the following video designed for respondents in immigration proceedings: [https://www.youtube.com/watch?v=ea1HR\\_QkJZM](https://www.youtube.com/watch?v=ea1HR_QkJZM)
- Please watch the following sample Master Calendar Hearing: <https://www.youtube.com/watch?v=aj42Gcdb1U0&t=4s>
- Please watch the following sample Individual Calendar Hearing: <https://www.youtube.com/watch?v=RA4UmnQyqYw>
  - Come to class prepared to ask questions based on what you saw in the video

## **Week 8 (October 10): Special Topics in Immigration Court**

The lecture this week will focus on special topics in immigration court, including: how to build an evidentiary record that effectively supports your legal arguments; the rules of evidence in immigration court; mental competency in immigration court; and the use of expert witnesses.

### Required Assignments:

- Evidence in Immigration Court
  - CLINIC, *Rules of Evidence in Immigration Court* (available on SharePoint)
  - Use of impeachment evidence: *Matter of E-F-N-*, 28 I&N Dec. 591 (BIA 2022)
  - Skim sample TOC and evidence (available on SharePoint)
- Mental Competency
  - *Matter of M-A-M-* 25 I&N Dec. 474 (BIA 2011)
  - Sample motion for safeguards (available on SharePoint)

## **Week 9 (October 17): Preliminary Matters, Direct Examination, Cross-Examination, Redirect and Objections**

Required Assignments: Please note that the material covered in the assigned video is sensitive and involves violence, sexual violence, and harassment.

- Review the video of an ICH here: <https://www.youtube.com/watch?v=cooEyEwYnHM> **only up to 1:01** and consider the following questions:
  - As you watch, consider how this ICH is similar to or different from the one you watched for the week of October 3.
  - What are your impressions of the evidentiary submissions and objections at the start of the hearing?
  - What are your impressions of Fatima's attorney's re-direct?
- Common objections to documents (available on SharePoint)
- Common objections during testimony (available on SharePoint)
- Removal Hearing Background document (available on SharePoint)
  - We will use this background document to conduct an objections exercise during class, where you will be required to make objections based on a hypothetical case.

## **Week 10 (October 24): Closing Arguments**

We will address any remaining material from last week's class before turning to address closing arguments.

Required Assignments: Please note that the material covered in the assigned video is sensitive and involves violence, sexual violence, and harassment.

- Review a sample closing argument here:  
<https://www.youtube.com/watch?v=gz0LDvz8HeM>
  - What do you think the attorney did well?

- What could have the attorney done better?
- Review DHS's closing here: <https://www.youtube.com/watch?v=vEOnAgy-ILA>
  - Come to class prepared to respond to DHS's closing with your own, responsive closing, explaining to the IJ why DHS's position is incorrect and the respondent should be granted relief over DHS's concerns

### **Week 11 (October 31): Case rounds and trauma stewardship**

Each student pair will present their cases, including any updates and challenges. We will then discuss trauma stewardship and burnout.

#### *Required Assignments:*

- Managing Vicarious Traumatization: Five Habits of Cross-Cultural Lawyering and More (available on SharePoint)
- The American Prospect, "The Loneliness of the Immigration Lawyer" (available on SharePoint)

### **Week 12 (November 7): Moot for November 14 ICH in Sterling, VA**

All students must come to class having thoroughly reviewed the filing for the November 14 ICH. Please be prepared to act as the immigration judge and opposing counsel. Students will be required to provide meaningful feedback to their colleagues preparing the case. We will moot the following:

- Objections and responses to evidence
- Anticipated objections on direct examination
- Anticipated objections on cross-examination
- Closing arguments

### **Week 13 (November 14): Attend ICH in Sterling, Virginia**

There is no class this week because of scheduled court appearances. Students who are not litigating these cases must attend and observe the ICH in person on either November 13 in Annandale, VA or November 14 in Sterling, VA. More information will be provided close to these dates.

### **Week 14 (November 21): University observes Monday schedule, no class**

#### *Required Assignments:*

- Ensure all hours are recorded in Legal Server
- Submit your end-of-semester reflection paper by 5pm