

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

Communication(s): Eschmelzel@justice4all.org

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 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

5) Full participation in skills building and community outreach

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.*

COURSE DESCRIPTION

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.

COURSE OBJECTIVES

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.

GRADING & PARTICIPATION

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%).

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.

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, 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.

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 WiFi 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, 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.

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.

COURSE SCHEDULE & ASSIGNMENTS

Week 1 (January 16): Semester introduction and case assignments; trauma stewardship (continued)

We will discuss the Individual Calendar Hearing from last November and review class assignments and expectations for Spring 2025, including the election response plan from LAJC. We will also finalize our conversation about trauma stewardship.

Required Assignments:

- Trauma Stewardship
 - 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 2 (January 23): Project 2025 and Immigration

We will review policy proposals addressing immigration.

Required Assignments:

- Transactional Records Access Clearinghouse, “Immigration Court Backlog Tops 3 Million; Each Judge Assigned 4,500 Cases,” available at: <https://trac.syr.edu/reports/734/>
- Chapter 5 of Project 2025, available at: https://static.project2025.org/2025_MandateForLeadership_CHAPTER-05.pdf

Optional Assignments:

- Congressional Research Service, “U.S. Immigration Courts and the Pending Cases Backlog ,” available at: <https://crsreports.congress.gov/product/pdf/R/R47077>
 - You do not need to read this report before class, but I will likely refer to it and ask that you be prepared to skim it during class to contribute to our conversations.

Week 3 (January 30): Moot for ICH

Students must come to class prepared to argue as DHS for the field placement case scheduled for February 5, 2024. Students must have a solid grasp of the material support bar. Students are also expected to attend the hearing on February 5 via WebEx.

Required Assignments:

- Review complete file of client, available on sharepoint, including notes from her asylum interview with USCIS
- 8 U.S.C. § 1182(a)(3)(B)(i)–(iv)
- *In Re S-K-*, 23 I. & N. Dec. 936, 944 (BIA 2006)
- *Viegas v. Holder*, 699 F.3d 798 (4th Cir. 2012)
- *Matter of A-C-M-*, 27 I&N Dec. 303 (BIA 2018)

Week 4 (February 6): Skills clinic (1 of 3)—community engagement and issue spotting

We will review intake and initial screening for potential clients, and the decisions attorneys must make regarding whether to accept a case, refer a case, and offer limited pro se assistance.

Students will meet off-campus to screen potential clients.

Week 5 (February 13): Hearing debrief and case rounds

We will debrief the ICH together, with a particular focus on the material support to terrorism bar. Students will also provide updates on any pending case assignments. We will then continue reviewing policy recommendations regarding immigration, with a focus on thinking about the ways law enforcement structures impact noncitizens. Students will receive assignments for next week's oral argument.

Required Assignments:

- Chapter 17 of Project 2025, available at:
https://static.project2025.org/2025_MandateForLeadership_CHAPTER-17.pdf

Week 6 (February 20): Oral Argument

Using the material from Chapters 5 and 17 of Project 2025, students will be assigned to argue for or against a particular policy proposal. Students must come to class having already prepared for their oral argument. More instructions will be provided in class.

Week 7 (February 27): Affirmative Procedures and Advocacy before USCIS

In this class, we will review again the difference between affirmative and defensive postures. We will then discuss the different advocacy methods appropriate before USCIS versus EOIR.

Required Assignments:

- Former Asylum Officer shares his experience on the Asylum Interview, available at: <https://www.youtube.com/watch?v=ojYjYr7mwcg> (watch from minute 4 to minute 13)
 - Note that the AO receives the file usually only minutes before the asylum interview
 - Note how the AO describes the role of the attorney
 - AO suggests decisions come within a two-week period
- Mock affirmative asylum interview, available at: <https://www.youtube.com/watch?v=YvUHMWVsVek> (from minute 6:17 to the end, and you can skip the parts where the facilitator interjects)

Week 8: (March 6): Skills clinic (2 of 3)—community engagement and issue spotting

We will review intake and initial screening for potential clients, and the decisions attorneys must make regarding whether to accept a case, refer a case, and offer limited pro se assistance. Students will meet off-campus to screen potential clients.

Week 9 (March 13): No class, spring break

Week 10 (March 20): Introduction to BIA Appeals

In this class, students will learn a broad overview of the Board of Immigration Appeals, including its members and the ways cases are appealed, reviewed, and decided.

Required Assignments:

- Executive Office of Immigration Review, Board of Immigration Appeals, available at: <https://www.justice.gov/eoir/board-of-immigration-appeals#about>
 - *You must read the “about” section and the backgrounds of all the members of the BIA. You do not need to read the “resources” or “additional information” session*
- Form E-27, available at: <https://www.justice.gov/eoir/file/639741/dl>

Week 11 (March 27): BIA Appeals (Continued)

Students will participate in an in-class workshop, learning how to spot appealable issues in a case at the immigration court level.

Required Assignments:

- Review case materials on Sharepoint of a mock immigration court case

Week 12 (April 3): Skills clinic (2 of 3)—community engagement and issue spotting

We will review intake and initial screening for potential clients, and the decisions attorneys must make regarding whether to accept a case, refer a case, and offer limited pro se assistance.

Students will meet off-campus to screen potential clients.

Week 13 (April 10): Bond, Detention, Alternatives to Detention, and Habeas Corpus in Immigration Cases

In this class, we will explore when, if ever, habeas corpus becomes an advocacy tool available to detained noncitizens. Students will review Supreme Court jurisprudence on noncitizens' ability to file petitions for habeas corpus and learn the procedural underpinnings of how filing this writ impacts immigration bond cases.

Required Assignments:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006)
- ICE, Alternatives to Detention, available at: <https://www.ice.gov/features/atd>
- Advocating for Clients in ICE's Alternatives to Detention Program (available on Sharepoint)
- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Jennings v. Rodriguez*, 583 U.S. ____ (2018)
- *Dubon Miranda v. Barr*, 463 F. Supp. 3d 632 (D. Md. 2020) (you must also be prepared to explain what happened when this case was appealed)

Week 14 (April 17): Habeas Corpus in Immigration Cases (continued as needed); End of Year wrap-up

Required Assignments:

- Submit written reflection before class
- Update all timeslips in Legal Server
- Send transfer memo to Elizabeth, as required

Week 15 (April 24): No class, observe a Monday schedule