

Affirmative Litigation

Hybrid Delivery (Online and In Person)



CENTER FOR
**Legal Aid
Education**

Course Description

CLAE's Affirmative Litigation Training is a truly immersive introduction to the practice of seeking broad based institutional reform through complex affirmative litigation. Substantive lectures and exercises on fundamental affirmative litigation justiciability issues are coupled with practice opportunities involving emergency injunctive relief, surviving a motion to dismiss and engaging in complex class based discovery.



Previous affirmative litigation courses offered in the legal services community would feature hours of mind-numbing back-to-back lectures on challenging practice issues like sovereign immunity, exhaustion, preclusion, standing and mootness. CLAE's approach is different. We provide much of this material through video lectures that the participants re-view on their own time, with opportunities to stop and start the lecture and explore the more difficult parts again. These materials, provided on DVD, remain available to the participants long after the training is over.

Our learners spend the majority of their time applying these concepts to a case problem using specially designed planning worksheets. Over the course of the three online weeks, participants plan litigation and then draft a federal complaint to initiate it. After the complaint is drafted, the participants come together onsite for the remainder of the training, where they complete a host of interactive practice exercises associated with the case (see on site schedule next page).

These activities are conducted in the context of a compelling, and all too real, legal services case problem. Our client, Rebecca Just, is an African-American mother of a disabled child housed in a state funded family homeless shelter. When she comes to realize that white residents are provided training, special accommodations for their children and more desirable work assignments, she organizes other African-American residents and secures a meeting with the shelter director to air their grievances. The next morning, she and her cohorts are ordered to leave the property immediately or face arrest. Investigation reveals that the state authorities approved this decision to expel the residents. Rebecca then comes to her local legal services office for help.

"Without a doubt, the Affirmative Litigation Training was the most powerful legal course I've ever taken. It should be a required "boot camp" for every legal aid lawyer. Participants leave it stronger, smarter, and with the tools needed to fight the war on poverty."

Amy Guinan, Florida Legal Services

Between small group practice and strategy sessions, participants also hear from and engage with a judge and a court clerk to explore their perspectives on our practice. They also learn the practical nuts and bolts of litigating in the federal courts, from e-filing to case cover sheets. Explicit attention is also paid to the special needs of LSC program advocates and to alternatives to class action litigation. An unmistakable lesson of the training is that impact oriented affirmative litigation is the work of all of our advocates, LSC funded or otherwise.

Sample In Person Agenda

Day One

9:00 – 10:00	Intro/overview: context for affirmative litigation Panel Discussion—how do we find these cases?
10:00 – 11:00	Participant small group introductions and discussion of barriers to bringing the work home
11:15 – 12:00	Group arranges into small groups based on affinity for barriers identified – strategize ways to address and report back
12:00 – 12:45	Presentation and debrief re. complaint drafting
1:45 – 2:45	Seeking emergency relief presentation
2:45 – 4:30 (with break)	Seeking emergency relief exercises
4:30 – 5:00	Debrief and assignments for Day Two

Day Two

9:00 – 9:15	Day Two Overview
9:20 – 10:45	Exhaustion, Standing and Mootness
11:00 – 12:00	Damages and Attorneys Fees
1:00 – 2:00	Non-monetary Relief
2:00 – 2:45	Questions/discussions re. Sovereign Immunity - Panel
2:45 – 3:15	Debrief and assignments for Day Three
3:30 – 5:00	Individual Complaint Review Sessions

Day Three

9:00 – 11:00	Discovery: presentation and small groups
11:15 – 12:15	Securing Broad Based Relief
1:15 – 2:15	How to survive MTD: presentation, video
2:15 – 3:00	View from the Bench (video or local D. Ct. Judge)
3:15 – 5:00	Instructions and prep for MTD
5:00 –	Individual preparation on your own

Day Four

9:00 – 11:30	Motion practice sessions
11:30 – 12:00	Large group: debrief motion sessions
1:00 – 1:45	Nuts and Bolts of Federal Practice
1:45 – 2:30	Closing Plenary

Sample Weekly Activities (Online Component)

Week One

Activity	Timeframe						Est. Time
	MON, 7/7	TUE, 7/8	WED, 7/9	THU, 7/10	FRI, 7/11	MON, 7/14	
1-1. Read the Rebecca Just case file		Due: 8 p.m.					2.0 hours
1-2 Introduce yourself in the online forum. List your top three considerations or questions if this case is handed to you. Reply to at least one post.		Due: 8 p.m.			Response Due: 8 p.m.		0.5 hours
1-3 Live Linkup #1: Discuss how affirmative litigation gets started: client goals, relief, and the story of the case			Join Webinar 1 – 2.30 EDT OR 3 – 4.30 EDT				1.5 hours
1-4 Watch DVD on Jurisdiction, Causes of Action and State Action				Due 8 p.m.			1.0 hour
1-5 Review case file. Complete and upload Worksheet 1: Jurisdiction, Causes of Action and State Action					Due: 8 p.m.		2.0 hours
1-6 Join the course discussion. Post your questions and comments and respond to others				Post at least one initial question or comment	Respond to at least one participant's post		1.0 hours
1-7 Complete online evaluation of week one						Due: 8 p.m.	15'
Note: All times listed are Eastern Daylight Time. Two activities are due at 8 PM on Monday of next week. Please review next week's calendar to properly plan your time. You may start these activities this week if you prefer.							8.25 hours

Week Two

Activity	Timeframe						Est. Time
	MON, 7/14	TUE, 7/15	WED, 7/16	THU, 7/17	FRI, 7/18	SAT, 7/19	
2-1 Read Q&A on Standing and Mootness	Due: 8 p.m.						0.5 hours
2-2 Watch the DVD on Sovereign Immunity and the 11 th Amendment	Due 8 p.m.						1.0 hour
2-3 Complete and upload Worksheet 2; Selection of Parties		Due: 8 p.m.					2.0 hours
2-4 Discuss complaint drafting in course discussion forum	Check daily	Check daily	Check daily Post at least one new question or observation by 8 PM	Check daily Respond to at least one peer's post by 8 PM	Check daily	Check daily	2.0 hours
2-5 Live Link Up #2 Debrief complaint preparation work. Discuss additional complaint considerations including facts and relief			Join Webinar 1 – 2.30 EDT OR 3 – 4.30 EDT				1.5 hour
2-6 Complete Case Analysis/Complaint Preparation Worksheet #3 – Facts and Relief				Complete this worksheet alongside your complaint as you work on it. The worksheet will help you be sure to include all the relevant facts and relief options in your complaint			1.0 hour
2-7 Draft and submit your complaint for the Just case				The complaint is due Saturday, July 19 at 8 PM, but feel free to complete and upload it at any time before then.			5.0 hours
2-8 Speak individually with a faculty member as you develop the complaint			Speak some time this week. You'll be notified who your faculty partner is by the beginning of this week to make arrangements.				1.0 hour
2-9 Complete Week 2 course evaluation						Due: 8 p.m. Saturday	15'
Total weekly time estimate:							14.25 hours

Sample Webpage

CLAE Online Campus ▶ ALT-SU-07 ▶ Assignments ▶ Activity 1-5: Apply Jurisdiction, Cause of Action and State Action concepts to the Rebecca Just case

Apply what you've learned about Jurisdiction and Causes of Action to the Just case.

This activity asks you to apply the information you learned from the DVD on Jurisdiction, Causes of Action and State Action and the supplemental readings to the Rebecca Just case using a worksheet designed for this purpose. The Worksheet will, once completed, serve as your roadmap for later case analysis and planning and eventual drafting of a federal court complaint for the Just case.

To complete this activity:

1. Review the [Rebecca Just case file](#) and have it available for reference as you complete the worksheet.
2. Complete the worksheet following the instructions you will find there. You are asked to identify as many claims as you can that might be used in the Just case and to identify the basis for federal jurisdiction for each of the claims. You are also asked to identify issues that might have an impact on the claim, like private right of action problems. You can get the worksheet by [clicking here](#). (It's also available from the course home page).
3. The worksheet is a Word document and you should be able to complete it in Word or most other word processors. Once you've completed the worksheet, **upload** it for review. You will receive feedback from a faculty member on your completed worksheet. This feedback will be provided by the end of the day on Monday. As with all activities, if you have any difficulties with this, call or email us for help.

Timeframe: Your completed worksheet must be uploaded to the website by 8 PM EDT on Friday, June 22nd.
If you don't remember how to upload a document, review the tutorial by [clicking here](#).

Available from: Monday, 21 May 2007, 07:40 PM
Due date: Friday, 22 June 2007, 08:00 PM

Upload a file (Max size: 2MB)

CLAE Online Campus ▶ ALT-SU-07 ▶ Assignments ▶ Activity 1-5: Apply Jurisdiction, Cause of Action and State Action concepts to the Rebecca Just case

You are logged in as **Ross Dolloff: Student** ([Return to my normal role](#))

ALT-SU-07

Every activity has a due date. With the exception of the Wednesday afternoon Live Link-Up class meetings, you won't need to do things at particular times, but you WILL need to complete them before the date and time shown or you will have difficulty with the course. Activities are sequential and build on each other, so it's a real problem to get significantly behind. Start now to plan how you can stay on track and make the time available to get the work done. It's critical.

Some activities require you to upload a file for review. You can complete the document (it should be a Word file) on your own computer, then come to the activity page like this, hit the browse button and select the file on your computer to upload. When its path is shown in the window here, hit the "upload this file" button to ship it off to us for distribution to a faculty member for review. A faculty member will write comments back to you, and you will be notified when they are available.

At a Glance

Time Frame: 2/3 weeks online followed by 4 days on site

Faculty to Student Ratio: 1:4

Skills and Concepts Explored:

Complaint Drafting; Seeking Broad Based Relief (including alternatives to class actions for LSC programs); Seeking Emergency Relief; Sovereign Immunity; TRO motion practice; Motion to Dismiss practice and Surviving a Motion to Dismiss; Nuts and Bolts of Federal Practice; Causes of Action for Affirmative Litigation - Section 1983, State Action and Color of Law; Damages; Standing and Mootness; Exhaustion and Preclusion; Discovery Planning and Practice in Complex Litigation; Non-Monetary Relief; Complex Case Analysis and Planning; the Judge's Perspective; The Clerk's Perspective

Learning and Production Materials Provided:

- Participant manuals, including a complete set of annotated model case documents (complaint, motion to dismiss and supporting memorandum, interrogatories, requests for production, requests for admissions, motion for preliminary injunction and supporting memorandum)
- Trainer manuals, including timed outlines and instructions for each session
- Coordinator and Lead Trainer manual (logistics)

Video Demonstrations and Other Media Included:

- Web-based activities and assignments, online readings, case planning tools and case analysis worksheets, calendars, assignment uploading, discussion forums, collaboration tools and online feedback mechanisms
- Video lectures on Sovereign Immunity and Jurisdiction, Causes of Action and Section 1983 by noted national experts
- Video demonstration of a motion to dismiss argument in the model case conducted by two legal aid advocates before U.S District Judge William G. Young in Judge Young's courtroom, followed by a debrief with Judge Young and the litigants
- Live weekly online class sessions conducted with GoToWebinar technology

ABA Civil Legal Aid Practice Standards addressed:

2.6: Achieving Lasting Results for Low Income Individuals and Communities; **3.1:** Full Legal Representation; **7.11:** Litigation; **7.11-1:** Litigation Strategy; **7.11-2:** Pleadings; **7.11-4:** Discovery