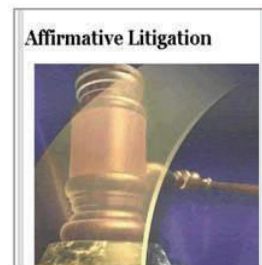


## Affirmative Litigation Training July-August, 2011

This summer, the Shriver Center and Center for Legal Aid Education (CLAE) sponsored our first joint training — **Affirmative Litigation Training (ALT)** -- with **forty legal aid attorneys from 17 states and 28 legal aid programs** participating as students and faculty.

ALT provides a comprehensive introduction to the process of prosecuting a complex affirmative case in federal or state court; it is grounded in the legal aid community's long-standing role in preserving and expanding the rights of people who are poor through creative and aggressive advocacy in both state and federal courts. In sponsoring Affirmative Litigation Training, our goals are twofold: first and foremost, to equip legal aid attorneys nationally with the confidence and skills necessary to engage in broad-based and strategic advocacy; and second, to build an ongoing network of attorneys nationally able and willing to support each other in pursuing impact-oriented, affirmative advocacy on behalf of the individuals and communities they serve.

The attorneys participating in the July-August ALT join the previous **157 attorneys from 20 states and 45 legal aid programs** who have participated in Affirmative Litigation Training as students and faculty in the last five years.



### ALT Overview

ALT consists of three weeks of web-based activities followed by three to four days on-site and includes a mix of large and small group presentations, discussions and interactive exercises on the substantive law that characterizes affirmative litigation -- jurisdiction, causes of action and state action; standing and mootness; exhaustion, preclusion and sovereign immunity -- as well as practical exercises on pre-filing litigation considerations, preparation for and drafting a federal court complaint, emergency relief and motion practice.

The course is built around a carefully developed case scenario involving client, Rebecca Just, an African-American homeless woman and her child, who are placed in a shelter funded and supervised by the state public assistance agency. While there, Ms. Just discovers that she and other Black residents seem to be assigned more physically demanding and menial work jobs and are required to work more hours than White residents. She organizes a group of residents as Friends of the Homeless and they complain about this treatment to the Shelter's director. The next day, without any notice or opportunity to be heard, the members of the organization are summarily expelled from the Shelter, with the permission of welfare authorities.

From the beginning of the online portion, students begin to analyze the Rebecca Just case file, moving from a focus on short-term resolution of Ms. Just's individual problem (e.g., how to reinstate Ms. Just's shelter status) to a longer term view on behalf of the larger community of homeless people and shelter residents.

*"Although it is stressful, I am using the part of my brain that I do not get to use in my practice. It is good CLAE & the Shriver Center offer these classes to public interest attorneys because where else would they get this type of training."*

## Web Based Activities

During the three weeks of web-based activities, students participate in a series of carefully sequenced learning activities -- large group webinars (we call these "Live Link-Ups"), facilitated small group phone-based meetings, and online discussions through which they apply new litigation concepts and skills to the Rebecca Just case.

Each week, they also complete and receive individualized feedback on a series of **Complaint Preparation worksheets** that help them identify:

- 1) through Worksheet 1, potential claims, causes of action and jurisdictional grants for the Just case;
- 2) through Worksheet 2, plaintiffs and defendants to be associated with each of the claims and any issues (standing, sovereign immunity, state action requirements) associated with any party in relation to any claim;
- 3) through Worksheet 3, essential facts associated with their claims and relief to be requested.

At the end of Week 3, participants each draft a federal court complaint for review and feedback by assigned ALT faculty.

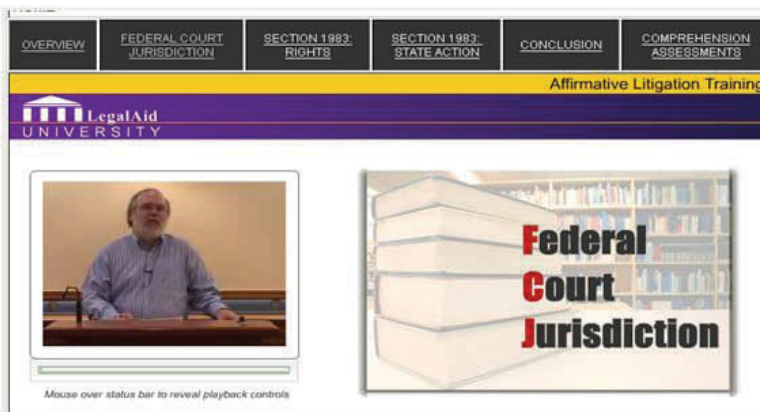
Activities for Week 1: July 11 – July 15					
Activity	Timeframe				
	MON, 7/11	TUE, 7/12	WED, 7/13	THU, 7/14	FRI, 7/15
1-1. Introduce yourself in the discussion forum. Reply to at least one post.		Due: 8 p.m.			
1-2. Read the Rebecca Just case file. List your top three considerations or questions if this case is handed to you.		Post your introduction Due: 8 p.m.			Reply to one post Due: 8 p.m.
1-3. Live Linkup #1: Discuss how affirmative litigation gets started: client goals, relief, and the story of the case.			Join Webinar 1:00 pm – 2:30 pm OR 3:00 p.m. – 4:30 p.m. EDT		
1-4. Watch Jurisdiction, Causes of Action and State Action			Due 8 p.m.		
1-5. Join the course discussion. Post your questions and comments and respond to others.			Post at least one initial question or comment	Respond to least one participant's post	
1-6. Review case file. Complete and upload Worksheet 1: Jurisdiction, Causes of Action and State Action				Due: 8 p.m.	

## Web Based Resources

Also during the three weeks of web-based activities, participants review a range of textual and video-based resources as they work their way through the various litigation topics.

The **Federal Practice Manual** is a key resource as are various 1983: articles from the **Clearinghouse Review** and **Q&A materials** summarizing key litigation topics especially as these relate to the Rebecca Just case.

Resources also include **two multi-media presentations** that provide access to lectures by leading national experts on *Jurisdiction, Causes of Action and State Action* and *Sovereign Immunity & the 11<sup>th</sup> Amendment* and allow participants to review particularly dense concepts in a self-paced manner.



*"The Shiver Center's Federal Practice Manual gave me a foundation to start with. The supportive materials appear to be good resources too. I will now use their website as a resource."*

*"I think the Clearinghouse Section 1983 articles were very useful in understanding the cause of action - those should be mandatory reading".*




## The Online Campus

The online portion of ALT takes place within the CLAE online campus which is built using Moodle, an open-source learning management system (LMS).

During this most recent ALT delivery,

we completely revised the online course site to make it easier to access and navigate. Among the many new features, we: created a series of narrated, video-based and written tutorials illustrating how to use the various online course tools such as discussion forums, wikis, file uploads, among others; developed narrated, self-paced video overviews introducing each week's goals, learning activities and timelines; and revised the structure and format for presentation of each learning activities and its associated resources.



*“the technology was amazing... instructions were done in a way that addressed all my questions without having to ask and I'm technologically challenged! It was impressive!”*

## Onsite Training



The onsite training begins with an introductory panel in which faculty describe the values that underlie affirmative litigation in a poverty-law context and provide examples from their practices on how to: build an affirmative practice; identify issues to litigate; situate affirmative litigation within a larger multi-tactic advocacy campaign.

During the next three days, through a mix of large and small group sessions, participants receive individualized feedback on their draft complaints; prepare for and argue a motion for a Temporary Restraining Order; further analyze issues of standing and mootness and immunity in relation to the Rebecca Just case; draft discovery requests; and, identify and develop elements to include in a consent decree resolving the Just case. On the final day, participants argue a motion to dismiss in front of visiting “judges” on issues of standing and private right of action.

*“What I think is so amazing is how I learned a lot of this, in law school, just 2 years ago. But it was a totally different orientation. Jurisdiction and sovereign immunity were just sort of interesting academic issues. Law school prepared me to clerk, ALT has prepared me to advocate. Now it's, “OK, here's the complicated landscape, what can you do to get the most for your client?” That's very empowering.*

## Course Evaluation

Participant feedback on both the online and onsite portions of the course was overwhelmingly positive. For the web-based portion of the course, we survey participants at the end of each week regarding general comments (e.g., what about the week was most effective? what would you most want to change?) as well as targeted feedback about effectiveness of individual learning activities, course resources and faculty and staff involvement. During the onsite portion, we solicit daily evaluations.



Evaluations also solicit feedback regarding the extent to which training participation supports specific learning outcomes. 100% of participants responding to weekly evaluations, indicated they “agreed strongly” or “agreed” with the following statements beginning with “As a result of my participation so far, I will be better able to: “

- *Identify the process involved in planning a piece of affirmative litigation.*
- *Analyze a client or community problem and craft a potential affirmative litigation response.*
- *Recognize pros and cons of choices regarding plaintiffs and defendants in a federal affirmative lawsuit.*
- *Structure requests for relief in a complaint and relate them appropriately to claims and parties.*
- *Draft an effective and legally sound complaint to initiate a piece of complex affirmative litigation.*

***“The small discussion group helped with sorting out the arguments, facts, and claims to include or not include in the complaint. The live link ups assisted with bolstering the reading material. The online discussion groups help make some issues clear to me and gave me other ways to think about approaching assignments.”***

## Faculty & Judges

**Alice Nelson**, Southern Legal Counsel, FL

**Greg Bass**, Greater Hartford Legal Assistance, CT

**Anne Louise Blanchard**, Connecticut Legal Services, CT

**Shelley White**, New Haven Legal Assistance, CT

**Jim Breslauer**, Neighborhood Legal Services, MA

**Dick Bauer**, Greater Boston Legal Services, MA

**Richard Weishaupt**, Community Legal Services, PA

**John Bouman**, Shriver Center, IL

**Bob Capistrano**, Bay Area Legal Services, CA

**Hannah Lieberman**, consultant, MD

**Lucy Williams**, Northeastern U School of Law

**Richard Zielinski**, Goulston & Storrs, American College of Trial Lawyers, MA



***“...faculty at this conference were great! They inspire me to want to continue in the practice of civil legal services to meet my potential...and basically I just want to move in with them! “***

## Our Participants



Program	State	Program	State
Bay Area Legal Aid	CA	Public Justice Center	MD
Connecticut Legal Services	CT	Legal Aid Society of Minneapolis	MN
Greater Hartford Legal Aid	CT	New Hampshire Legal Assistance	NH
New Haven Legal Assistance	CT	Latino Justice	NY
Bread for the City	DC	Legal Services for New York City	NY
Southern Legal Counsel	FL	Monroe County Legal Assistance Center	NY
Legal Aid Society of Hawaii	HI	Neighborhood Legal Services - Buffalo	NY
Prairie State Legal Services Inc.	IL	Niagara County Legal Aid Society	NY
Sargent Shriver Center	IL	Legal Aid Services of Oklahoma Inc.	OK
Blue Ridge Legal Services, Inc.	KY	Community Legal Services, Inc.	PA
Disability Law Center	MA	South Carolina Legal Services	SC
Greater Boston Legal Services	MA	Legal Aid Society of Middle TN	TN
Neighborhood Legal Services	MA	Legal Aid Justice Center	VA
New Center for Legal Advocacy	MA	Legal Aid Bureau	MD