Veterans’ Legal Assistance Program
Externship
Law 675; §004
1-3 Credit Hours
Mondays, 4:30-5:45, Room 103
Syllabus Spring 2018

Professor:
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Course Description:
Welcome to the Veteran’s Legal Assistance Program (“VLAP”) Externship at SIU School of Law. The VLAP will provide legal assistance to area veterans who cannot afford or do not have access to legal representation in the appeals of claims for compensation for service-connected disabilities; and petitions for the upgrade of other-than-honorable or bad conduct discharges for military members with posttraumatic stress (“PTSD”) or victims of military sexual trauma (“MST”).

Course Objectives:
1. The student will become familiar with Title 38, USC, Veterans, and will apply various sections in research, writing, and advocacy for veterans filing appeals in disability compensation claims before the Department of Veterans Affairs, and petitions for discharge upgrades.

2. The student will have the opportunity to represent veteran clients in appeals of disability compensation claims before various levels of the Department of Veterans Affairs and the Court of Appeals for Veterans Claims.

3. The student will expand his/her research and writing skills through a comprehensive memorandum covering the factual and legal issues presented in a disability claims appeal; coordinating the administrative forms to pursue the appeal; and outlining a course of action to succeed in the appeal.

4. The student will improve his or her ability to learn from face-to-face interaction with clients and gain experience in representing a client in a claims appeal.
Student Performance Evaluation:

The externship is graded on a modified Satisfactory/Unsatisfactory scale (S, S+, S-, U). To complete the course for 3 academic credits, students must complete 127.5 class/extern hours; and for 2 credits, 85 class/extern hours.

The American Bar Association standards for accrediting law schools contains a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), “a ‘credit hour’ is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.” We will spend one 75-minute block of time together each week, which equates to 1.5 classroom hours. The amount of assigned reading and out of class preparation should take you about 3 hours for each class session per week.

Additionally, depending on whether you are taking this course for two or three credits, you will need to spend additional time on “extern hours.” You will need to average 1.2 hours per week if you are taking the course for two credit hours, and average an additional 4 hours per week if you are taking it for three credit hours. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a minimum of 5.7 hours per week if you are taking it for two credit hours (75 minutes in class, 3 hours preparing for class, and average 1.2 extern hours) on course-related work; or 8.5 hours per week if you are taking it for three credit hours (75 minutes in class, 3 hours preparing for class, and average 4 extern hours) on course-related work.

Extern Hours. Hours spent meeting with or talking to veterans about claims or potential claims; researching a potential client’s claim; reviewing and organizing a client’s records; researching a client’s claim; drafting briefs and memos; observing court proceedings; planning and preparing intake/clinic days; assisting at intake/clinic days; planning and preparing CLEs or other attorney training; and staffing the VLAP office all count toward your extern hours. Other work may also be credited toward extern hours with instructor approval.

Extern hours will be tracked in .1 hour increments, documented on a form provided by the instructor, and submitted on TWEN via the drop box. Hours are due at the end of each month.

Required Course Materials:

Military Service and the Law, IICLE publications, 2009 with 2013 update. (“MSL”)

Materials will be provided at no cost to the student and may be picked up by appointment with the instructor.
TWEN Usage:

We will use a TWEN course for discussion boards, reading materials, and assignments.

Mandatory Course Assignments:

1. Journal and self-evaluation, including midterm and final journal.
2. Case work product: As assigned by the instructor.
3. Participate in a minimum of one scheduled group clinic/intake session. Date, time, location TBD.
4. Right seat with a VSO in the submission of an initial VA disability claim. Complete and submit assignment about experience. Instructor will provide additional information.
5. Extern Hour Submission Forms totaling appropriate number of Extern hours for registered credits. 3 credits = 60 Extern hours; 2 credits = 17.5 Extern hours. You will receive an Unsatisfactory grade if you do not complete the required hours.
6. Final brief/memo on status of assigned case(s).
7. Course critique/suggestions for improvement memo.

Class attendance:

VLAP students are expected to attend all classes, participate in group clinics, and complete all course work during the semester.

Attendance will be taken at each class period. You will be allowed two (2) absences. If you have more than two (2) absences, you will be withdrawn from the class. Signing the attendance sheet certifies that you have read the assigned material thoroughly enough to discuss it in class or use the knowledge in application to a case under discussion. The in-class lectures are designed to summarize reading or research topics for the week. Completion of the assignments prior to class is required in order to understand the lecture and participate in the classroom discussions. If you are unprepared, do not sign the attendance sheet.

Schedule and assignments:

Watch TWEN and emails for current events and news that may change your reading assignments or affect the material we cover that week.

All reading assignments should be completed before class date, in preparation for class discussion. Any additional reading will be assigned, and the syllabus updated as necessary. We may deviate from this syllabus with assignments taken from current events, new cases, or to accommodate guest speakers, scheduling conflicts, etc. Although we will try and adhere to the schedule, we may occasionally jump ahead or fall behind. In such case, we will begin the next class where we left off, unless told otherwise.
Class 1, January 15

No Class. MLK Birthday.

Due to ABA rules, we must make up this missed class period. Assignment options will be discussed in our first class on January 28, 2018.

Class 2, January 22

Introduction to Veterans Advocacy

Read: VBM – 17.1, 17.5, 17.8, 16.1, 16.2, 16.3, 18.1, 18.2, 18.3

Topics: Overview of the Department of Veterans Affairs
- Veterans Benefits
- Legal effect of regulations, GC opinions, Manual 21-1MR
- United States Department of Veterans Affairs (VA): administrative review levels
- Filing an Initial Claim
- Segmented Lanes/Fully Developed Claims
- Regional Office Decision
- Notice of Disagreement (NOD)
- Statement of the Case (SOC)
- Appeals to the Board of Veterans Appeals (BVA)
- Appeals to the Court of Appeals for Veterans Claims (CAVC)
- Appeals to the Federal Circuit

Class 3, January 29

Who is a Veteran?

Read: 1. VBM, 2.1-2.3
   2. TN, pp 3-12

Topics/Cases: Types of discharges and their effect on VA benefits
- Length of Service Requirement
- National Guard and Reserve status
  - VA General Counsel Precedent Opinion, 6-2004
- Willful misconduct
  - Allen v. Principi, 237 F.3d 1368 (Fed. Cir. 2001)

Class 4, February 5

Introduction to Post Traumatic Stress Disorder

Read: VBM 3.6 (p.170-200)

Handout – What is PTSD?

Assigned essays. Each student will read an assigned essay and present a 3-5 minute summary of the essay and a personal reaction to the essay.

Review of PTSD related cases and service-connection applicability to VA Claims.
Class 5, February 19  Adjudication of Claims

Read:  VBM – 12.1, 12.2, 12.3, 12.4, 12.10, 12.11, 13.1, 13.2

Topics/Cases:  Filing a Claim  
   Rodriguez v. West, 189 F.3d 1351 (1999)
   Rating Decision  
   Appealing an Initial Decision  
   Gallegos v. Principi, 283 F.3d 1309
   Statement of the Case  
   Formal Appeal to the Board of Veterans Appeals (BVA)  
   Appealing a BVA Decision to Court of Appeals for Veterans Claims (CAVC)  
   Graves v. Principi, 294 F.3d 1350

Class 6, February 26  The Basics of Service Connection

Read:  VBM – Ch. 3.1-3.3 (p.55-104)

Topics/Cases:  Three Requirements to Establish Service Connection  
   In-Service Injury or Disease  
   Relaxed Standard for Combat Veterans  
   38 USC 1154
   The Presumption of Soundness  
   38 USCS 1111
   38 CFR 3.304
   The Line of Duty Presumption  
   38 USC 105

Class 7, March 5  Establishing Nexus for Service Connection

Read:  Required: VBM Ch. 3.4 (p.105-133)  
   Optional: VBM Ch. 3.4 (p.134-152)

Topics/Cases:  Evidence of a Qualifying Present Disability  
   Direct Service Connection  
   Aggravation  
   Secondary Service Connection  
   Presumptive Service Connection  
   Section 1151 Claims  
   38 USCS 1151
Class 8, March 12

Effective Dates

Read: Required: VBM 8.1- 8.6 (612-653)
Optional: VBM 8.1- 8.6 (654-674)

Topics/Cases: General Rule
- Butler v. Shinseki, 603 F.3d 922 (2010)

Staged Ratings

Clear and Unmistakable Error
- 38 USC 5109A
- 38 USC 7111

Reopened Claims

Class 9, March 19

Disability Evaluations, Increases, & TDIU

Read: VBM 5.1 (p. 299-323), 5.5 (p. 379-393), 5.8-5.9 (p. 423-431)

Topics/Cases: Rating Schedule
- 38 CFR 4.25

Rule Against Pyramiding
- Amberman v. Shinseki, 570 F.3d 1377 (2009)

Analogous Ratings

Requirements for TDIU
- 38 CFR 4.16

Class 10, March 26

Discharge Upgrades

Read: VBN – Ch. 21 (p. 1687-1707)
Veterans Discharge Upgrade Manual by Conn. Veterans Legal Center

Class 11, April 2

Non-Service Connected Pension & Survivor Benefits

Read: VBM 6.1 (457-461), 6.4 (493-499), 7.1-7.3.2 (511- 557)

Topics/Cases: Disability Pension

Access to Medical Benefits
- 38 CFR 17.36

Accrued Benefits/Substitution
- 38 USC 5121
38 USC 5121A
VA General Counsel Precedent 8-00
Dependency & Indemnity Compensation
Tarver v. Shinseki, 557 F.3d 1371 (Fed. Cir. 2009)
Barela v. Shinseki, 584 F.3d 1379 (2009)
Death Pension

Class 12, April 9

VA’s Duties to Claimants

Read: VBM – 12.5 (906-926)

Duty to Assist
38 USC 5103A – VCAA
38 CFR 3.103
Duty to Develop Veteran’s Claim
Benefit of the Doubt Rule
Henderson v. Shinseki, 131 S. Ct. 1197 (2011)
Epps v. Gover, 126 F.3d 1464 (1997) superseded by Bernklau

Class 13, April 16

Overview of Military Law

Read: MSL – Chapter 1
Assigned reading.

Topics:
Punitive and Administrative Actions
Uniform Code of Military Justice
Boards, Court Martials & Procedures

Class 14, April 23

SCRA & USERRA

Read: MSL – Chapter 3 - USERRA
MSL – Chapter 4 - SCRA

Each student will be assigned one U.S. district court to research a USERRA case on their own to read, brief, and present in class. 2-3 minute overview.
**Policies**

**Independent Work; Ban on Collaboration:**

You are allowed to discuss assignments with any other student, but you are not allowed to rely on any written materials from another student. If you fail to comply with this requirement for independent work, you can be found in violation of the Honor Code, which can lead to serious penalties, including expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of any violation. When in doubt, ask your professor.

**Emergencies Procedure:**

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.

**Disability Policy:**

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. [http://disabilityservices.siu.edu/](http://disabilityservices.siu.edu/). Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

**Saluki Cares:**

The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, [http://salukicares.siu.edu/index.html](http://salukicares.siu.edu/index.html). At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.