FORECLOSURE RELIEF CLINIC
LAW 665-008 - SYLLABUS - FALL 2014

Clinic Director	Hugh M. Lee
Contact Into	hlee@law.ua.edu / 348-7896 (O) / 394-1711 (C)
Clinic Office Hours	M-F, 8:00-4:45
Clinic Workroom	A-134
Clinic Phones	8-4960 (Clinic Office) / 8-8432 (Workroom) / 8-8447 (Workroom)
Clinic Fax	348-6851
Clinic Staff	Susan Donovan, Supervising Attorney 348-1736 / Room A-171 / sdonovan@law.ua.edu Caryn Roseman, Staff Attorney 348-1738 / Room A-160 / croseman@law.ua.edu Kim Stewart, Administrative Assistant 348-4960
Class Times	Tuesdays, 3:30-5:00 Thursdays, 3:30-5:00

Table of Contents

Overview
Expectations
Clinical Component Overview
Clinical Oversight
Class Component Overview
Classroom Method
Class Cuts
Class Attendance
Grading
Course Content
Class Assignments
Class Schedule

Overview

The Foreclosure Relief Clinic (LAW 665-008) forms part of the law school's clinical program. The Foreclosure Relief Clinic is designed to give law students an opportunity to interview, advise and represent who are facing a housing crisis because of (1) an inability to make present mortgage or loan payments; (b) the existence of an arrearage or delinquency that threatens to prompt foreclosure; (c) an imminent loan acceleration

or foreclosure; or (d) any other mortgage-related crisis which threatens the housing security of the client.

You will spend the first two weeks of classes attending lectures and reviewing substantive materials only. You will learn about client interviewing and counseling, professional ethics, client communications, and other practice-related issues necessary for you to represent clients. You will also begin to learn about the substantive laws governing the foreclosure process, about the legal remedies available to those facing foreclosure and about the many extra-judicial remedies which are often used to address foreclosure and other financing problems, such as loan workouts, loan modification plans, and controlled surrender (deed in lieu of possession and short sale, for example).

After the first two weeks, you will begin a regular weekly schedule which includes class time, client interviews, office hours, a weekly meeting with your supervisor, and a weekly case staffing, in which new cases are presented for consideration. You will not be expected to begin casework until the third week of the semester.

Thereafter and on a weekly basis, you will interview clients, meet with the clinic director to discuss the progress of your cases and continue working on your current caseload. For the first two weeks of the semester, Tuesday and Thursday classes will be dedicated to substantive issues. After the first two weeks, Tuesday classes will be dedicated to substantive issues while Thursday classes will consist of a case staffing conference to discuss new cases, your reflections on your experience, your solutions to problems that you've faced and any other issue of interest to you and other students.

Expectations

The course consists of both a clinical component and a classroom component. Although those components are explained below, you should be aware that I expect you to spend twelve (12) hours to fourteen (14) hours per week on your obligations for this class. These expectations are consistent with the law school's expectations for other non-clinical, 4-credit courses.

Although you will work independently on your cases, many of your hours are scheduled. I expect you to attend all classes since these are designed to prepare you for the clinic casework and to work continuously on your cases. Students' weekly scheduled obligations include:

Weekly Obligation	Time Required	When
Substantive Class	90 minutes	Tues., 3:30-5:00
Case Staffing Conference	90 minutes	Thurs., 3:30-5:00
Case Status Conference	1 hour	self-scheduled*
Scheduled Office Hours	8 hours	self-scheduled*
Client Interviews:	2 hours	self-scheduled*

Clinical Component Overview

The clinical component requires students to interview clients, to prepare and deliver legal advice, to draft pleadings and documents, such as wills, advance directives, and powers of attorney and, for those students holding their third-year practice cards, to represent clients in circuit court actions. Clinic students will not be expected to begin work on client files until the third week of classes

Clinical Oversight

Clinic students will receive direct case supervision from the supervising attorney and the staff attorney for the clinic. You will meet once a week with your supervising attorney and staff attorney so that the team can review the work which has been completed on the case and so that the legal intern can outline the steps to be taken in the coming week. The purpose of weekly supervision is to ensure that legal interns have a strategy for resolving their cases and a plan for developing their cases and moving forward.

On a day-to-day basis, questions about case handling should be taken to the staff attorney. Larger questions of strategy, ethics, legal theory and other larger issues should be taken up with the clinical supervising attorney. Though you will meet with the staff attorney and supervising attorney once a week, it is both expected and encouraged that students ask questions of the attorneys overseeing the clinic on a daily or almost daily basis.

Class Component Overview

The classroom component is balanced between the study of Alabama and federal substantive law and the development of trial skills (and knowledge of courtroom procedures). Every effort is made to avoid duplication of your trial advocacy and legal profession classes. The training in this class, rather, is geared more to the application of substantive law. Thus, we will rely on a mixture of simulations and exercises as well as lectures.

With the exception of Powerpoint handouts, **CLASS MATERIALS WILL APPEAR PRIMARILY ON TWEN.** Therefore, you should register for the Fall 2014 Foreclosure Relief Clinic Class on TWEN as soon as possible. (Available on 8/18/14)

Class Method

The classes will be fast-paced and will cover a lot of substantive law in a short period of time. The course materials in TWEN contain citations to primary sources, powerpoint presentations, handouts, and other compilations which are commonly used. The classes will almost always contain role-playing and other simulation exercises. It is expected that all students will participate enthusiastically in these exercises.

Problem sets will be posted on the TWEN site. You should review and think about these problems for class, as class will often consist of discussion of these problem sets. I will let you know when such problem sets will be used.
The TWEN site contains the Syllabus, the Policy and Procedure Manual, other commonly used documents and links to video or audio podcasts, if applicable, that I have created concerning substantive issues to be addressed in the clinic. Once the semester gets underway, I will gradually add more substantive materials and links to the TWEN page.

Class "Cuts"

Although I understand that emergencies arise as well as illness, please clear any absence with me prior to class. Nonetheless, I will allow each student the right to three free "cuts" without explanation or penalty, provided that the cut is cleared ahead of time. Thank you. We tend to be very flexible about rescheduling case status conferences as needed.

Class Attendance

Students are expected to attend all scheduled class meetings and to conduct all client interviews assigned to them. Excessive absenteeism from class or from your scheduled clinic hours affects your ability to adequately represent your clients as well as the clinic's reputation, the quality of its representation and its ability to adequately serve its constituency. Thus, any necessary absence must be cleared with the Clinic Director. Excessive absences will result in either withdrawal from the course or impact the final grade, whichever is most appropriate. *(But see "Class Cuts" section above).*

Grading

This is a four-hour, graded course. The law school grading scale, as explained in the catalog, shall be applicable. Your supervising attorney will hold mid-semester evaluations of each student so that you receive some constructive feedback and indication of your progress during the semester. The law school clinical programs' standard grade criteria for all clinics will be followed.

Course Content

Substantive and Professionalism Topics to be covered as part of this course include the following:

Substantive Topics

1) Introduction to the Foreclosure Crisis
   a. Prevalence and Scope of the Problem
   b. Most Common Causes of Foreclosure
   c. Most Common Solutions
   d. The Importance of Procedural Posture
2) Introduction to the Foreclosure Process
   a. Nature of and Relationship Between the Mortgage Instrument and Promissory Note
   b. Judicial v. Non-Judicial Foreclosure
   c. Judicial Foreclosure Process
   d. Non-Judicial Foreclosure Process
      i. Procedural Requirements
      ii. Sale Process
   e. Judicial Intervention
3) Mortgage Foreclosure Solutions – Prior to Notice
   a. Federal Modification Programs
   b. Lender-Provided Modification Programs
   c. Work-Out Loan Arrangements
   d. Resolution of Accounting Errors – Billing, Credit, Escrow & Insurance
   e. Challenges to the Mortgage Instrument and Promissory Note
   f. Deed-in-Lieu of Foreclosure
   g. Short Sales by Agreement
   h. Assumptions
4) Mortgage Foreclosure Solutions – After Notice but Prior to Sale
   a. Continuing Availability of Loan Modification Programs
   b. Procedural Defects
   c. Judicial Intervention – Injunctive Relief - Grounds
      i. Servicing Issues
      ii. Procedural Issues – Notice, Robo-signing, etc.
      iii. Substantive Issues – Sub-Prime and Predatory Lending, etc.
      iv. Right to Cure
      v. Lack of Standing/Failure of Assignment
      vi. Unfair and Deceptive Lending Practices
      vii. RESPA Requirements – Was the loan serviced properly?
   d. Negotiated Solutions
   e. Refinancing Options
      i. New Mortgages

ii. Reverse Mortgages
iii. Home Equity Loans (to cure breach only)

f. Bankruptcy

5) Mortgage Foreclosure Solutions – After Sale
   a. Setting Aside Sale
      i. Grounds
         1. Irregular Sale
         2. Inadequate Price
         3. Violation of Stay
         4. Failure of Sale Completion
         5. Wrongful Foreclosure
      ii. Defenses
   b. Continued Negotiation After Sale
6) Post-Sale Considerations
   a. Right of Redemption
      i. Statutory Prerequisites
      ii. Cost of Redemption
      iii. Impact of Improvements
   b. Demands for Possession
   c. Deficiency Actions
   d. Claiming a Foreclosure Surplus
   e. Rights of Tenants After Foreclosure
   f. Rights of Joint Owners – Non-Signatories v. Signatories
   g. Affect of Tenants and Joint Owners on the Foreclosure Process

Professionalism Topics

1. Establishing an Attorney-Client Relationship
   a. Scope of Representation
   b. Establishing Client Goals
   c. Encouraging Prompt Attorney-Client Communication
   d. Authorizations/Waivers/Disclosures
2. Communicating with Mortgage Lenders and Servicers
   a. Express Authority to Communicate
   b. Express Authority to Negotiate
      i. Limits of Authority
      ii. Monetary Settlement Ranges – Payments, Costs, Lump Sums
3. Advising Clients on Financial Matters
4. Negotiation Techniques
5. Drafting Letters, Pleadings & Settlement Agreements
6. Ethical Issues – Multiple Clients

Class Assignments

Required Text: National Consumer Law Center, *Foreclosure Prevention*

Counseling (2d edition 2009). (appearing below as NCLC)

Class Materials: Class materials will appear in the class materials section of TWEN. The materials include excerpts from many sources, all of which are credited in the materials.

Fall 2014 Class Schedule

The classroom component of the Elder Law Clinic provides a combination of instruction on common substantive law problems as well as basic trial skills instruction. Here is the class schedule for Fall 2014 (subject to change):

Date	Time	Topic	Reading	Location
Thurs., 8/14/14	3:30-5:00	Introduction and Welcome Overview of the Foreclosure Process	NCLC PP. 3-14	A-141
Fri., 8/15/14	1:00-5:00	1:00 - Amicus Attorney Training 2:00 - Client Interviewing 3:00 - Case Evaluation and Development 4:00 - Client Communications and Letter Writing	None	A-112 A-140 A-140 A-140
Tues., 8/19/14	3:30-5:00	Overview - Avoiding Foreclosure - Identifying Abusive Lending Practices - Addressing Debt and Income Issues	NCLC PP.15-84	A-141
Thurs., 8/21/14	3:30-5:00	Loan Workouts - Arranging a Workout - Fannie, Freddie and Subprime Wos - FHA, VHA and RHS Workouts - Other Implications	NCLC PP. 85-156	A-141
Fri., 8/22/14	1:00-5:00	1:00 - Ethics and Client Counseling 2:00 - Negotiation Simulation 3:00 - Negotiation Simulation 4:00 - Preparing for Clients	None	A-140
Tues., 8/26/14 (Caryn Roseman)	3:30-5:00	Loan Modifications - Classic Lender Modifications - Federal Loan Modification Programs - Basics of Loan Modifications	NCLC PP. 157-194	A-141
Thurs., 8/28/14	3:30-5:00	Problems with Title - resolving title issues - effect of title issues on avail. solutions - inconsistencies between Note and Mortgage	None	A–141
CASES ASSIGNED (8/29/14) AND CASE STATUS CONFERENCES BEGIN (9/2/14)				

Tues., 9/2/14	3:30-5:00	Refinancing Solutions - New Mortgage Financing - Reverse Mortgage Financing Using Refinancing to Cure Default	None	A-141
Thurs., 9/4/14	3:30-5:00	When All Else Fails: Negotiating a "Walk Away" - Deeds in Lieu of Possession - Short Sales - Effect of Recourse v. Non-Recourse Loans - Negotiated Foreclosure	NCLC PP. 195-208	A-141
Fri., 9/5/14	1:00-5:00	1:00 - Bankruptcy as a Solution 2:30 - Defending a Foreclosure Action 4:00 - RESPA	NCLC PP. 209-216	A-141
CLIENT INTERVIEWS BEGIN THIS WEEK (9/8/14)				
Tues., 9/9/14	3:30-5:00	Post-Sale Considerations - Demands for Possession - Statutory Redemption Period - Improvements to Property - Deficiency Actions - Recovery of Surplus Sale Proceeds	NCLC PP. 217-236	A-141
Thurs., 9/11/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 9/18/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 9/25/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 10/2/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 10/9/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 10/16/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 10/23/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 10/30/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 11/6/14	3:30-5:00	Case Staffing Conference		A-141
Thurs., 11/13/14	3:30-5:00	Case Staffing Conference (last one)		A-141
Tues., 11/20/14	3:30-5:00	Class Evaluations/Wrap Up		A-141
SEMESTER ENDS: FILES DUE NO LATER THAN NOVEMBER 26, 2014 THANKS FOR YOUR HARD WORK				