



University of the Pacific, McGeorge School of Law

Legal Clinics Newsletter

SPRING 2015

Legal Clinic Recruitment Fair

April 16, 2015

Lunch | Noon—1:30 p.m.

Dinner | 5 p.m.—6 p.m.

Student Center

Applications Due for the 2015-2016 Academic Year:

May 30, 2015

*"I hear and I forget,
I see and I remember,
I do and I understand."*

Chinese Proverb

Immigration Clinic Wins Asylum for Client's Family



In January, former Immigration Clinic students supervised by Prof. Blake Nordahl won asylum for a family from El Salvador. This concluded a more than two year struggle to obtain status. Among the students representing the clients were Cristina Andrade, '14, Sahir Faidi, '13, and Qamar Fareed, '15.

The principal client was an evangelical pastor from El Salvador whose religious work included providing services to gang members to encourage them to leave the gangs and re-integrate into the community. His

church provided counseling, education, health services, and ministry. The family faced threats and attacks as a result of this work. Eventually the family fled to California when the attacks escalated. Religious persecution is a recognized ground for asylum and was the basis of the asylum application.

In this case, the family contacted the clinic with less than a month left before their one year filing deadline after they realized that they had been taken advantage of by a non-lawyer notary who charged fees but did not do any work on their case. The clinic quickly filed an application to protect the clients' rights.

Sahir worked with each of the family members to draft individual declarations detailing their life histories and extensive details about the basis of the asylum claim. Cristina and Qamar finished the declarations and drafted the brief, which required substantial legal and historical research, comprehensive interviewing and fact-checking. Qamar prepared the clients for the asylum interview and attended the interview in San Francisco. About his work, Qamar said, "I was in a position to do actual good, and have a profound effect on a family's life, so I took my job very seriously."

Asylum law is intended to protect refugees from future persecution in their home countries. These cases present evidentiary challenges because the events happened in another country. Nonetheless, Immigration Clinic student teams continue to have success in these cases. The Clinic also handles DACA, U Visas, and VAWA cases.

Elder & Health Law Clinic Receives Favorable Medicare Decision



Students Aaron Claxton, '17, Rick Lebherz, '15, and Kimberly Van Spronson, '16, supervised by Prof. Melissa Brown, worked on a major health law case which resulted in the estate of their deceased client receiving an order for a healthcare provider to reimburse the family for over \$100,000 in out of plan services. The issue was whether the specialized surgery and treatment for a grade IV glioblastoma brain tumor qualified for out of plan services under the Medicare HMO plan through the provider. McGeorge MSL student Patrick Browning, MD was qualified as a medical expert, whose testimony was relied on by

the Judge in reaching the favorable decision.

Extensive research, a detailed brief, production of evidence, and the presentation of lay and expert witnesses at the adversary hearing, persuaded the Medicare Administrative Law Judge to reverse the denials of care. The Clinic has won each of its Medicare denial of care cases and is one of the few California sources of legal representation for Medicare patients and their families.

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Administrative Adjudication

The Administrative Adjudication Clinic, supervised by Prof. Megan Shapiro, gives students the impactful experience of deciding administrative cases as hearing officers. The course educates students on how administrative law judges make decisions and the operation of administrative hearing systems. Through simulated hearings, students practice what they have learned from Prof. Shapiro, gaining perspective on the parties and practical application of the law. By the end of the semester, clinical students hear and decide administrative disputes on behalf of local cities and public agencies, such as parking ticket appeals for the City of

Sacramento, County of Sacramento, and the UC Davis Medical Center. About being a hearing officer this semester, Tracey Frazier, '15, said, "it was my responsibility to take the facts and evidence, apply it to the law, and actually come to a conclusion as to whether the citation was valid and should be upheld, or if in fact the City issued the citation in error and it should be dismissed." Lindsay Roscoe, '15, found that "the ability to participate in the administrative law process and provide an actual public service was very gratifying."



Bankruptcy

The Bankruptcy Clinic, supervised by Prof. Warren A. Jones, provides unique lessons about working with clients.

Rachel Bonifacius, '15, has been working with debtors in the Bankruptcy Clinic for two semesters while working with creditors at a bankruptcy law firm. As well as providing her with experience in a different area of bankruptcy law, Rachel has found that the Clinic has given her many practical experiences in working with clients.

Regarding her experience in the Clinic, Rachel speaks highly of the direct client interaction:

"The Bankruptcy Clinic really gives you first-hand experience in dealing with real clients and real cases. On your first day you are given a stack of client files and told to make appointments with your clients and get to work. You will come to find that conducting a client meeting is not as easy as it sounds."

Of the practical education, Rachel said:

"Working in the Bankruptcy Clinic really teaches you what is required to file a petition, how to fill out all the court forms and puts you in the position to represent the client at their 341 meeting in front of the trustee in the bankruptcy case. You are responsible for an entire bankruptcy case from start to finish."

"You are responsible for an entire bankruptcy case from start to finish."

Criminal Appellate Advocacy

The Criminal Appellate Advocacy Clinic is a collaboration between McGeorge and the Central California Appellate Program (CCAP). CCAP is the entity that appoints attorneys from an approved panel to represent indigent parents in dependency appeals and criminal defendants in direct appeals. For five years, CCAP has provided the appeals for the Clinic, supervised by Prof. Jennifer Gibson with support from CCAP supervising attorneys Brad Bristow, Colin Heran, and John Hargreaves. Many CCAP attorneys base their careers entirely on cases from the panel, or they may take private cases as well.

Former clinical students have been successful in being admitted to the CCAP panel immediately after passing the bar. Former clinical students Caitlin Christian, '11, and Conness Thompson, '11. Each bases their practice on CCAP panel cases. Caitlin, now practicing in Sacramento, credits the Clinic with providing her with invaluable lessons on the nuts and bolts of appellate practice. Because she had already worked under the supervision of a CCAP attorney, she had a CCAP reference of someone who knew she met the requirements to be a successful appellate attorney. Caitlin also had experience working with an actual appellate record (her first one was over 800 pages), and clinical training on how to handle a case.

Conness, now practicing in the Bay Area, also found that the Clinic helped move her career toward appellate work by giving her the requisite experience of working on real world appeals. She asserts that the Clinic helped make the road to her CCAP practice easier, and acknowledges that the Clinic is "one more way McGeorge makes students practice-ready."

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Elder & Health Law

In addition to elder abuse cases, basic estate and health care planning and other legal matters, students engage in creative lawyering in meeting its mission to represent the “whole client.” Many students have found that while their cases do not end up in court, their research and negotiations with opposing parties achieve the results the clients need.

“We were able to provide the client a creative and meaningful result.”

Rick Lebherz, '15, obtained a refund on a hot tub his client had seen in an ad. After a \$1,000 down payment, she was diagnosed with a brain tumor, needed surgery, and was be unable to use the undelivered hot tub. She wanted the company to return her deposit due to her changed condition and growing medical debt. Although his research did not support a legal remedy, Rick argued the equities of the case with the owner of the company and negotiated a full refund for his client.

Rick learned about a lot about California law as well as the power of creative lawyering and persuasion in dispute resolution: “I did a lot of research into contract law trying to discover a legal solution, but one did not present itself. It was great to have a chance to get creative in problem solving, and to negotiate a resolution to help someone in need.”

Danielle Lyons, '16, was successful in negotiating an equitable remedy for her client who was unable to redeem vouchers for rounds of golf given to volunteers at a local golf course. All of her vouchers had expired while she was recovering from a back injury and was unable to play. Through research, Danielle discovered that the client had no legal remedy. Not to be dissuaded, Danielle wrote to the golf course, discussing her client’s long time service to the golf course and the injury which prevented use of the vouchers. The golf course agreed to honor the vouchers despite their expiration. Her client can not only return to golf, but also return to volunteering, which is an important part of her social life and well-being. Danielle found that “researching a legal topic and discerning whether someone has a legal remedy is helping the client. This was not only a valuable lesson for me as a student attorney, but we were able to provide the client a meaningful and equitable result.”



Legislative and Public Policy

In the Legislative and Public Policy Clinic, supervised by Prof. Rex Frazier, students become policy advocates and see their work in the Capitol directly impact individuals. The Clinic has received much acclaim and was named one of the most innovative clinics this year by the *National Jurist*. Over the course of the academic year, Clinic student teams develop legislative proposals for the California legislative session and advocates for passage. In the 2014 session, several proposals were inspired by cases handled by other McGeorge clinic students. The hearings on their bills took place in April 2014, and four out of five passed to become law.

One bill, SB 1058, introduced by Senator Mark Leno, exemplifies the immediate impact students’ clinical work in public policy can have on individuals. Sosan Madanat, '14, worked on SB 1058, which was developed in direct response to the *In re Richards* Supreme Court ruling, which denied Mr. Richards a re-trial even though the evidence used to convict him was later recanted by the same expert witness. Sosan reports that the students found a “gap in the law that denied individuals a right that we believed was too important to be overlooked.” As a result of this bill, the California Supreme Court has decided to allow Mr. Richards to re-try his case. Sosan states that “this is exactly what we worked so hard to accomplish and it is incredibly gratifying to see our work in action.”

Prisoner Civil Rights Mediation

Students in the Prisoner Civil Rights Mediation Clinic find tremendous value in working with prisoners and federal magistrate judges to resolve Section 1983 civil rights claims.

The Clinic is supervised by Professor Michael Colatrella and Assoc. Dean for Academic Affairs, Dorothy Landsberg. Clinic students have the unique experience of interviewing prisoners in Bay Area prisons, and working closely with magistrate judges in Sacramento and Redding. The students analyze the legal issues in a pre-mediation bench memorandum for the assigned magistrate judges to help them understand the prisoner’s situation, and often consult with attorneys from the Attorney General’s Office.

Students find that these claims are extremely important to the prisoners, who are all pro se. Kastle Lund, '15, participated in the Clinic for two semesters and found that the Clinic was “much more than it was advertised.” She found tremendous value in working “with a population that gives such interesting insight into the prison and judicial systems, and in helping someone who is truly disenfranchised.” Alexandra Myers, '15, shares a similar reflection on her experience in the Clinic, stating that “the clinic allowed me to experience a human connection with people deemed unfit for society.”

A Message From...

FRANCIS J. MOOTZ III



Dean and Professor of Law

At Pacific McGeorge, we pride ourselves on exceptional experiential learning opportunities. Our clinical programs are at the center of these efforts. Under the leadership of the Director, Melissa Brown, we continue to provide our students with excellent educational placements where they assist clients. As we continue to revise our curriculum to prepare students for the changing legal landscape, clinical education will be at the core. You will be impressed by our students' work described in this newsletter. We know that our students will go on to be lawyers who continue to distinguish themselves by their dedication, skill, and accomplishments.

MELISSA BROWN



Legal Clinics Director and Supervising Attorney, Elder & Health Law Clinic

The legal advocacy our clinic students provide the community continues to inspire me. While gaining invaluable legal and professional skills, virtually every student reports that clinic work provides them with confidence and direction. Many consider it among the most valuable experiences in law school. Clinic alumni remain in touch with one another and many have started their own firms. I am proud that our clinic students are an integral part of McGeorge's experiential learning curriculum, ranked 11th in the country last spring by *The National Jurist*.

Student Experience: Federal Defender Clinic



Sonia Zaheer, '15, is a current student in the Federal Defender Clinic. A fourth year evening student, Sonia came to McGeorge with a background as a financial advisor. During law school, she was the Chief Articles Editor and staff writer for the Pacific McGeorge Global & Business Development Journal, and externed

with the US Department of Justice, Office of the U.S. Trustee. Following is her comment on her experience with the Federal Defender Clinic:

"Working as a Student Attorney with the Federal Defender's Office Clinic has been one of the most valuable experiences of my law school career. I had the opportunity to work on misdemeanor and felony cases under the direct supervision of Linda Harter, Chief Assistant Federal Defender, and Rachelle Barbour, Assistant Federal Defender, who are both incredible teachers. Thus far, during the course of litigating cases, I have drafted and argued numerous motions, negotiated cases with Prosecution, conducted investigations, and represented a client at a full-day bench trial.

"Participation in the Federal Defender Clinic gave me hands-on experience in managing the complexities of defending an indigent person in federal court. It gave me the opportunity to perform real and meaningful work."

Alumni Spotlight: Michelle Nam '14



Michelle Nam's experience in the Federal Defender Clinic impacted her law career in ways she did not expect. As a certified student attorney during her 3L year at McGeorge, she says she "interviewed clients, negotiated with US attorneys, engaged in plea bargaining and sentencing, filed motions and argued them before Federal Magistrate Judges and almost had a misdemeanor bench trial." Of the Clinic, Michelle states that it "began my journey and my love for public defense."

Michelle, now a public defender for the Bronx Defenders in New York, also credits the Clinic for giving her an advantage in the job search process by teaching her passionate advocacy and giving her distinctive experience. She is grateful to Linda Harter and Rachelle Barbour for teaching clinic students "how to think like passionate public defenders and how to zealously and fearlessly advocate ourselves to employers."

For questions, contact:

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