

# CLINIC NEWSLETTER

STUDENT EXPERIENCES IN THEIR OWN WORDS **FALL 2011**



## MEDIATION CLINIC

### Resolving Disputes and Learning Skills for the Future

By Max Louik

Well before I experienced the immeasurable gratification of helping parties resolve their disputes, I had to make a decision. Although I had been fairly



certain that I wanted to take on clinical work, I was not sure which clinic to take. At first, I felt a bit overwhelmed by the tremendous array of clinical options. Like many students, I wanted to experience real-world legal work in a variety of practice areas—commercial, criminal, family, etc. How could I choose?

With Mediation, I didn't have to. As a mediator, I facilitated disputes between parties in a variety of contexts. In both Wayne and Washtenaw county courts, I mediated commercial disputes, small-claims torts, landlord-tenant issues and family conflicts. I was thrilled with the diversity of legal issues I encountered as a mediator.

In Mediation I, we applied in practice the methods we learned in class. Whether investigating the science of settlement or appreciating the power of an apology, our assignments and class discussion fueled our experience. The classroom also served as a forum for reviewing previous mediations, sharing our experiences, and figuring out techniques that served us well in practice.

One of the highlights of Mediation I was undoubtedly

the 40-hour mediation training in the fall. This program with ICLE (the Institute of Continuing Legal Education) allowed Michigan students to participate, alongside practitioners, including attorneys, judges, and social counselors, in learning and applying mediation theories and techniques. Upon completion of the program, I was ready. I applied what I had learned almost immediately in practice.

Mediation II allowed even more opportunities to practice my newly-acquired mediation skills. The second semester of experience gave me the opportunity to hone my craft, build confidence, and become a stronger mediator. I also joined fellow student mediators in participating in the Great Lakes Regional Mediation Competition, a challenging and enjoyable experience competing with mediation teams from other law schools.

Mediation and other forms of alternative dispute resolution are no longer the future—they're already here, and they're here to stay, as they can serve a vital role in the judicial process. As lawyers in the 21st century, we best serve our clients by understanding the varied forms of dispute resolution that lie beyond litigation. Unlike litigation, mediation allows the parties to develop creative solutions to their problems. I will not begin my legal career as a mediator, but the tips and tricks of the trade will not soon be forgotten.

## THE CRIMINAL APPELLATE PRACTICE

### A Window on Criminal Justice and Advanced Practice in Research and Writing

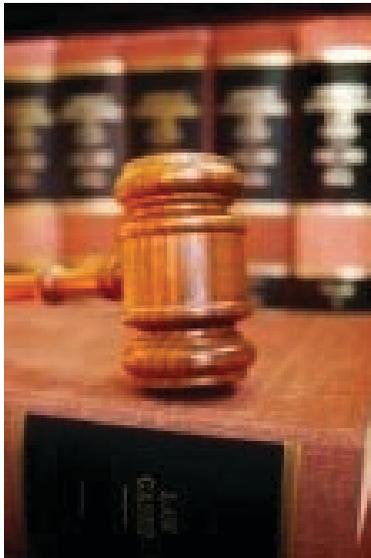
By Joe Mauro

The Criminal Appellate Practice (CAP) clinic was an educational experience unlike any other I have had at Michigan Law.

In the CAP clinic, each student took on a crimi-

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nal appeal and wrote a substantial appellate brief. Our professors, experienced appellate litigators, introduced us to Michigan's appellate system, then the real work began when each of us was assigned a client who was pursuing an appeal of a criminal conviction. We dug into the factual records, searched for appealable issues, researched case law, met with our clients, and went through four or five drafts of the brief. Soon after the semester ended, our briefs were submitted to appellate courts in Michigan. At each step of the process, the professors worked closely with us to keep us on track and refine our ideas. The work was difficult, but the experience was educational and enriching and made me a better researcher, writer, or



advocate. In addition to learning about research, writing, and advocacy, our semester was a window into the world of criminal justice. It may be useful to read criminal cases in which the facts are summarized in a few paragraphs, but it is an entirely different experience to meet with real criminal

defendants, see first-hand their lives in prison, and understand the ways in which they have interacted with the justice system that may not ultimately be recorded in a judge's opinion. We met with our clients, as well as prosecutors, criminal defendants, and prison officials. I know that I will never read a case in a criminal law casebook in the same way.

I recommend the Criminal Appellate Practice Clinic to anyone who wants to become a better researcher, writer, advocate, or anyone who wants to see how the criminal justice system works from the inside.

#### MICHIGAN CLINICAL LAW PROGRAM

## Triumph, Loss and Lessons about Client Representation

By Nick Hurst

By far, my most impactful law school experience was working on two political asylum cases in the Michigan Clinical Law Program with Professor Rine.

My student partner I were assigned a case with a hearing during the second week of classes. We knew next to nothing about Guinea, our client's country of origin, or

refugee law, but we threw ourselves into preparation, shuttling back and forth to the asylum shelter to work on our client's testimony. I will probably never represent a kinder, more grateful, or impressive client: he was a Doctors Without Borders surgeon and spoke nine languages.



He fled the country after being tortured for fulfilling his Hippocratic Oath; his whole family may have since been killed. Yet he was patient, courteous, and understanding. When that first hearing did not occur, we spent several months guiding our client through administrative hurdles. Finally, we were able to call him with the news that he had been granted asylum. That news was greeted by exuberance, incredulity, and invocations of God. He cooked us a celebratory Guinean dinner and is now enrolled in a program that should allow him to practice medicine again.

My second client was denied asylum. I felt that because of a hostile judge and an incompetent translator, some minor inconsistencies led the judge to find the client not credible. I prepared as hard for that hearing as the first, if not harder. And I cannot describe my feelings of helplessness as I watched my client crumble on cross-examination.

While I would still trade a different outcome for my second asylum client, I would not trade my clinical experience for anything. I learned more about what it means to represent a client than I can put in to words, and about the importance of being able to put yourself in a client's (or an adversary's) shoes while maintaining an emotional distance. Even if it is hard not to wonder what more I could have done, I did the best I could. I learned too that the practice of law can be unforgiving. . . . And remarkably rewarding.

#### INTERNATIONAL TRANSACTIONS CLINIC

## A Jumpstart to Becoming a Transactional Lawyer in a Connected World

By Ramzi Takla

The International Transaction Clinic (ITC) took me from Boot Camp to the frontlines of international transactions. Four hours each week during the fall semester, we

endured what our clinic supervisors called “Boot Camp.” Instead of obstacle courses and pushups, we had to navigate the language of an international transactional lawyer: covenants, engagement letters, and mezzanine debt. My classmates had varying levels of business knowledge and focuses, ranging from M&A to microfinance, but a singular interest in international work. Boot Camp seemed to breeze by, and just as quickly as we were introduced to the jargon, we were assigned our first clients in teams of two or three.

Advising my first client, a large lender to microfinance institutions, was intimidating, humbling, and informative all at once. A classmate and I were asked to prepare an intercreditor agreement used to govern rights and obligations among related creditors. Though our clinic advisors were extremely knowledgeable and helpful, they were also deliberately hands-off and allowed us to direct client calls and draft contractual clauses. Listening to our client’s needs, researching unclear areas of the law, and translating our findings into legal advice was thoroughly rewarding and marked the first time I experienced what it means to be a transactional attorney.

Within week one of being assigned to my second client, a high-impact investment-and-financing company, I



encountered my first uniquely cross-border issue. Because the company was lending money to micro enterprises who in turn sold goods to multinational corporations, I raised a choice-of law question about the application of an international convention. After researching the issue, my classmate and I gave our advice and our client is now using the form contract we revised for these transactions.

By the time I approached my third client matter, a convertible-debt investment in a start-up company on behalf of a student-managed investment fund at the Business School, I felt confident in my ability to work with my classmates to offer beneficial legal advice. As my classmates and I negotiated a term sheet, conducted due diligence, and began drafting final deal documentation, I realized how much I had learned and how profound my experience in the International Transactions Clinic had been. The ITC jumpstarted us on the path to becoming transactional

attorneys in what has become an increasingly international practice.

#### CHILD ADVOCACY LAW CLINIC

## Litigation Experience Before Graduation

By Paige Fern

Like many of my classmates, I came to law school wanting to become a litigator. Unfortunately, many who enter Big Law will never have opportunities to interact with clients and present arguments in front of a judge for several years after graduation. The Child Advocacy Law Clinic (CALC) provides students with those opportunities early in their careers.



As a student attorney, I got a ton of courtroom experience by representing foster children at various hearings. Most exciting was the incredible opportunity I had to litigate a multi-day termination of parental rights trial. In that case, I represented a one year old who was removed from his parents’ care when he was diagnosed as severely medically neglected. When he was placed in foster care, the court ordered his parents to complete various services. While his parents no doubt loved him, their mental illnesses prevented from gaining the skills necessary to care for their son.

Prior to trial, I worked with Professor Sankaran to develop a case theory, drafted the questions for the direct examinations, and prepared the witnesses. I also participated in a mock trial so that I would know what to expect regarding the mechanics of the trial, including the types of questions to ask witnesses and how to raise/respond to objections. It was because of that preparation that I convinced the court to terminate the parental rights of my client’s parents.

My representation of the young boy did not end after trial, even though the trial occurred at the end of the semester. Recognizing my client’s need for consistent representation, the CALC professors allowed me to remain on the case through Advanced Clinic. I am currently representing him during the appeal process. I drafted the opposing brief and will conduct oral arguments for the case in front of the Michigan Court of Appeals. Furthermore, I am currently representing my client during the adoption process.

My experience as a student attorney with CALC has

definitely been the most defining experience of law school. I have had several opportunities as a litigator that most people do not have well into their career.

#### HUMAN TRAFFICKING CLINIC

## Creative Advocacy for Victims of Human Trafficking

By Diane Hunt

There are several other careers that I considered before



applying to law school. I could have been a history professor, an architect, a biologist... and I still periodically consider dropping out to join the circus. Artist, however, was never on the list of job options. I am not the “creative” one in my family. I am the “color-within-the-lines” one who follows road maps, reads instruction manuals and adheres religiously to recipes. I was well-suited to the study of law where, I assumed, no creativity would be required, just rote memorization of precedent.

What I discovered quickly during my first semester in the Human Trafficking Clinic (HTC) is that lawyers must be creative. The HTC is the only law school clinic in the country to focus on trafficking, so thinking outside the box is not optional. There is not always a road map: clinic students must develop innovative legal strategies when addressing newly-minted trafficking laws. There is not always precedent: students must portray the legal intricacies and unique facts of each case in immigration applications. And there certainly is not always an instruction manual: what do you do when your battered client does not trust law enforcement officials, when she break down in tears during an interview, or when you breaks down in tears? Every day in the clinic brings a new set of challenges that must be met with creative solutions.

Of course, part of law and advocacy is following precedent. But we should not forget that an equally important part of law is learning to think imaginatively. With traffickers inventing ways to exploit the vulnerable, victims rely on their attorneys to advocate for them. I would not have guessed I would draw a colorful flow chart to illustrate a complicated case, coming up with a series of immigration options to meet the needs of a diverse family, or organize a round table discussion with law enforcement officials. All of which I did in the Human Trafficking Clinic. In short, I learned to think beyond precedent.

I will never be an artist. But the clinic has given me a new appreciation for professional creativity that I will carry with me, whether I continue to advocate for trafficking victims or finally join that circus.

#### JUVENILE JUSTICE CLINIC

## Advocacy With a Difference

By Paul K. Joseph

Representing children in the juvenile system is not simply about determining their innocence or guilt, and the Juvenile Justice Clinic (JJC) is not simply about litigation. Through the JJC, I realized that juvenile defense encapsulates a much broader range of skills and issues. Many of the children that encounter the juvenile system have experienced childhood neglect, trauma, or abuse, or have other needs that simply are not being met. As an advocate, you have the opportunity to help address those needs, which may never receive attention otherwise. For example, one of my client's was denied a special education evaluation by his school for over two years, even though his mother had repeatedly requested an evaluation. We were able to get the court to order the school to provide the evaluation, so that his special learning needs could be addressed. Being able to extend your role as an advocate – beyond your client's legal defense to make a tangible difference in your client's life – is what made the JJC such an inspiring and rewarding experience.

The JJC is also one of the few opportunities in law school to apply the skills and knowledge from your other classes.

The JJC's professors do an excellent job bridging this gap through mock trials and other classroom exercises. At the same time that you are building these litigation skills, you are applying them in your cases. The JJC also gives you almost total ownership of your cases, with support

from your professor, so you have a tremendous amount of discretion in making strategic decisions. This autonomy forces you to scrutinize the risks and benefits of each decision at a much deeper level than if you are guided through each case.

The JJC not only gave me firsthand experience in litigation, but also in many of the broader social, educational, and political issues that affect children in the juvenile system. As a result, my perspective on these issues has changed significantly; something that would have been impossible without the experiences that the JJC provided. After taking the Juvenile Justice Clinic, I plan on making social issues affecting children in the juvenile system the



focus of my work for the rest of my career.

#### MICHIGAN INNOCENCE CLINIC

## Going Where No One Has Gone Before

By Adam Thompson

After a year in the Michigan Innocence Clinic, I know some things are true that I would not have believed before.

Believe it or not, a judge out there is convinced that a man committed murder, despite phone bills that place the man at work, 25 miles from the crime scene. In another case, prosecutors hid murder investigation notes that pointed the finger at a drug gang; not the accused. I learned about a defense lawyer who did not call seven witnesses to say the getaway car was a gray Chevy, not a yellow Buick, and another lawyer who did not file his client's appeal because



he was too "exhausted." And there are jurors who have convicted people based only on bogus arson evidence or the word of a single unreliable eyewitness.

Because of working on these and other cases, I know that innocent people are in prisons throughout Michigan for crimes they did not commit. The Michigan Innocence Clinic is unique in that, unlike other innocence projects, it focuses on cases where DNA evidence is unavailable, an estimated 90 – 95 % of criminal cases. Since the MIC started in 2009 to the other 90 percent, students and faculty work has exonerated five clients and they are fighting to keep a sixth client free.

How do we do it? By digging deeper into police files and transcripts, finding leads that no one else found; by driving hundreds of miles to track down records and witnesses no one bothered to find; and by filing motions to hold the justice system accountable. Students in the Innocence Clinic have argued post-conviction motions, conducted witness examinations during evidentiary hearings and a client's hard-won retrial, and waged freedom-

of-information battles. Last year, my partner and I drafted two briefs for a client whose case we hope the Michigan Court of Appeals will hear this fall and helped expunge the record of an exonerated client.

The Innocence Clinic solidified my desire to become a public defender. Using the investigative and lawyering skills I have learned, I will fight to make sure that people like our clients stay out of prison in the first place. And, I will fight equally hard for all of my clients because they deserve it, and because that's the only way the justice system works.

#### URBAN COMMUNITIES CLINIC

## Learning by Doing: Negotiating and Being a Lawyer for Non-Profit Organizations

By Katie Ostrow

One night, I sat down to email my professor that I was going to miss class – a seminar on negotiations – the next day. I was disappointed to be missing a lesson relating to such an important and frequently used lawyering skill. "My clinic partner and I have a client meeting in downtown Detroit," I wrote.

I was, in fact, missing the class on negotiations because I was going to be negotiating. As part of the Urban Communities Clinic, my clinic partner and I, with our professor, were trying to secure a commercial lease, with terms beneficial to our client, from a major Detroit landlord. Instead of class exercises on what it would be like to sit in an adversaries' office and face their experienced counsel – we were actually doing it. Instead of reading fact patterns to help simulate the responsibility and pressure of negotiating on someone else's behalf – we were actually doing it.

Over the course of the semester, we represented four different non-profit organizations in a



range of activities from this commercial lease negotiation, to a 501(c)(3) non-profit filing, to counseling on entity structure and reorganization. We had to balance our time between our different clients and master our cases so that we could best represent our clients' varied interests.

These experiences forced me to look at statutes, precedents and common practice in live context and bound by real world constraints. From the research and drafting

that we did on behalf of our clients to the client meetings and counseling sessions, the UCC required that I go beyond studying how to be a lawyer, and instead required that I act like one.

## The Value of Being a Lawyer: Helping a Client Realize Her Small Business Dreams

By Thomas Stasi

I will never forget my first client interview. My client, a Detroit resident, was a first time entrepreneur interested in the health care industry. As I sat across from her, I listened to the inspiring story behind her idea and the numerous road blocks she faced. Once she finished and asked me for help, however, I simply looked at her and froze. At that moment, I realized how little I knew about the practical side of law. My client was not interested in my issue-spotting skills or memo regurgitations of legal policy. She wanted to see her dream become a reality, and she needed me to show her results.

Being a student attorney in the Urban Communities Clinic was hands down the best decision I made in my law school career. The clinic taught me something I had not learned in my transactional classes - the mechanics of transactional law through the perspective of an attorney rather than just a student. I discovered that in real practice, it's not enough to spot issues; I had to help clients build creative and sound solutions.

During my time in the Urban Communities Clinic, I learned to plan a case from an initial client interview and engagement letter all the way to the closing letter. I had the opportunity to structure and file a limited liability company, counsel clients on business formation, lead conference calls with business advisors, and present a lecture on choice of entity to the Michigan Center for Entrepreneurship.



Aside from its educational impact, the clinic allowed me to get involved in rebuilding Detroit by assisting in small business growth development. Finally, and most importantly, I was able to assist my client realize her dream. Today, almost a year after I first met my client, her

business is beginning to grow, and she continues to make progress. Looking back, I now know that it was through the enrichment and privilege of forming my client relationship that revealed to me the true value of being a lawyer.

ENVIRONMENTAL LAW CLINIC

## Wind, Water and Regulatory Law

By Nicholas Markman



Just do it! This is my advice regarding legal clinics at Michigan an opportunity that is educational, meaningful and will allow you to take your legal knowledge outside the walls of a classroom.

I chose to enroll in the Environmental Law Clinic, not once, but twice (Winter Semester 2010 and 2011) for exactly the reasons mentioned above - getting real-world experience that is both educational and meaningful. Since the students work directly out of the NWF's Great Lakes Regional Office, which is located in Ann Arbor, the projects are localized and access to NWF staff is as easy as a short walk down State and Liberty Streets. This past year I worked with two other students to prepare a comprehensive report on offshore wind development in the Great Lakes. It was interesting to see the different approaches that the various states are taking. For example, representatives in Michigan are actively pursuing the passage of new laws specific to offshore wind development, whereas policy in Ohio has sought to utilize existing laws within the new context of offshore wind development.

One of my favorite aspects of the project was re-researching the interaction between federal and state laws, programs and agencies. Whereas the ocean is largely the province of the federal government (for example, the famous Cape Wind project off the coast of Massachusetts), the Great Lakes are currently a complicated web of state and federal jurisdictions. While working for the

Environmental Law Clinic last year, I was also able to file an amicus brief with the Supreme Court of Ohio regarding standing issues and work extensively on the NWF mission of preventing the Asian Carp from invading the Great Lakes and disrupting native fish species.

Regardless of the projects you work on during the semester, it is encouraging to know that you are part of something bigger - something that will won't end when the semester ends. If you feel passionately about the environment and would like to get involved in regional issues in a meaningful way, enroll in the Environmental Law Clinic.

#### PEDIATRIC ADVOCACY CLINIC

## Helping to Make Families Whole Again

By Theresa D'Andrea

Just a short year ago, I attended the clinic open house, hoping to find a clinic that would allow me to explore a wide range of legal issues, while helping families living in nearby communities. The student speaking on behalf of the Pediatric Advocacy Clinic spoke about his own experiences dealing with public benefits appeals and complex housing issues. I enrolled in the Clinic, and, to my surprise, I did not assist a family with these kinds of legal problems. That is the beauty of the clinic- each student works on completely different legal (and non-legal) issues because our clients, referred to us by community health clinics and hospitals, have a broad range of legal problems that affect their health, whether mentally, physically, or emotionally.

This past semester, I worked on two completely different cases. In my first case, I learned the ins and outs of the Individuals with Disabilities Education Act and the Michigan Administrative Rules for Special Education, so I could successfully negotiate with a school district on be-



half of my sixteen-year old autistic client who was denied a free and appropriate public education. In my other case, I filed motions and argued on the record in the circuit court. More importantly, I learned how to be a litigator. This included many skills I had not obtained in other classes, like the importance of researching court rules before filing motions and how to make strong oral arguments and motions before a judge. Professors Anne Schroth and Debra Chopp provided the perfect amount of guidance

and support was able to learn for myself how to become a successful advocate by lending an ear, developing case strategy, and making important decisions with my clients. I am looking forward to returning for a second semester to work on a new set of legal issues and assist more families who can use our support and kindness throughout these difficult economic times.

#### MICHIGAN CLINICAL LAW PROGRAM

## A Semester at the General Clinic, Trial Included

By Helen Schweitz

My first assignment once in the General Litigation Clinic / Michigan Clinical Law Program was to try an asylum case that had been twice remanded to the immigration judge, who for some reason thought our client and her asylum claim weren't credible. The judge believed she was lying; or rather, that she was confused a few meaningless details to the extent that the judge inferred that the bigger picture – the threat of abuse by her ex-husband and being subject to female genital cutting – was entirely inaccurate. Who knew that accidentally flipping the year and the day in a date that looks like "9/4/1980" could cause a judge to assume one is lying about the general events of one's life?

Another "who knew": that the relative amount of work one does – and should do – in practicing litigation could so far outweigh that which is seen in the appearance in court. In responding to a motion for possession of our client's mobile home, we were, for lack of a more apt phrase, so ready. We had photographs of our client's home, pleadings that were both concise and complete, and knew the court rules inside and out. In the end, we barely glanced at our oral argument notes – not because we had memorized them, but because the proceedings never reached that point. It was simple, the judge agreed with our argument and opposing counsel had not adequately backed up its claims.

The Michigan Clinical Law Program is a fantastic opportunity for students who know they want litigate – and, perhaps even more so, for students who have yet to answer that question.



## IN THE NEWS!!!

“The Court should adhere to what it has recognized—what every parent knows—that kids are categorically different from adults. The rules for questioning children must be different, too.”

—Prof. Frank E. Vandervort, in a *Detroit Free Press* op-ed coauthored with 3L John Seber, on a Supreme Court case involving how police question minors

What particularly is important is to see how this concept can be applied to urban areas, and how it will be able to provide what these businesses need.”

—Prof. Dana Thompson, in a roundtable discussion on Michigan’s economy, about Governor Rick Snyder’s “economic gardening” strategy; quoted in *Crain’s Detroit Business*.

“One of the questions we hear over and over again in our work is, ‘does human trafficking happen in my community?’ The answer, almost always, is: Yes it does.”

—Prof. Bridgette Carr, in a *Huffington Post/Schuster Institute for Investigative Journalism* story on Michigan Law’s new national database on human trafficking.

“It’s just a general duty of police to preserve evidence or dispose of it properly. Just leaving it to rot in a building is pretty disturbing.”

—Prof. David Moran, in a *Detroit Free Press* story about the discovery of an abandoned Detroit police crime lab that contained case files and evidence kits

“This is really dangerous stuff we’re talking about. A lot of people don’t realize how traumatic it is for children to be ripped away from their parents.”

—Prof. Vivek Sankaran, in *Time Magazine’s* “Healthland”, on the perils of removing kids from their parents—even if those kids are health-threateningly obese.

CNN’s Anderson Cooper highlights slavery in America, focusing on a New Jersey hair braiding case involving clients of Prof. Bridgette Carr’s first-of-its-kind Human Trafficking Clinic at Michigan Law. The case resulted in a 27-year prison term for the lead trafficker, and shorter terms for her two accomplices. November 2010

“And how, exactly, would Michigan be better off if an innocent man remained in prison, barred from presenting evidence of his innocence that his prior lawyers never bothered to find?”

--Prof. David Moran, co-founder of the Michigan Law Innocence Clinic, in a *Detroit Free Press* op-ed on a proposal that would limit inmates’ ability to present new evidence.

Prof. Dana Thompson is profiled in the Legal News <http://www.legalnews.com/detroit/1002288/>

Innocence Clinic Appeal

Prof. McCormack on Michigan Radio WUOM: “Man Convicted of 1983 Murder May Get Clemency”

Beginning in the Winter 2012 semester, the law school will open South Hall, a new academic building, which will contain a series of clinic suites. These suites will include modern student workspaces, rooms for client interviews, and state of the art conference spaces for many of the law school’s clinics.

