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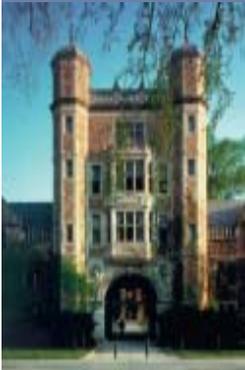
University of Michigan Law School, "Clinic Times" (2005). *Newsletters*.
<http://repository.law.umich.edu/newsletters/2>

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Clinic Times

FALL 2005

A NEWSLETTER OF THE CLINICS



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Collaborative Learning and Practice

“Clinics: Don’t graduate without them!” as the saying goes. I agree. I highly encourage students thinking about a clinic to sign up. I participated in the **Pediatric Advocacy Clinic (PAC)** in the Winter of 2005, and I’m happy I did. One of the things that drew me to PAC in particular is its creative model of legal-medical collaboration. Like many students, I came to law school with a desire to help ordinary people solve problems, not simply to enjoy academic debates about the law. A clinic gives you this opportunity to solve problems for real people.

In my primary case, I helped to end visitations by a father whose unstable behavior, emotional abuse, and possible sexual abuse had harmed his children. The children were being raised in a healthy, stable environment by good guardians. But their progress seemed upended by the periodic trauma of this father’s visits. We won our case. It was genuinely thrilling to look our judge in the eye, argue our client’s case in court, and have the support of our professor and other clinic students in the courtroom.

On a more practical note, clinics are a great way to work closely with other students and create strong relationships with professors. Whom do you think will write you a stronger recommendation – a professor in a class filling up Room 100 who doesn’t really know you? Or your clinic professor, supervising only seven students, whom you worked closely with on real cases with real clients? In the same way, clinics are a great way to work with students whom you may stay in touch with, personally and professionally, for the rest of your life. So if you do sign up for a clinic, and find yourself going out to Dominick’s or Rick’s with clinic partners after hours, rest assured that you’re helping your career development!

Srikanth Katragadda '05

Incorporating Justice into Law School and a Future Career

One of my clients in the **General Clinic** was “JB.” In the early 1990’s she suffered humiliating, shocking forms of sexual harassment by her employer. She filed a complaint with the Michigan Civil Rights Commission, and won a large judgment against the corporation that employed her. The corporation never paid the judgment money it owed to my client, and the boss who sexually harassed JB let the corporation dissolve, perhaps hoping that his liability to my client would end. The clinic then sued the harasser personally as well as an alleged successor corporation the harasser had subsequently started.



For the several days before my clinic partner and I argued our summary judgment motion before the Circuit Court, I couldn’t eat or sleep. When we arrived at the courthouse, we met JB for the first time. Whatever anxiety I felt about the oral arguments was now compounded by the sight of a real person, relying on my partner, my professor and myself.

JB made it clear that, while the money was very important to her, she was actually seeking much more. She had worked closely with her employer, and

they all lived in the same small town, where almost everybody knew each other. After years of egregious behavior by her boss, however, she felt betrayed and hurt. She decided that she had had enough, she risked her reputation and her place in the community and she filed her initial complaint without any legal help.

It appeared that, more than anything else, she wanted recognition from the court that what her harasser did was wrong, and that he should pay for it. She wanted to be able to hold out that decree to others. She truly wanted justice, which was the only thing that would finally heal the years of emotional trauma. This was the greatest motivation possible to me and my partner.

I later worked as a summer associate at a law firm. I realized there that, after my experience with JB as my client, I could not ignore the underlying human drama of litigation, and I could not ignore my desire to incorporate “justice” into practice. I found that I lost interest in many assignments as soon as they were given to me, because

they revolved around saving Corporation X a certain amount of money. I realized that I needed a human face to my work in the law. On the other hand, the employment litigation defense that had a clear human side to it made me profoundly unhappy.

Working in the clinic and with JB prevented me from settling for a firm job for which I was not well suited. The clinic inspired me to persist in seeking employment where I could work with individuals, and fight for fair outcomes for those who need them most.

Sehla Ashai '05

Protecting the Great Lakes -- and a hands-on course in administrative and statutory law

The **Environmental Law Practicum**, offered through the National Wildlife Federation's Great Lakes Office, gives students a unique opportunity to work on real-world environmental issues at both the state and federal level. Student projects cover a wide array of topics (although most are related to water quality in some way)



and an interesting mix of administrative and environmental law questions. I worked on issues as diverse as Michigan's mining regulations, protection of wetlands, and litigation concerning EPA's regulation of mercury. Projects also involve various kinds of actions, such as commenting on proposed environmental regulations, working on litigation, or participating in community activism.

In addition to individual projects and regular class meetings, the Practicum had several guest speakers, which gave students a chance to make contact with people working in the field. This year the class took an optional field trip to hear oral arguments before the Michigan Supreme Court for a case on public access to beaches.

Individual projects form the heart of the Practicum, giving students hands-on experience with current legal issues. I found all of my projects challenging, but they also built my confidence. I was pleasantly surprised at the level of independence and responsibility that I had: NWF takes students' work seriously. My supervisor, Neil Kagan, gave me individual guidance about how to approach these complex research problems and personal feedback on all of my written work, but he also gave me flexibility and autonomy to work through the legal issues on my own. Furthermore, he trusted my judgment and research.

Although an interest in environmental issues or administrative law may be helpful, no prior experience is needed to have a successful and enjoyable Practicum. As a summer starter, I took the Practicum in my third semester (concurrently with environmental law).

It was great preparation for my internship, and several employers asked about the Practicum during interviews. Regardless of when it fits into your course of study -- and whether your goal is to protect the Great Lakes or gain more experience with statutory research -- the Practicum is a great opportunity to work for a nationally respected nonprofit while further developing your legal skills.

Melina Williams

Building Transactional Skills and Rebuilding Detroit

Much of my time in law school was spent in lectures. I listened while others deconstructed and interpreted theories of law—and hoped that my name somehow vanished from the professor's seating chart.

The clinic programs at Michigan are different. Clinics provide us—the unproven, wet-behind-the-ears law students—with an opportunity to make the same differences that we read about in casebooks and newspapers.

Unlike my traditional lectures, the clinic provided me with experiences I will encounter in everyday practice: trying to secure information from a government official who is having a rough day; hunting down clients and third parties via phone, fax and email on a Friday afternoon; and learning to accept the fact that my first draft of a document isn't God's gift to transactional law. The true hallmark of the **Urban Communities Clinic** (UCC), however, is the student's opportunity to directly interact with his or her clients, usually one to three organizations based in metro Detroit. Getting to know the people within the organizations we served taught me a great deal about the delicate balance between the client who knows many facts but little law, and the attorney who knows just the opposite. By maintaining mutual patience and respect for each others' thoughts, we—I, my co-student attorney, our clinical professor and clients—were able to find practical solutions to our clients' dilemmas.

My clients in the UCC were focused on improving their respective Detroit neighborhoods. One organization was responsible for rebuilding houses in a dilapidated community, and needed assistance in securing financing for construction. My partner and I visited the organization on multiple occasions for planning meetings and conference calls with the developer. We helped draft the documents that formed the corporate entity responsible for the development. We found ourselves applying Michigan corporation law as fast as we could learn it!

The other organization we assisted was an association of churches and community groups seeking non-profit recognition from the Internal Revenue Service. Starting nearly from scratch, my partner and I formed the charter and bylaws pursuant to incorporation, and began drafting an application and exhibits needed to secure non-profit status for the corporation. In the future, approval of the application will allow the corporation to secure funding from corporate sponsors, which will in turn strengthen the educational and health opportunities available to residents in the community.

Every student at this law school should graduate with some form of clinical experience. Those students considering a career in transactional law should pursue the UCC, as real estate, corporate

and financial projects abound. I know today that I am better prepared for transactional work, having completed a semester in the UCC.

Jonathan Brodhag '05

A Happy Ending for a Child and Her Mother

When I signed up for the **Child Advocacy Law Clinic**, I was hoping for the opportunity to help children who have no voice in our society. Child advocacy can often be a somber area of practice, as some of these kids have gone through the hell of abuse or neglect, and there isn't always a solution that can be found in the courtroom. But sometimes a truly happy ending comes along to make it all worthwhile. My partner, Megan Whyte, and I were lucky enough to be involved in such a case. We represented a mother who was trying to regain custody of her son from the State of Mississippi in a case that, at first, seemed a hopeless cause.

Our client, Sunshine, had a story that was a convoluted mess. She wanted help because she was due in court in Mississippi in a week. She and her husband had recently separated, and he had moved down south. Their 3-year old son T stayed with her, but when her husband asked that he visit, she let T go for what was supposed to be a couple months. She soon learned that her husband had handed the child over to Mississippi child protective service workers, telling them he couldn't care for him and he didn't know where the mother was. Although she was in touch with Mississippi child protection workers daily from that point on, they wouldn't share any information – only telling her that the boy was in foster care and that she needed to come to court in Mississippi. They wouldn't give her copies of the court pleadings, records, or orders. Sunshine was terrified that she would lose her son. We felt there was no reason the State of Mississippi should have maintained jurisdiction of her child once she was located. But beyond that, we saw the pain she was in over the prospect of losing her child just for letting him visit his father, and we observed her with her other child and saw that she was a great mother.

Unfortunately, Megan and I couldn't practice in Mississippi, but we could help her by researching the law and drafting court documents. We drafted a motion for disclosure and a motion for immediate custody and an affidavit explaining her circumstances in detail, all of which she took with her. But we worried about her chances of regaining custody without counsel present to argue on her behalf.

The odds seemed stacked against her. But through the website of the National Association of Counsel for Children, we were able to find a dedicated and experienced attorney in Mississippi, Patricia "Petesy" Smith. Ms. Smith agreed to help Sunshine, even though it was the day before Sunshine's court date and the town was located hours away. To complicate matters further, we had no way of getting hold of Sunshine. But Ms. Smith still made the trip and she met Sunshine for the first time outside the courtroom with the documents and information we sent her, and she argued on Sunshine's behalf.

As we later learned, the Mississippi protective service workers had never notified the court that they were in touch with Sunshine, and all the court documents still said the mother was unknown and un-located. The court documents even had handwritten notes already suggesting T as a candidate for adoption. If Sunshine

had never had the Child Advocacy Law Clinic or Ms. Smith to represent her, we can only guess at what might have happened. But instead, on that day, the court dismissed the case and released T to the custody of his mother. And in the world of child advocacy, this was one of the sweetest endings we could have hoped for.



Liz Wei '05

A Chance to Solve Real-Life Problems

Remember that time that you helped Keeble out? His nasty neighbor, Hickeringill, wouldn't let him hunt ducks in peace and so he called on you, a budding lawyer, for advice?

Oh yeah, that never happened. Because Keeble is dead. As is Hickeringill. As are the ducks. See *Keeble v. Hickeringill*, Queen's Bench (1707).

For many of us, the legal practice is about interacting with and helping out real people—some of whom hunt ducks and others of whom are battling landlords or facing off against a prosecutor. In the **General Clinic** the student-attorney learns how to communicate his expectations to his clients clearly and how to listen closely to theirs.

While it is a rewarding experience just to get to know clients and advocate on their behalf, it is even more rewarding to be able to solve legal problems.

By way of example, the two of us stepped in at the beginning of the Winter semester to handle a case that had been ongoing for the better part of two years. Our client had bought a used car from a local dealership and, in the course of making "repairs" to the car as part of the sale, the dealership significantly decreased its value.

By the time we were brought into the case, past clinic student-attorneys had already obtained a settlement with one of the three defendants. This left two defendants against whom we were still pursuing our breach of contract and conversion claims—the salesperson who sold our client the car and his boss who ran the dealership.

Our client was an active participant in the case, always interested in what we were researching. However, her attitude was sometimes affected by her strong (and justifiable) dislike of the defendants. These feelings were understandable, though, as the defendants had repossessed our client's car during the course of litigation and menaced her in phone conversations. In all, we believed that we had a compelling case to present to a jury and we were eager to go to trial.

When we arrived at the courthouse on the day before trial to

begin jury selection, the judge made it clear to us that a settlement would be prudent. Trials are not without their share of both comedy and drama, and our case was no exception. The judge had already berated both remaining defense attorneys for their lack of preparation during our pretrial conference. Additionally, from all appearances, the two attorneys had more animosity towards one another than they did towards us. This turned settlement talks into a bizarre experience -- where each defendant was blundering around trying to pin the liability on the other.

After some back and forth, we ended up obtaining a settlement that, when added to the first defendant's settlement, totaled \$3,050. We calculated that the most our client could have received at trial was \$3,400, so we considered the settlement a favorable one. At the suggestion of our supervisor, we demanded and got clauses added to the settlements saying that any missed payment would result in a doubling of that payment. Of course, these guys have been late, so our client stands to recover in excess of \$5,000 for the mistreatment which she endured at the hands of the used car dealership.

We also hope that our client's success will remind this used car dealer that he must treat all of his customers fairly and that he must deal honestly with them, regardless of whether they are rich or poor.

After law school, many law students' careers will require extensive client contact. The general clinic provides its student-attorneys with an opportunity to advocate on behalf of clients who do not have the financial resources which oftentimes seem to be required in order to gain access to the legal system. Meanwhile, we get the chance to learn how to do it right with the support of the clinical faculty.

Ryan Roman '06 and Jonathan Hanks '05

Mediation Clinic Offers Valuable Skills and Experience

My experience in the **Mediation Clinic** was a defining moment of my law school career. Most law school courses and internships focus on litigation, but in reality, alternative dispute resolution is a growing field. The University of Michigan Law School is one of the few schools that offers training in mediation, and it is incredibly valuable. The skills I learned help me in my every day life, whether dealing with my friends or my clients. Being trained as a mediator has given me a new perspective. Instead of looking at each party's bottom line, I try to approach difficult situations by encouraging mutual respect, consultation, and compromise. These skills are invaluable in not only my legal career, but in every aspect of life. I recently accepted a judicial clerkship, and the judge that hired me remarked that mediation is an increasingly important tool for both lawyers and judges.

I am confident that my mediation training made me a stronger candidate for my judicial clerkship and other jobs.

Abby True Harris '05

Mediation: One of UIM's Newest Clinical Additions

The Mediation Clinic is being offered during the fall 2005 semester and winter 2006 semester. Students in the clinic must take a Michigan Supreme Court-mandated 40 hour civil mediation training. After completing the training, students will co-mediate small claims cases in courts in Washtenaw County and Wayne County and attend a clinic seminar.



Clinic Students' Argument -- that Statute Required Criminal Intent - Given Nod by Michigan's Highest Court

In a case initially worked on by a two-student team in the **Criminal Appellate Practice Clinic**, the Michigan Supreme Court recently ruled that Michigan's statute on distributing or promoting child sexually abusive material contains an element of criminal intent. In People v Tombs, No. 125483, *rel'd* June 1, 2005, the defendant was an employee of a cable Internet provider who returned his work-supplied computer to his employer when he quit his job. A search of the computer hard drive disclosed the presence of child sexually abusive material buried seven levels deep in a file. There was no evidence that the defendant told anyone at his employer about the material, and evidence that he expected the hard drive to be wiped clean without any search of the files. In the brief to the Court of Appeals, the students argued that the distribution statute was unconstitutionally vague in that it did not include any element that the defendant had to intend that anyone else see or discover the material. The prosecution argued that the mere transfer of possession of the computer was sufficient to satisfy the statute. The Michigan Court of Appeals held that in order to save the statute from being unconstitutional, an intent element had to be inferred into the statute. The Michigan Supreme Court, on leave granted to the prosecution, affirmed the decision of the Court of Appeals, and found that since there was insufficient evidence presented at trial that the defendant had intended to distribute or promote the material, the conviction and sentence had to be vacated and the charged dismissed.

-By Peter Van Hoek, Visiting Clinical Adjunct Professor

Extra! Extra! Clinic cases in the news.

The Detroit News, *Suit: Prisoners denied parole; Some serving life terms didn't get fair chance, U-M students and professors say*, Sunday, April 10, 2005, by David Shepardson.

The Ann Arbor News, *Co-op's ill tenant allowed to stay; Board agrees to accept Section 8 rent voucher*, Tuesday, March 22, 2005, by Ann Whitesall.

The Michigan Daily, *'U' prof files suit for lifers; Complaint says seven prisoners were unfairly denied parole*, April 13, 2005, by Julia F. Heming.