Urban Law Clinic Students Successfully Mediate Employment Discrimination Case

Urban Law Clinic students Brian Gutman 3L and Courtney Patterson 3L successfully negotiated a settlement for $7,000 on behalf of their client, Sonia, who had filed a complaint against her former employer, a sporting goods store. Sonia alleged that her termination was in violation of the Age Discrimination in Employment Act (ADEA). She had been working at the store for more than 15 years and supported herself and her three daughters. Sonia’s determination to hold this company accountable for its actions was made clear by her ability to navigate the federal court system all the way through the discovery process. Brian and Courtney represented Sonia at a mediation in the U.S. District Court for the Southern District of New York, where they negotiated with opposing counsel, a veteran attorney in labor law. Brian and Courtney were able to conclude the case successfully through mediation, negotiating a settlement that will allow both parties to move forward and will help their client achieve closure on this painful experience.

Mediation Clinic Students Successful in Resolving Mediation Dispute

Mediation Clinic students Paul Irlando 3L and George Lee 2L successfully mediated a settlement in New York Small Claims Court. The plaintiff in the dispute brought a claim against a dry cleaner for misplacing the plaintiff’s dress. The dry cleaner, represented by an employee, alleged that it was not the dry cleaner that lost the dress, but rather the plaintiff’s doorman. The plaintiff sought damages in an amount sufficient to cover the value of the dress, while the dry cleaner refused to pay for a dress it maintained it did not lose. With both parties unwilling to budge on who was at fault for misplacing the dress, George and Paul encouraged the parties to set aside that disagreement and focus on a mutually beneficial solution to the dispute. Ultimately, George and Paul were able to facilitate a discussion that led to an agreement in which the customer would get a partial reimbursement for the misplaced dress in the form of store credit.

Criminal Defense Clinic Student Involved in Semester’s First Trial

Criminal Defense Clinic student Stephen Ritchie 3L, working with his Legal Aid Supervising Attorney, Gregory Gomez ’02, recently wrapped up work on his first trial. His client, Hubie, was charged with assaulting a traffic enforcement agent. The charge originated as a felony, but was ultimately dropped to a class B misdemeanor.

The People alleged that after throwing coffee on a traffic enforcement vehicle, Hubie fled in his car southbound on Broadway, and approximately 20 minutes later, Hubie appeared “out of nowhere” and assaulted one of the traffic enforcement officers in uptown Manhattan. The People introduced medical records, photographs of the injury, a written statement by Hubie on the day of his arrest, and testimony from
three traffic enforcement agents and a NYPD detective in an attempt to prove Hubie’s guilt.

The story was vastly different according to Hubie when he took the stand. He admitted to throwing coffee on the vehicle, but said that he made a U-turn and the traffic enforcement vehicle followed him uptown until he was forced to stop at a red light. He next testified that the traffic enforcement officer exited the vehicle and forcefully hit Hubie’s car with a closed fist. Hubie stated that he sped off and the chase ensued. Finally, after traveling a few more blocks, Hubie noted the enforcement vehicle pulled in front of him to prevent another escape. According to Hubie, the traffic enforcement officer then violently approached Hubie’s vehicle, and in an attempt to stop the escalating situation, Hubie grabbed the traffic enforcement officer by the collar. After releasing the traffic officer, Hubie alleged that he got into his car and left the scene.

The ultimate theory of defense was that Hubie’s intent in grabbing the traffic enforcement officer’s collar was to put an end to the chase, not to cause any physical injury. Also, the People’s own evidence was used against them in an attempt to create reasonable doubt.

After more than 12 pre-trial court appearances and a full week of trial, the judge found Hubie not guilty of attempted assault in the third degree. The judge decided there was reasonable doubt, and thus, a not guilty verdict was required.

A Busy Start for the Securities Arbitration Clinic

The Securities Arbitration Clinic (SAC) represented a Korean immigrant and single mother whose investment advisor failed to follow her instructions to liquidate her brokerage account during the recent market turmoil. SAC students spent several hours per day and worked over the course of several weekends, analyzing documents, preparing witnesses, developing opening and closing statements, and preparing various hearing exhibits. Because of the students’ efforts, they were able to negotiate a very favorable settlement for their client. The respondent was also represented by very experienced defense counsel. The SAC team was comprised of Sarin Chee 3L, Melissa Ferraro 3L, Oscar Hagstrom 3L, and Rahim Virani 3L.

The Securities Arbitration Clinic also represented a 70-year-old retiree whose stockbroker had recommended and sold her an investment that was unsuitable based on her age, investment objectives (i.e., need for liquidity), and risk tolerance. This matter was scheduled for hearing early last semester and required the new SAC students to “get up to speed” very quickly and prepare the case for hearing. The students also filed a motion to compel outstanding discovery and submitted a comprehensive pre-hearing brief. Despite these challenges, the SAC team of Christine Garg 3L, Kate Howard 3L, Ravin Patel 3L, and Justin Sherman 3L did a fantastic job and obtained a very good settlement for their client.

SAC students Melissa Ferraro and Christine Garg also represented the Clinic during the Open House at the Mediation Settlement Day Kick-Off Celebration on October 7, 2010 at the New York County Lawyers’ Association. Mediation Settlement Day, which was held on October 21, is an annual event sponsored by FINRA Dispute Resolution, the New York State Unified Court System, and a coalition of more than 100 alternative dispute resolution programs, bar associations, community-based programs, schools, and public and nonprofit organizations in New York, New Jersey, Illinois, California, and Washington, D.C. At the kick-off celebration, Melissa and Christine helped educate the public about the services the Clinic provides, and learned about the programs in place at numerous other alternative dispute resolution organizations throughout the tri-state area.

Urban Law Clinic Students Hard at Work on Special Education Case

Urban Law Clinic students Mariko Gaines 3L and Kai Livramento 3L are working on a special education case where they are challenging the Department of Education’s (DOE’s) recommendation for a child with serious emotional needs. Their client, “John,” a 15-year-old male, has been diagnosed as emotionally disturbed and bipolar. John’s impairment falls within the definition of a “child with a disability” in the Individuals with Disabilities Education Act (IDEA) as well as New York State education law.

John’s home life has been filled with years of physical and emotional abuse at the hands of his father, who also physically and emotionally abused John’s mother and siblings. John’s mother finally uprooted the family from their Brooklyn home and moved them to Queens in order to flee from the imprint that John’s father left on the family. However, the move to Queens and John’s father’s absence has added substantial stress on the entire family.
John's mental illness began to present itself through bouts of depression, low self-esteem, destructive behavior, and suicide attempts. He has reacted violently on a number of occasions including brandishing a knife at his mother, breaking all the bedroom doors in his home, and fighting with his siblings. During John’s young life, his mother has had to hospitalize him so that he would not cause further harm to himself or his family. In addition, many of his emotional issues have caused John to be extremely hesitant to leave his home and navigate the world alone.

Due to his diagnosis, John needs a program that can help address his emotional disturbances in order for him to receive an appropriate education. Specifically, he requires a structured school setting where he can meet with a psychiatrist and receive therapy throughout the day.

Working on this case has been challenging due to the DOE’s reluctance to communicate clearly and follow through with their promises. However, Mariko and Kai have successfully negotiated with the DOE to grant educational transportation services to their client while he attends school at his interim placement. Mariko and Kai hope to successfully challenge the recommendation made by the DOE at an impartial hearing and they seek to have their client deferred to the Central Based Support Team for placement in a non-public school day program.

**Criminal Defense Clinic Alums Get Hired as New Assistant District Attorneys**

Bronx District Attorney Robert T. Johnson recently announced that 34 new assistant district attorneys were hired for the Bronx DA’s office. Of these new hires, two are previous Criminal Defense Clinic students: Thomas Boyle ’10 and Justin V. Daly ’10. The new assistants were required to go through a two-week training program that combined courtroom observation with lectures in criminal court practice. This training program was supervised by Assistant District Attorney Cari E. Ferreiro, Chief of Litigation Training.

**Annual Clinic Luncheon a Success**

On November 17, 2010, members of New York Law School’s Criminal Defense Clinic, Mediation Clinic, Urban Law Clinic, Elder Law Clinic, Securities Arbitration Clinic, and the Surrogate’s Court Guardianship Project attended an informal get-together where several students discussed cases they were working on within their respective clinics. This annual event is a great opportunity for students to compare clinical experiences and share their thoughts and questions with each other. The event also allows current clinic students to meet and hear from clinic alumni who speak about their own clinical involvement.

**Urban Law Clinic Students Successfully Represent Victim of Bullying in Suspension Appeal**

Urban Law Clinic students Mariko Gaines 3L and Dusan Lakic 3L successfully represented a 10th grader in a school suspension hearing where they challenged a 60-day Superintendent’s Suspension recommendation. Their client, “Tom,” a 15-year-old male, was suspended for engaging in a physical altercation with another student who had attacked him while he was meeting with the school guidance counselor. Unfortunately for Tom, these attacks are not uncommon: he has been a constant victim of physical and verbal bullying attacks.

Mariko and Dusan argued at the hearing that Tom was defending himself during the altercation. Tom’s experiences as a victim of bullying are particularly compelling. One previous bullying incident required hospitalization; another incident required police intervention. Tom’s mother has tried everything within her power to help protect Tom from being violently attacked by the school bullies, including reporting several incidents to the school, yet attacks such as the one that Tom was suspended for still continue. The school has not done enough to help protect Tom from the regular mental, physical, and emotional attacks committed by the school bullies.

Working on this case was challenging because Mariko and Dusan had less than a week to prepare for a hearing, including holding an initial client interview, preparing Tom’s mother for her testimony, and gathering the necessary evidence, such as school records.

Mariko and Dusan successfully challenged the 60-day Superintendent’s Suspension and were able to persuade the NYC Department of Education to suspend Tom for only 10 days. Moreover, Tom’s suspension will be expunged from his school records once he graduates. Currently, Mariko and Dusan’s request to have Tom transferred to a new, safer school is still under review.
Urban Law Clinic Students Attain Special Private School Placement for Autistic Student

Urban Law Clinic students Jennifer LaMarsh 3L and Achilles Vergis 3L successfully advocated for their client, “Billy,” a 7-year-old boy diagnosed with severe autism. Billy was in a 6:1:1 special education classroom in a public school. However, due to Billy’s severe autism, the 6:1:1 placement was not restrictive enough to meet his educational needs. After working on the case for four months, the students reached an agreement with the Committee on Special Education (CSE) in December to place Billy in a private day school.

Billy began receiving early intervention services at the age of 3, soon after he was diagnosed with autism. When Billy reached school age, the CSE placed him in a 6:1:1 setting in a public school. He has been in such a placement since he entered school, even though he made little to no progress towards the annual goals designated on his Individualized Educational Plan (IEP). The CSE maintained that Billy was improving, when in fact his behavior worsened.

Jennifer and Achilles requested an IEP meeting to discuss Billy’s educational placement. On December 17, 2010, Jennifer, Achilles, Billy’s mother, school personnel, district representatives, and the school psychologist met at Billy’s school in Queens. It was determined that Billy’s current school is providing him with as much support as possible, that he is making very little if any progress towards his IEP goals, and that he needs a more restrictive environment in order to make progress and receive an appropriate education.

Following the IEP meeting, Billy’s case was referred to the Central Based Support Team (CBST) on December 27, 2010. The CBST is responsible for making recommendations to private schools for those students who require such placements. Jennifer and Achilles are awaiting notification from the CBST of their recommendations in order for Billy to attend a school that will provide him with an appropriate education.

To find out more about clinics/externships/simulation courses, please contact the Lawyering Skills Center at 212.431.2179.