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Securities Arbitration Clinic Participates in Securities Dispute Resolution Triathlon

The Securities Arbitration Clinic, supervised by Professor Howard S. Meyers, recently participated in the Third Annual Securities Dispute Resolution Triathlon competition co-hosted by St. John's University School of Law and the Financial Industry Regulatory Authority. The Triathlon is a three-round competition consisting of negotiation, mediation, and arbitration. The Clinic sent two teams of three students and two coaches. The problem placed students in the role of lawyers for a broker-dealer being faced with claims of unsuitability, breach of fiduciary duty, and fraud by one of its customers. The NYLS team of Beulah Chou 3L, Ra'Shaun Kelley 3L, and Nicole Kipnis 3L with Naomi W aibel 3L as coach finished in second place for Excellence in Mediation and fourth overall in the competition. Twenty-six teams from across the nation competed.

Criminal Defense Student Moves to Dismiss Charges in Trademark Counterfeiting Case

Criminal Defense Clinic student Misa Le 3L, working with Vaneskha Hyacinthe of the Legal Aid Society and under the supervision of Adjunct Professor Faith Colangelo, is currently representing “John” who has been charged with trademark counterfeiting in the third degree, a class A misdemeanor. The Criminal Court complaint alleged that a police officer observed “John” sell 120 counterfeit DVDs, and that said DVDs are counterfeit because (1) the counterfeit DVDs lack the indicia of legitimate digital video discs such as original artwork or security label, (2) the discs are in DVD-R format as opposed to replicated format, (3) the movie titles have not been released in DVD format, (4) the discs do not contain a region code or a studio logo, and (5) the package artwork is photocopied. (Continued on next page)

Civil Rights Clinic Students Successfully Mediate Employment Discrimination Case

Kendra Okposo 3L and Matthew Hellman 3L, under the supervision of Professor Deborah N. Archer, represented “Cynthia,” a former public school teacher, in an employment discrimination claim in the U.S. District Court for the Southern District of New York. Cynthia experienced discrimination based on her race and national origin and brought a claim under Title VII against her former principal and school. (Continued on next page)
The mediation started off with Mike and his lawyer presenting a list of services that Mike had provided for the business, and stating that they wanted $4,800 from Tim and his partners. Tim’s partners aggressively stated that they didn’t owe him anything, and furthermore, Mike had made costly mistakes and had engaged in criminal conduct. The mediation hit its low point with each side accusing the other of criminal conduct that was completely unrelated to the employment relationship. The parties were separated for private meetings where both parties expressed they did not have the time to return to court again to see the judge. Therefore, the business partners offered $700 and Mike reduced his claim to $2,400. Back in joint session, Matthew and Alice tried to use this mutual interest to build a cooperative atmosphere. However, anger overcame the discussion again and time ran out.

Although the parties did not settle at the time, the mediation was successful in many ways. After gathering facts from both parties, it became clear that Mike’s list of services was not backed by sound evidence. Mike also got a chance to see the aggressive and uncooperative behavior from the other partners, giving him some explanation of why his understanding with Tim fell apart. Without mediation, it is doubtful that Mike and Tim would have ever attempted to understand each other’s positions.

Civil Rights Clinic Students Help to Remove Past Vestiges of Discrimination in School Desegregation Cases

The Civil Rights Clinic (CRC), supervised by Professor Deborah N. Archer, is assisting the NAACP Legal Defense and Educational Fund (LDF) in two school desegregation cases to ensure that two southern school districts are complying with court orders and effectively addressing vestiges of discrimination in their schools. Although one might think that most of these cases would have been resolved, hundreds of suits are still active because the school districts have not yet proven to the courts that they have transitioned from a segregated system to a “unitary” system in which white and black students enjoy equal educational opportunities and facilities.

In assessing whether a school district has achieved “unitary” status, the courts review several “Green” factors, established by the Supreme Court in Green v. County School Board of New Kent in 1968. The factors include student assignment, faculty assignment, staff assignment, transportation, extracurricular activities, and facilities. CRC students are currently investigating whether two school districts are making progress in satisfying each Green factor and ensuring that they are complying with court orders.
The basis for Darnell's employment discrimination complaint was two-fold. First, he alleged racial discrimination based on the company's response to his interracial relationship. Second, he alleged gender-based discrimination because the company believed it would be easier to fight a claim of employment discrimination against a man than to defend itself in a sexual harassment case brought by a woman.

Darnell's case was ordered to mediation in the Southern District of New York. Prior to mediation, Lynn and Christopher successfully negotiated a settlement of $5,000, a change to Darnell's human resources record to reflect voluntary termination instead of termination, and a neutral employment reference. In the end, Darnell was very happy to be able to move forward with his life knowing that his employment record was clear of any negative charges, and his employer was relieved to be spared the time and cost of litigation.

Civil Rights Clinic Provides Legal Services for Foster Youth

This year the Civil Rights Clinic, led by Professor Deborah N. Archer, teamed up with the Children's Aid Society to provide legal services to foster care children who, in the process of aging out of the system, are confronted with an array of legal and non-legal issues. Gregory Bailey 3L and Kerry McGrath 3L assisted a young woman, “Sarah,” in finding long-term housing after her adoptive mother abandoned her when she turned 18 years old. Sarah entered the foster care system as an infant and was adopted along with her three sisters. Shortly before Sarah's high school graduation, her adoptive mother moved to New Jersey and left Sarah in the custody of another family member. Sadly, Sarah's family member refused to care for her and forced her to leave the apartment despite the fact that she had nowhere to go and no way of supporting herself.

Sarah turned to the Children's Aid Society for support. Children's Aid referred Sarah to the Covenant House, a shelter for at-risk youth. Unfortunately, Sarah continued to encounter obstacles. After she spent one month in the shelter, she was denied an extension and discharged onto the street.

Greg and Kerry advocated for Sarah at Covenant, where she felt she was not being treated fairly. They made sure Sarah's social worker referred Sarah to long-term transitional living programs and followed Covenant's policy of granting extensions and re-admitting youth to the shelter. Greg and Kerry also helped Sarah apply for several transitional housing programs for youth. Fortunately, while applying for these programs, Sarah was able to reunite with her sisters and is in the process of regaining control of her family's apartment. Sarah is now enrolled at Borough of Manhattan Community College, and looks forward to pursuing her career in nursing while living independently.

Civil Rights Clinic Students Victorious in Reaching Settlement in Employment Discrimination Case

Civil Rights Clinic students Lynn Cho 3L and Christopher Binns 3L, under the supervision of Professor Deborah N. Archer, successfully negotiated a $5,000 settlement for their client, “Darnell,” who filed an employment discrimination complaint against his former employer. Darnell alleged that his employer violated Title VII of the Civil Rights Act of 1964 when he was terminated based on his race and gender.

After working for the company for four years, Darnell transferred to an office in a different state in order to pursue his legal education. Soon after his transfer, Darnell began an interracial romance with a co-worker. When Darnell sought to end the relationship, his co-worker filed a sexual harassment complaint against him with the company's human resources department. Darnell responded to the claims by providing documentary evidence of the intimate nature of their relationship, but to no avail. Without investigating the allegations against Darnell or the evidence of the relationship he provided, the company immediately terminated his employment.

In Horton v. Lawrence County Bd. of Education, CRC third-year students Greg Bailey, Elliott Dolby-Shields, Melissa Flores, Matthew Hellman, and Kendra Okposo are helping to ensure that a recently consolidated Alabama high school is honoring a court-approved plan to move toward unitary status. In December, students traveled to Lawrence County, Alabama, where they toured schools and met with community group members to learn what problems the school district has not effectively addressed and whether it is in compliance with reporting requirements and court orders.

Similarly, in Ayers v. Western Line Consolidated School District, CRC third-year students Christopher Binns, Lynn Cho, David Henek, Kerry McGrath, and Katie Smelas are working to ensure that the school district is remediing deplorable conditions in its majority-black Mississippi High School, which is vastly inferior to other predominately white schools in the district in terms of quality of education and facilities. A recent site visit and interviews confirmed that the predominately black school's science labs are not functioning because they contain no running water or gas, the gymnasium has limited use because students do not have access to running water to drink or shower, students are not able to complete homework because they cannot bring textbooks home, and the guidance counselor is only providing students with information about two-year junior colleges. In response to these concerns, CRC students wrote a letter to the school district demanding that these issues be properly addressed and are currently awaiting the school district's response.

Civil Rights Clinic Students Victorious in Reaching Settlement in Employment Discrimination Case

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To find out more about clinics/externships/simulation courses, please contact the Lawyering Skills Center at 212.431.2179.
Annual Clinic Lunch Recognizes Students for Their Hard Work

On November 7, 2011, students, faculty, and mentors of New York Law School’s legal clinics attended an informal get-together where students discussed cases they have been 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. Students heard presentations from their colleagues in the Civil Rights Clinic, Mediation Clinic, Securities Arbitration Clinic, Criminal Defense Clinic, and the brand new Criminal Prosecution Clinic, as well as an alumna from the Elder Law Clinic. Associate Dean Stephen J. Ellmann closed out the program by congratulating the students on their tireless effort and remarked on how “exciting it is to hear about these difficult cases, requiring such subtlety and care, and to see the excellent work described” during the presentations.

Student Reflection: Learning to Practice Law Competently and Humanely

By Leslie Pasqualone 3L

My experience in the Criminal Defense Clinic has opened my eyes to the practical aspects of law unobtainable from the classroom. Working closely with two Legal Aid staff attorneys, and under the supervision of Professor Frank A. Bress, I have gained a tremendous amount of knowledge and insight into the day-to-day activities of public defenders. On a daily basis, I work hard to understand my clients’ needs and desires, and stay in close communication with their family members, to gain a holistic perspective to obtain the best disposition possible. This can involve exploring and negotiating incarceration alternatives such as drug treatment, mental health, and domestic violence diversion programs, depending on the client’s specific circumstances and background.

One of my clients, “Minerva,” was charged with two counts of assault in the third degree, a class A misdemeanor. In late August 2011, Minerva and her partner got into a physical altercation. The day after the altercation, they both agreed to go to couples therapy. But five weeks later in October 2011, while Minerva was having dinner with her partner, the doorbell rang. It was the police. Unbeknownst to Minerva, her partner had pressed charges. Minerva was arrested.

The first time I met Minerva she was handcuffed and sitting on the bench in the first row of the Manhattan Criminal Court arraignment part. She was extremely upset, but did not deny the physical altercation. Minerva was released without bail and her case was adjourned to mid-November. During my investigation, I contacted the partner and learned that she did not want Minerva to go to jail, but wanted Minerva to get help.

Minerva wanted help too. I contacted the Assistant District Attorney to see if we could work out an alternative disposition. I explained to the Assistant District Attorney that because Minerva had a college degree, a part-time job, and no criminal record, she was the perfect candidate for a program. The Assistant District Attorney agreed.

Minerva eventually pled guilty to harassment in the second degree, which is a violation and not a crime, with the understanding that she would complete a 26-week domestic violence program. This disposition was favorable to Minerva, who just started a new job and was concerned about having a criminal record. She was also eager to get the help she needed.

It is extraordinarily rewarding to apply the persuasive abilities and practical skills I acquired at New York Law School to advocate for my clients at the Legal Aid Society. I believe in every single aspect of the work that I am doing, which energizes and motivates me to continue fighting for my clients in spite of (or because of) the enormous challenges involved. Minerva is a good person who was in a bad situation, and I am glad that my services will allow her to live her life more or less unimpeded by the unfortunate event.

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