Safe Passage Project Expands and Tries to Aid Children Placed on Special ‘Surge Dockets’

By Professor Lenni Benson

The Safe Passage Project started as a volunteer, pro bono project to help children who need immigration representation. In August 2012, the Project expanded to a full-year project-based learning course (PBL) with 10 to 12 students trained to screen children at the immigration court. The students also write case placement assessment memoranda and assist the pro bono lawyers who undertake the defense of these children facing deportation.

This summer, the students working and volunteering at the Safe Passage Project included law students: Devi Patel 3L, Gonzalo Landaverde 2L, and Carlos Valenzuela 2L; college externs from Cornell, the University of Connecticut, Columbia, Wesleyan, Hunter, Bard, and Wooster; and high school externs from Washington Heights Expeditionary Learning School (WHEELS), Midwood, and Riverdale Country School. We were also joined by Meghan Lintner, a terrific social work extern from Columbia’s School of Social Work, who was supervised by the attorneys at Safe Passage and alumna Sandra Nichols ’95, who is also a licensed social worker. Several students volunteered on a repeated basis throughout the summer: Robert Drolet 2L Evening, Alex Weinman 2L Evening, and newly admitted student Jessica Haimowitz 1L Evening. Professor Frank Munger took on the representation of a child and recruited his wife, Karen Sherman. Professor Carlin Meyer is representing a young woman, along with two graduates of NYLS, Kelly Weiner ’13 and Jessica Orozco ’10. Brian Kaszuba ’04, CityLand editor at the Center for New York City Law, obtained a Special Immigrant Juvenile Status order for a young person this summer, and Professor Kim Hawkins has also offered assistance at the dockets.

The work of the Project greatly increased when the federal government began to “fast track” the deportation cases of children arriving after May 1. Suddenly, the Safe Passage Project was needed not just once a month...
but on a weekly basis. Alumna Megan Eiss-Proctor ’05, a regular volunteer with Safe Passage, began to work full-time as a new Director of Operations and Development. Megan had helped form the separate nonprofit corporation that helps the Safe Passage Project operate. Working with other providers at the court, we created a new coalition of providers called the Immigrant Children Advocate’s Relief Effort (ICARE). We staffed every priority docket beginning on August 13, 2014. Staff Attorney and Adjunct Professor Claire R. Thomas ’11 and Staff attorney Guillermo Stampur coordinated the teams, and Professor Melynda Barnhart volunteered on a weekly basis. Our alumni—too numerous to mention here—poured into the courts ready to help. A generous donation from Diane and Arthur N. Abbey ’59 expanded Gui and Claire’s positions from part- to full-time.

As the work and coordination needs grew, we needed to seek long-term financial support. In late September, we learned that the City Council and the Robin Hood Foundation would help fund some of the Safe Passage Project work at the court. Special thanks go to alumna Neda Shahidyazdani ’04, who helped prepare some of the grant requests and worked on other projects. This funding allowed Safe Passage to hire Desireé C. Hernandez ’08 as a new staff attorney for the nonprofit corporation. Desireé has been practicing immigration law since her graduation and was a regular pro bono attorney working with Safe Passage Project cases.

Joining the effort to help the immigrant children, and funded for two part-time positions by a private foundation, are two more alumni of NYLS: Bethany Ow ’09 and Jennifer Rogers ’08. Both have many years of experience in immigration law work, and both clerked for two years at the immigration court. Jennifer Rogers also clerked for the Second Circuit and recently left the USCIS Asylum Office. This grant allows them to be employed by the nonprofit corporation. Professor Isabel Martinez of John Jay College recruited seven John Jay honor students to work with Safe Passage as community service volunteers. These students trained with the Safe Passage Project fall class and serve as interpreters, peer counselors, and paralegals on the pro bono work of the Project.

Three recent graduates from the class of 2014 are serving as Public Interest Fellows: Astrid Avedissian, Juan Carlos Chiquillo, and Luisa Lebron. Joanna Lehmann ’14 served from August to the end of September. We know this newsletter is usually where we highlight specific case stories. We have been so busy screening and placing cases and conducting trainings that we have not had a chance to share a story of a single case. But perhaps another way of measuring the incredible contribution our students and team are making is to share some statistics:

Cases screened from August 13 to October 31: at least 220

Trainings prepared by Safe Passage staff and students from June 1 to November 20: 25 (not including classes for students enrolled in the PBL)

People attending Safe Passage CLE or training events: Over 2,000

Pro Bono attorneys volunteering with Safe Passage: 380 on our list.

Ready to get involved? Visit our website at www.safepassageproject.org and fill out a volunteer form. We have all kinds of roles, from helping on cases and full legal representation to conducting research or helping with administrative tasks. We also have outings with some of our young clients. Soccer is a big favorite, and we are looking for people to play or just come cheer. Everyone is welcome.

Securities Arbitration Clinic Competes in Securities Dispute Resolution Triathlon

By Radhika Deva 3L

In October, the NYLS Securities Arbitration Clinic sent a student team of 3Ls to St. John’s University School of Law to compete in its Sixth Annual Securities Dispute Resolution Triathlon. For two days, competitors Mariya Atanasova, Radhika Deva, and Charles Luk, and coaches Alisha Sibigtroth, Matthew Bobrow, and Eric Shapiro, met with law school teams from all across the country to test their advocacy skills in the negotiation, mediation, and arbitration of a securities dispute.

The New York Law School competitors rotated client, attorney, and settlement counsel roles of a broker-dealer and faced teams representing a claimant in judge-graded rounds. A four-judge panel consisting of experienced industry professionals scored each round and gave critiques.
to individuals based on their performance. The 2014 Triathlon dispute problem involved a customer who engaged in highly speculative day trading through a Financial Industry Regulatory Authority (FINRA) member broker-dealer. The claim was based on alleged violations of FINRA Rule 2130 (Approval Procedures for Day Trading Accounts) and FINRA Rule 2264 (Margin Disclosure Statements).

The NYLS team fiercely advocated on behalf of its broker-dealer client, Your Trades, Inc., to defend against the customer’s claim that the firm violated FINRA rules, to preserve the firm’s reputation of integrity, and to collect a margin debit balance legally owed by the customer. In the negotiation round, though unable to come to agreement in the face of unreasonable monetary demands, the team successfully neutralized its opponent’s intimidating behavior and held true to its client’s interests. During mediation, the team made concessions when necessary and was able to sign a favorable settlement, which included a nondisparagement clause and confidentiality clause. Finally, during arbitration, the team gave strong opening and closing statements advocating through a position of principle and law, conducted direct and cross-examination with precision, and presented its client’s interests with clarity. The team coaches served as round intermediaries, providing performance assessments, legal support, and instrumental guidance to the competitors.

The Triathlon provided the NYLS clinic students with a realistic and competitive environment in which to polish their skills, expand their advocacy models, and receive invaluable feedback from FINRA-experienced professionals.

Transactional Law Clinic Serving NYC’s Small Businesses
By Professor Lynnise Pantin

This fall, student attorneys in the Transactional Law Clinic partnered with the City Bar Justice Center’s Neighborhood Entrepreneur Law Project, in addition to pro bono lawyers from the New York City area, to interview and counsel around 40 start-up organizations and entrepreneurs. During the 30-minute counseling sessions, students reviewed corporate governance questions, corporate organizational structure, employment matters, and real estate questions. In addition, students provided resources to the clients, who came through referrals from the NYC Small Business Solutions Centers in the Bronx, Harlem, and Queens. Students in the Transactional Law Clinic are supervised by Professor Lynnise Pantin.

Transactional Law Clinic’s Sophomore Year
By Mark Kleynerman 3L

Now in its second year, New York Law School’s Transactional Law Clinic has become a very useful asset for student attorneys who aspire to become transactional attorneys.

The expertise required for meaningful representation of startups, nonprofit organizations, and business entities in general is skillfully presented by supervising attorney Professor Lynnise Pantin, who conducts weekly seminars outlining the fundamental elements of a transactional attorney’s practice. From interviewing and counseling clients to assisting budding entrepreneurs in choosing entities and properly structuring their businesses, student attorneys further refine their skills by working with their respective partners in the “field.”

The clinic has supplied the student attorneys with a wide array of clients who present interesting and complex issues and require valuable advocacy on their behalf. Some of the clients this semester include a sole proprietor with a prototype for a revolutionary children’s slipper who is in the beginning stages of his business and is currently assessing the best entity to choose for his vision. Another client runs an online store and is figuring out how to properly dissolve her limited liability company and how to buy out a managing member in the absence of an operating agreement, with the least amount of legal consequences.

Many of the clients come to the clinic because they may not be able to afford legal services and currently face issues that need to be handled by someone with a background in transactional issues; whether they are conducting their limited liability company without an operating agreement or attempting to buy out a member with a complex agreement they found online, it is the role of the clinic to help the clients resolve these issues and help set them on the path to success.

Post-Conviction Innocence Clinic Works to Uncover Additional Evidence on Behalf of Client
By Pilar Rivera 3L

The Post-Conviction Innocence Clinic (PCIC) assists individuals with a persuasive claim of actual innocence, and educates future practitioners, through client representation, about the criminal justice system. The clinic is directed by Adjunct Professor Adele Bernhard. This semester, PCIC student attorneys Pilar Rivera 3L and Lakisha Collins 3L represent Lasana Philbert, who was convicted in 2007 of assaulting Police Officer Steve Wiesneski.

There wasn’t much evidence against Mr. Philbert at trial, and, ironically, that’s one of the problems now. Here’s what happened. Around 8:00 a.m. on June 14, 2005, a patrolling police officer, Officer Wiesneski, saw a young male preparing to smoke a marijuana cigarette in a Queens park. He approached the male to write him a ticket. As the young man stood up to provide identification, Officer
Wiesneski believed he saw a gun in the man’s waistband. The officer pulled out his own gun and the youth grabbed for it. They struggled over the gun, it fired, and a bullet pierced Officer Wiesneski’s leg. The perpetrator fled. Officer Wiesneski could only provide a very general description. To locate the perpetrator, Queens police arrested over 180 young men living in the general area and took their pictures, but Officer Wiesneski could not identify the perpetrator from the photos, leaving the police without any clues as to the identity of the perpetrator.

Then, on July 8, 2005 (almost one month after the shooting), Duane Martin walked into a Queens precinct and reported that someone from the neighborhood, someone he knew as “Curtis Williams,” told Mr. Martin that he shot the officer “by accident.” Mr. Martin looked through photos to find an image of “Curtis Williams” and, in what we believe was a very unfortunate mistake, selected a photo of our client, Lasana Philbert, who has never been known as “Curtis Williams” and did not match the description the officer provided right after the shooting. Nonetheless, after Mr. Martin selected the photo, police put Mr. Philbert in a confirmatory line-up, where the officer identified him. That one-witness identification testimony was the only evidence at trial. There was no forensic evidence (fingerprints, or DNA) linking Mr. Philbert to the shooting and no other witnesses. Mr. Philbert consistently said he was innocent, demanded a trial, and called alibi witnesses. The jury convicted anyway.

Student attorneys Pilar Rivera and Lakisha Collins spent the beginning of the fall 2014 semester reading through the trial transcripts, the police reports, and the medical reports, and retracing Mr. Philbert’s steps in Queens on the day the officer was shot. Pilar and Lakisha noticed that Mr. Martin did not testify at trial. They decided to try to interview him to find out how the investigation went wrong. However, they needed as much evidence as they could find about Mr. Martin before undertaking the interview. They suspected that he had been an informant working with the police on other cases as well.

Fortunately, shortly into our investigation, we received a decision on an Article 78 motion requesting “copies of all police and detective reports, notes and official documents regarding the investigation” of Officer Wiesneski’s shooting, including any materials pertaining to interviews of Duane Martin. The District Attorney’s Office had been refusing to hand over a “statement made by Duane Martin” on the ground that “statements of non-testifying witnesses are confidential and are not disclosable under [New York’s Freedom of Information Law (FOIL)]”— even if that witness was responsible for the identification and arrest of the accused and even if he had received money through the NYPD Crime Stoppers Program.

Prior students filed the Article 78 motion asking the Supreme Court to compel the prosecution to provide the records of Mr. Martin’s interview. The Honorable Rudolph E. Greco Jr. of New York Supreme Court, Queens County, ordered production of documents. When we receive the documents, our next assignment is to arrange an interview with Mr. Martin in the hopes of uncovering any new evidence that will allow us to file an Article 440 motion next semester asking the court to vacate Mr. Philbert’s conviction.

There are still a couple of student attorney positions available in the Post-Conviction Innocence Clinic in the spring 2015 semester. E-mail Professor Bernhard at adele.bernhard@nyls.edu to arrange an interview.

Join the PTO Clinic in Spring 2015

By Professor Jacob S. Sherkow

On August 4, 2014 New York Law School announced that we were selected to join the US Patent and Trademark Office’s (PTO) Law School Clinic Certification Pilot Program in the patent portion of the program. I am glad to report that the course proposal has been approved by the NYLS Curriculum Committee, and we are beginning to solicit student applications for participation in the spring 2015 semester, pending faculty approval.

We look forward to providing this new clinical program for students interested in intellectual property. This course will teach students the practical skills needed for prosecuting patents, including conducting inventor interviews, searching prior art, drafting patent claims and specifications, and conducting various proceedings before the PTO. To date, there are 28 law schools participating in the PTO Clinic Certification Program, including law schools at Northwestern, George Washington, and Fordham Universities. Anthony W. Crowell, Dean and President of the Law School said, “We are honored to be on the select list of schools for this Program of the USPTO. New York Law School has created an outstanding intellectual property program, and this new opportunity is a perfect fit with our efforts to create a pipeline of talented, practice-ready lawyers who are prepared to serve the innovation economy, especially the high-growth areas of science and technology.” Clinical students would be taught by Michael Marcin, a name partner at Fay Kaplan & Marcin, LLP, here in Lower Manhattan. Professor Marcin has prosecuted patents in various fields of technology for over 15 years, and is a graduate of the University of Pennsylvania (electrical engineering) and Fordham University School of Law. Students interested in this pending course should e-mail the Office of Clinical and Experiential Learning at ocel@nyls.edu for more information.

OPENINGS IN SPRING 2015 CLINICS

- Elder Law Clinic
- Patent and Trademark Office Clinic
- Post-Conviction Innocence Clinic
- Tax Planning Clinic

E-mail ocel@nyls.edu for more info.