



The Joe Plumeri Center for Social Justice and Economic Opportunity

STUDENTS IN ACTION

Office of Clinical and Experiential Learning

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The Marriage License Project: Helping Marriage Fraud Victims

By *Juliet Knapp-Vega 3L*



Vernon Hutchinson 4L Evening and Juliet Knapp-Vega 3L

New York Law School's Marriage License Project is part of the School's Diane Abbey Law Institute for Children and Families.

The Project helps clients who have been denied a marriage license based on the existence of a fraudulent prior marriage. Students work with these clients to show an Administrative Law Judge (ALJ) that the client was not the person who participated in the conflicting prior marriage. Typically, the clients are victims of identity theft for immigration fraud purposes. Under the supervision of Professor **Lisa Grumet**, students write answers to the court advocating the clients' positions, and if necessary, participate in administrative hearings.

Clients are referred to the Marriage License Project by the City Clerk's Office upon the denial of a marriage license based on the existence of a prior marriage. Students meet with potential clients to determine representation. If the Project takes a case, a student presents the facts to an ALJ in a written answer, along with supporting documentation. If the ALJ finds the written explanation sufficient, he or she will write a decision recommending that the clerk remove the prior marriage from the client's record and permit the client to marry. However, if the ALJ has additional questions, the ALJ may order a hearing.

Since its inception in 2013, the Marriage License Project has assisted more than 35 clients in removing fraudulent marriages from their records. During the 2016–17 academic year, **Sara Alpert 3L**, **Juliet Knapp-Vega 3L**, **Shante' Morales 3L**, and **Amanda Seelmann 3L** each won hearings on behalf of their clients. In addition, **Vernon Hutchinson 4L Evening** recently filed his first answer with the City Clerk's Office.

In November 2016, I attended a hearing to represent a client who was incarcerated at the time of his fraudulent marriage. Working with the New York City Department of Correction, I was able to obtain documentation showing his incarceration dates. Providing this information to the ALJ highlighted the impossibility of the client being present at the Clerk's Office to apply for a marriage license and helped win the case. This case was not unique; we have recently encountered several cases involving formerly incarcerated individuals. For example, Sara Alpert 3L and Shante' Morales 3L conducted a hearing in a case that involved a formerly incarcerated individual who was the victim of two fraudulent marriages and fraudulent divorce judgments from those marriages, as well as a victim of identity theft that had

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been discovered by the Department of Motor Vehicles. Based on documentary evidence, as well as the client's credible testimony, the ALJ ruled in favor of our client.

For some of our clients, fraudulent marriages have interfered with their ability to obtain housing with their loved ones, public assistance, or other benefits. In two cases this semester, our successful appeals made it possible for the client to secure housing with a domestic partner.

By participating in the Marriage License Project, students are not only gaining valuable legal skills; we are also able to give our clients the ability to marry the person they love, protect their identities, and move forward with their lives. ■

Securities Arbitration Clinic: Recovering a Client's Investment

By Securities Arbitration Clinic students and Professor Howard Meyers



Left to right: Tiegh Francois 3L Evening, Sara Moharrem 3L Evening, Lina Goto 3L Evening, and Dwayne Latimore 3L Evening

Over the winter break, members of the Securities Arbitration Clinic successfully negotiated a favorable settlement on behalf of our client. Clinic students **Tiegh Francois 3L Evening**, **Lina Goto 3L Evening**, **Dwayne Latimore 3L Evening**, and **Sara Moharrem 3L Evening** drafted a Statement of Claim, which alleged, among other things, that our client's former broker made unsuitable investment recommendations and churned his brokerage account for the sole purpose of generating excessive commissions. The settlement held special meaning given the fact that our client had funded the account with his disability benefits. Former clinic students **Beatrice Barenboim '17** and **Annette Cordasco 3L** also made significant contributions to the Statement of Claim.

The client was moved to share this with clinic students: "There are no words to explain my gratitude toward Professor Meyers and the students that make up the NYLS Securities Arbitration Clinic. Without their hard work and effort put forth to help me recover my lost savings, I would have lost the money. It is not worth the cost to hire an attorney to go after a rather small sum of money. The legal costs are too high. So, without the services of Professor Meyers and

his wonderful staff, all hope would be lost. They are true champions for people of modest means. I cannot begin to thank the people at NYLS who make this clinic possible." ■

Veterans Justice Clinic: Championing Veterans

By Peter A. Kempner, Esq., Adjunct Professor, Veterans Justice Clinic; Director, Veterans Justice Project; and Deputy Director, Housing Unit, Brooklyn Legal Services

This past fall, students in the NYLS's Veterans Justice Clinic played an important role to ensure that many vulnerable veterans avoided homelessness. Veterans are much more likely to face homelessness than their civilian counterparts. Those who suffer from mental health issues and are from a lower socioeconomic status are at increased risk. Often homelessness can be avoided if veterans are given access to counsel in eviction proceedings.

Students in the Veterans Justice Clinic work alongside attorneys at Legal Services NYC's Veterans Justice Project and help amplify the impact of our work with New York City's most vulnerable veterans. While our students assisted many veterans, two stories stood out. (Names have been changed to protect privacy.)

"Mr. B" is a 96-year-old ordained minister, World War II veteran, and Pearl Harbor survivor. He made headlines several years ago, when it was found that he was living in a rusty trailer with no toilet in a junkyard in Brooklyn. Despite his service, Mr. B had suffered many indignities. As an African American veteran, he was not given the same recognition as many of his White counterparts and had fallen into poverty and homelessness. A non-profit housing provider whose mission it is to serve African American veterans placed Mr. B in his own apartment. The non-profit organization never entered into a lease with Mr. B, either written or verbal, and Mr. B was under the impression that he was being placed in the apartment free of charge as part of the organization's mission. Mr. B was shocked when he was served with court papers alleging that he was nearly two years in rent arrears and was facing eviction for nonpayment of rent. While our attorneys are still litigating this case, one of the clinic students, **Malik Callender 3L Evening**, assisted in drafting the motion for summary judgment in the proceeding. That motion seeks dismissal on the basis that there is no lease agreement and therefore rent is not collectable. The landlord conceded that the premises were subject to rent-stabilization but failed to follow the rules of the established program, which requires a written lease.

In another case, clinic student **Kiera Guzzo 2L** was instrumental in saving the apartment of Mr. P, a Korean War vet with multiple physical and mental health issues. He had been accused of "hoarding" by his co-op board, and in February 2016 a default judgment was entered against him because he had failed to appear in the eviction proceeding brought against him. The reason Mr. P did not appear was that he was hospitalized at the time. New York City's Adult Protective

Services (APS) referred the case to the Veterans Justice Project two days before the scheduled eviction. APS had refused to provide services to Mr. P because he was not in the community at that time. Our attorneys were able to pull together a quick Order to Show Cause (OSC) and temporarily stop the eviction. The judge signed the OSC and appointed a Guardian ad Litem (GAL) but refused to vacate the default judgment entered prior to our involvement. We believed that the judge's refusal to vacate the default after the appointment of a GAL was in clear violation of C.P.L.R. Section 1203 and moved to reargue. Kiera helped draft the motion. The judge reconsidered her earlier decision and reversed her ruling, vacating the judgment. Kiera had done extensive research into APS's obligations to veterans like Mr. P, and that research greatly informed our advocacy with the agency. Finally, after months of pushing, APS stepped in and performed a heavy-duty cleaning of Mr. P's apartment. The results satisfied both the landlord and the court, and the case was resolved, saving Mr. P from homelessness.

The other clinic students—**Martin Banks 3L Evening** and **Tracie Bentick 2L**— also provided excellent service to our veteran clients. Without their efforts, our project would not have had as great an impact on the men and women who sacrificed so much for all of us. ■

Civil Justice and National Advocacy Clinic: Serving on the Front Lines in Washington, DC

By Adjunct Professor Joanne Doroshov

When it comes to Congress and the civil justice system, it's already been a wild and unsettling couple of months. On the plus side, this has made for a great deal of interesting work for the Civil Justice and National Advocacy clinic!

Each clinical student is currently specializing in one or two major issue areas, which are or will soon be the subject of congressional legislation. **Halah Elchorbagy 2L Two-Year J.D. Honors Program** is our health care specialist, focusing on Affordable Care Act replacement bills and more specifically, how these bills could harm patients who are victims of medical malpractice. She has also looked into the National Practitioner Data Bank, a patient safety database that may be on the chopping block under the Trump administration. Two students are gaining expertise on Obama-era forced arbitration regulations, which Congress may undo in the next few weeks pursuant to the Congressional Review Act. **Amanda Lind 3L Evening** is concentrating on a rule that protects abused or neglected nursing home residents from having their disputes resolved in secret, forced arbitration. **Michael Thompson 2L** is focusing on a Department of Education regulation that protects students from forced arbitration in disputes with fraudulent or predatory lenders. Amanda is also looking into legislation to weaken the Americans with Disabilities Act, and Mike is examining congressional attacks on the Consumer Financial Protection Bureau. **Laura Salgado 2L** has been studying federal preemption of tort litigation, which we expect to find in several types of bills this session. Laura is also updating information from past

clinics on a bill that would make it difficult for dying asbestos victims to litigate their cases. Finally, **Charissa Wijaya 3L** is focused on legislation that would change the Federal Rules of Civil Procedure by making Rule 11 sanctions mandatory, removing all judicial authority to decide whether to sanction on a case-by-case basis. [Editor's Note: The bill passed the House by a 230–188 vote and was received by the Senate in mid-March.] ■

Post-Conviction Innocence Clinic: Preserving Hope in a Wrongful Conviction Case

By Nicole Santo 2L and Maria Scalici 2L

Under the supervision of Adjunct Professor **Adele Bernhard**, students in NYLS's Post-Conviction Innocence Clinic represent individuals convicted of serious crimes who articulate a convincing claim of wrongful conviction that cannot be proved through DNA testing alone.

This past August, we began representing Mr. Lasana Philbert. Almost 12 years ago, when he was 21 years old, Mr. Philbert was convicted of assaulting a police officer and sentenced to 10 years in prison. The only evidence in his case was the testimony of the police officer who was accidentally injured with his own gun. This is a classic example of a "one-witness identification" case.

Mr. Philbert's charges arose from an accidental shooting on June 14, 2005. A patrol officer attempted to issue a ticket to a young Black man who was preparing what the officer said looked like a marijuana blunt. According to the officer's testimony at trial, he saw that the young man had a gun tucked into his waistband. The police officer pulled out his own service revolver. The young man lunged for the officer's revolver, and the two tussled over the gun. It fired, and a bullet pierced the officer's leg, near his knee.

The officer fell, dropped his gun, and called for help. The armed perpetrator fled, leaving his marijuana and a tight elastic head covering he had been wearing. The officer could provide only a vague description of the armed smoker to first responders.

It is our understanding that Mr. Philbert was mistakenly identified as the person who accidentally shot the officer. Mr. Philbert has consistently maintained his innocence, could provide alibi witnesses, and never owned or carried a gun. Finally, there was no forensic evidence connecting him to the crime and no witnesses on the scene. At trial, the jurors believed the officer's identification and convicted Mr. Philbert. He wrote to the clinic, and once we read his story, we decided to investigate the case.

At first, the clinic hoped to prove Mr. Philbert's innocence by convincing the Queens District Attorney (DA) to conduct post-conviction DNA on the head covering left at the scene. The DA agreed to the testing; yet, when investigators attempted to retrieve the head covering from police custody, it was nowhere to be found. In

addition, the officer's gun had been returned to the identifying officer and could no longer be tested.

When we realized that DNA testing was not a possibility, we looked for another way to challenge the conviction. Finally, we decided to bring a motion to vacate Mr. Philbert's conviction based on "Ineffective Assistance of Counsel." We argued that Mr. Philbert's trial attorney should have called an expert at trial to educate the jury about the fallibility of eyewitness identification.

Through the first half of the fall semester, we waited for the trial court judge to decide on the motion. We knew the judge had three options. First, he could agree with our position that the trial counsel was ineffective as a matter of law and vacate the judgment. Second, he could grant Mr. Philbert a hearing to explore whether the trial counsel was ineffective before making a decision. Or third, the judge could simply deny Mr. Philbert's motion. We hoped the judge would vacate the conviction. So while we waited, we researched the law so that we could appeal in the event the judge were to deny the motion.

In November, Mr. Philbert's motion was denied. We had 30 days to make a request of the Appellate Division to accept Mr. Philbert's appeal.

Once we submitted our brief, Professor Bernhard suggested flying to Buffalo to meet with Mr. Philbert at the Immigration and Customs Enforcement (ICE) facility where he was being held to explain the status of his case and the arguments we had made to the Appellate Division. Although Mr. Philbert has finished his sentence, he is still being held in an ICE facility because he did not regularize his immigration status prior to his arrest. As an immigrant with undocumented status and a felony conviction, he must be detained.

On January 12, 2017, we traveled to the ICE facility in Buffalo. We were both nervous, as neither of us had visited a prison before. Upon entering the facility and getting through one layer of security, we encountered a guard who informed us that we would not be able to speak to Mr. Philbert together due to our status as legal interns. At this, the two of us conferred and arrived at a new counseling strategy, alerting our client ahead of time that we might repeat things in our separate sessions with him.

Upon entering the visiting area, we were put in small rooms that contained telephones separated by plexiglass. We each spoke to Mr. Philbert for 20 minutes.

We were incredulous at how positive Mr. Philbert was, despite his situation. He described the conditions in the Buffalo ICE facility as much worse than the prison where he served out his criminal sentence. Despite that, he expressed interest in our lives as future lawyers and inquired into our experiences in New York City.

What struck us the most was his description of the criminal justice system. When he thought back to his initial arrest, he remembered

having hope in the criminal justice system. At the time he was charged, he truly believed he would not be convicted because he was innocent. He assumed that the jury would rule in his favor because he had not committed the crime he was accused of. However, as time went on, he realized that the criminal justice system wasn't as perfect as he had believed it to be. In fact, he was convicted despite the fact that the sole piece of evidence against him was the testimony of a lone eyewitness.

After 12 years of trying to establish his innocence, Mr. Philbert is getting discouraged. He sometimes wants to go home to Trinidad; yet he doesn't want to concede to a wrongful conviction. He remains motivated to prove his innocence and to serve as an example of how frequently wrongful convictions occur. At the time of this writing, he was committed to enduring a bit longer in the hopes that the Appellate Division would accept his case, reverse the trial in court, and vacate his conviction. We remain hopeful alongside him. ■

Immigration Law and Litigation Clinic: Winning a Five-Year Legal Battle for a Teenager from Ecuador

By Gui Stampur, Director of Legal Services, Safe Passage



Danilo (left) and Gui Stampur, Director of Legal Services, Safe Passage Project

Earlier this month, the Safe Passage Project won Legal Permanent Residence (a green card) for a young boy from Ecuador after over five years of hard work in three different New York courts. Safe Passage met Danilo in 2012, when he was just 14 years old. Danilo's family could not support him adequately or protect his best interest in his home country of Ecuador. He made the perilous journey on foot to the United States in search of safety, support, educational opportunity, and his mother, whom he had not seen since he was very young.

Safe Passage went to Family Court, New York State Supreme Court, and Immigration Court, and appeared before U.S. Citizenship and Immigration Services to help advocate for Danilo and his future in the U.S. Thanks to the support of Safe Passage, Danilo has been reunited with his mother, enrolled in a New York public school, and received

the counseling he needs to work on overcoming the challenges from his childhood and recent past. Danilo said, “Gui and his team have changed my life. I am forever grateful to them and Safe Passage. I hope one day that I can help somebody else the way they have helped me.”

At his case closing meeting at NYLS, Danilo thanked his legal team of **Jordan Harlow, Gui Stampur, Rex Chen, Stephanie Gibbs ’11, Nillie Pajoochi, Carlos Valenzuela ’16, Desiree Hernandez ’08, and Adjunct Professor Claire Thomas ’11**. Danilo is also grateful to the students from Professor **Lenni Benson’s Immigration Law and Litigation Clinic**, who supported this case with ongoing legal research and translation assistance. ■

Art Exhibition: Two Presidents



The two paintings above are now on display in The Joe Plumeri Center for Social Justice and Economic Opportunity.

Two paintings of iconic presidents are on loan to NYLS by artist **Isaac Paris**. Paris is a self-taught painter, art director, and graphic designer, as well as an Adjunct Assistant Professor at Pratt Institute and the Fashion Institute of Technology’s Communications Design department.

Nelson Mandela (1918-2013) served as President of South Africa from 1994 to 1999. He was the nation’s first Black president and the first to be democratically elected. His efforts were vital to ending apartheid, and he remains an international icon of humanitarianism and social justice.

Barack Obama (born 1961) is the 44th President of the United States and the first African-American President. He served from January 2009 until January 2017. His administration launched historic health-care reform and civil rights initiatives, including advances in LGBT rights, equal pay, and criminal justice reform. Before, during, and after his tenure, President Obama called for unity among Americans of varied ideologies and backgrounds.

Both men, in addition to serving as presidents, practiced law. ■

ON THE HORIZON

Beginning in fall 2017, NYLS will expand its clinical work with the U.S. Patent and Trademark Office (PTO) to include trademark matters. For two years, NYLS students have worked on patent matters with the PTO. Only a handful of schools offer both the trademark and patent clinical experiences. Trademark Prosecutor and Adjunct Professor **Kim Maynard** will supervise the clinic’s new trademark work. The clinic allows students to help entrepreneurs seek legal protection for their slogans, company names, designs, and other corporate branding elements. Students gain extraordinary practical experience in client counseling, trademark searches, application drafting, negotiating with and practicing before a government agency, and appeals, if necessary.

EVENTS

- **April 29, 2017:** Hall of Judges Second Annual Ceremony. *NYLS’s Hall of Judges is located in The Plumeri Center.*
- **May 5, 2017:** Civic Fame Awards Presentation Breakfast
- **May 31, 2017:** 8th Annual Pegalis & Erickson Lectureship: “Can We Identify Bipartisan Common Ground That Will Deliver Quality and Safe Medical Care to All Americans?”

ABOUT THE PLUMERI CENTER



The Joe Plumeri Center for Social Justice and Economic Opportunity, dedicated in November 2015, is home to NYLS’s law firm and provides free high-quality legal services to New York City’s diverse, low-income, and veteran populations who would otherwise be unable to afford legal representation. Made possible by a generous gift from Joe and Susan

Plumeri, the Center’s innovative mission, sophisticated design, and ground floor location provide an unparalleled access point to the School’s legal services. The Plumeri Center also enables NYLS students to fully realize the benefits of experiential learning and skills training within a true clinical setting that is part of a new modern legal education. The Center is home to more than 20 clinical and experiential programs, a reception area for clients, study space for students, private work areas, and a state-of-the-art simulation center with direct-to-digital recording technology for student skills training.