Securities Arbitration Clinic: Students Fight for Small Investors

The New York Law School (NYLS) Securities Arbitration Clinic provides free legal representation to small investors who have suffered damages due to the misconduct of their brokers.

Protecting a Family’s Life Savings

By Thomas Pulaski 3L Evening

Battling an unscrupulous broker can feel overwhelming, especially to an individual investor. Hiring a lawyer is expensive, and securities firms often handle cases on contingency. That leaves many smaller investors feeling hopeless about the possibility of recovering their life savings.

A man and his daughter, recent clients of NYLS’s Securities Arbitration Clinic, had placed their lifetime savings in a Federal Deposit Insurance Corporation-insured savings account. They planned to use the funds to purchase a home in the next few months. After informing the bank teller of their plans, the clients were repeatedly pressured by aggressive banking representatives into moving their money from a savings account into an investment account. Once the funds were transferred, the father and daughter reminded the broker that they would need the funds within a few months and did not want to risk losing any of the principal. Ignoring these wishes, the broker placed their funds in an unsuitable investment, which caused them immediate losses.

Students in the Securities Arbitration Clinic were eager to take on the case. Over the course of two semesters, they zealously represented the clients. Their hard work paid off. Recently, Andrew St. Cyr 4L Evening, Thomas Pulaski 3L Evening, Myra Guevara 3L, and Robert Rothman 3L successfully negotiated a settlement with the brokerage firm, recovering more than half of the client’s losses.

“They were able to advocate on behalf of myself and my father during a period when we were vulnerable,” wrote the daughter. “Not only were they professional, but they exceeded our expectations by being able to rescue some of the funds that were owed to us. I would recommend NYLS to anyone.”
Attending an Important Summit in Washington

By Professor Howard S. Meyers, Director of the Securities Arbitration Clinic

On April 4, NYLS’s Securities Arbitration Clinic participated in the U.S. Securities and Exchange Commission’s (SEC’s) inaugural Investor Advocacy Clinic Summit in Washington, D.C.

The summit provided an opportunity for NYLS’s clinic to meet with high-level officials and policymakers from the SEC and the Financial Industry Regulatory Authority (FINRA) to discuss ways of combatting retail fraud and protecting individual investors.

After hearing remarks from SEC Commissioner Robert J. Jackson and FINRA Senior Vice President of Investor Education, Gerri Walsh, clinic students participated in a breakout session with SEC officials. During the session, Ryan Callinan 3L, Kayla Canasi 3L, Myra Guevara 3L, Nabeela Latif 3L, Dana Mallon 3L, Meghan O’Brien 3L, Amelia Persaud 3L, Connor Peters 3L, and Andrew St. Cyr 4L Evening presented ideas for combatting retail fraud.

Among other things, the students proposed instituting investor “speed bumps” to combat brokers’ aggressive sales tactics in connection with the recommendation of illiquid securities, private placements, and other esoteric investments. Under the group’s speed bump proposal, an investor would have a three-day window to review the investment recommendation and consult with a trusted family member, attorney, accountant, or other professional before the sale would be effective. NYLS students did an outstanding job leading the conversation and answering questions from the SEC and other attendees.

In the afternoon, Ryan Callinan, Kayla Canasi, Dana Mallon, and Andrew St. Cyr delivered a presentation titled “The Impact of Referral Arrangements Between Bank Employees and Registered Representatives on the Retail Investor.” Overall, our D.C. trip was productive and successful.

Criminal Defense Clinic: A Practical Experience in Criminal Law

By Melissa Monteiro 3L

As an undergraduate, I knew I wanted to attend law school. The problem was, I didn’t know which type of law I was interested in. I was first drawn to criminal law when, during college, I had the opportunity to work as a paralegal in a criminal defense firm. Once I came to NYLS, my interest in criminal law continued to grow. In my second year, I participated in the Post-Conviction Innocence Clinic, taught by Distinguished Adjunct Professor Adele Bernhard. That clinic was a fantastic experience. With Professor Bernhard’s guidance, I decided to further my studies by enrolling in the Criminal Defense Clinic.

My experience in the Criminal Defense Clinic has changed my life. During the past two semesters, I have represented several criminal defendants. There is one experience in particular that I will never forget: my first bail argument. My client was charged with assault in the third degree, a class A misdemeanor. The prosecutor was asking for $1,000 bail. I wanted my client released without any bail. Clinic Director and Professor Anna G. Cominsky ’05 sat in on the interview with the client but let me take the lead in finding out all of the information I needed to make my argument. I drafted the argument, and Professor Cominsky provided feedback on how to make it better.

With my heart in my throat, I stood in front of the judge and argued for my client. I knew that winning the argument was the difference between my client getting released or staying in jail.

In the end, my client was released on her own recognizance, and I had made it through one of the most nerve-wracking events of my law school career. That bail argument stands out as one of my greatest accomplishments at NYLS.

The Criminal Defense Clinic helped me develop the skills necessary to become a zealous advocate for my future clients. Of course, in practice, you never know what obstacles you will encounter and what steps you need to take to find the best solution for your client. Professor Cominsky has been a great guide, mentor, and supervisor throughout this experience. I appreciate all I have learned from her. My experience in the Criminal Defense Clinic is truly unmatched.
Education Law Clinic: Advocating for Students

Students in NYLS’s Education Law Clinic help represent low-income students and safeguard their constitutional right to an education in New York State. The clinic’s goals are to ensure that students have someone in their corner when facing exclusion from school and to combat the “school-to-prison pipeline.”

“Ned”
By Thamanna Hussain 3L and Tammy Tran 3L

Last semester, we represented a 17-year-old high school student in a superintendent’s suspension hearing. The student, “Ned,” was suspended for participating in a group fight involving several other students.

During our initial intake interview and in reviewing Ned’s suspension packet, we discovered that the school violated various sections of the Chancellor’s Regulations. For example, the Department of Education’s documents stated that Ned had been suspended four times during the school year, when, in fact, he had never been suspended. These errors weakened the school’s case.

However, the school also submitted damaging video evidence against Ned from the day of the incident. As a result, after consulting with Ned and his mother, we decided that pleading no contest was the best course of action. Pleading no contest meant that the charges would be sustained, but the hearing officer and an Early Resolution Counselor would decide the length of Ned’s suspension based on a number of factors.

At Ned’s suspension hearing, we discovered that most families awaiting their case did not have legal representatives. Many parents either spoke limited English or had no knowledge of their children’s educational rights, the hearing process, or how to effectively advocate for their children. We realized how fortunate we were to be able to offer meaningful representation to Ned. As a team, we were determined to present a strong case on his behalf.

The Early Resolution Counselor decided that Ned would receive a 29-day suspension, which was one day less than the suspension length proposed by the school. However, his suspension was expunged from his record, and it did not impact his college applications. Although we were disappointed with the suspension length, we continued our advocacy efforts. In the weeks following the suspension hearing, we worked with Ned’s parents, home school, and suspension site to ensure he stayed on track with his coursework and college applications during his suspension.

Following the hearing, Ned’s mother thanked us for giving her son a voice. Ned also thanked us for being his advocates. We are happy to report that Ned has served his suspension and expects to graduate from high school and earn a basketball scholarship to college.

“Ms. C. and J.”
By Matthew McCarthy 2L and Dakota McCauley 3L

Ms. C.’s son J., an elementary school student, was facing a 30-day suspension. J. was accused of shooting rubber bands at fellow students, causing injury. When we were first assigned the case, the clinic requested all of the school’s relevant documents. Prior to our request, Ms. C. had also requested these documents, but the school had not provided them. This constituted a violation of the Chancellor’s Regulations.

Through our advocacy, we were able to help Ms. C. navigate her way through the suspension hearing. We met with her and J. for an initial client interview to gather all of the facts and explain the hearing process. We then spent the following weekend communicating with third parties who knew J. and were willing to submit character references on his behalf.

The morning of the hearing, we arrived early to the Suspension Office to review any final questions the clients had and to help ease their concerns. At the hearing, the school presented its case first. We were able to successfully cross-examine both teachers who claimed to be eyewitnesses to the alleged incident. We also asked the Dean about her faulty investigation of the incident. Next, we were given the opportunity to present our case. We conducted a successful direct examination of Ms. C., who spoke about the school’s failure to provide proper notice of the suspension to the family. At the close of our case, we presented the hearing officer with a character reference on J.’s behalf, along with other documentation that bolstered our arguments.

Thankfully, our efforts were successful. All of the charges were dropped, J.’s record was immediately expunged, and J. was immediately reinstated.

The case was challenging, but we couldn’t be happier with the outcome.

Asylum Clinic: Students Attend Naturalization Ceremony

By Adjunct Professor Claire R. Thomas ’11, Director of the Asylum Clinic

On February 1, NYLS Asylum Clinic students were invited by Judge Elizabeth Stong to attend a naturalization oath ceremony in Brooklyn at the U.S. District Court for the Eastern District of New York. We were joined by members of the New York City Bar Association’s
Immigration & Nationality Law Committee and two students from my evening immigration law class.

Judge Stong, who serves as a U.S. Bankruptcy Court Judge for the Eastern District of New York, frequently volunteers to preside over naturalization oath ceremonies. During these ceremonies, immigrants swear or affirm the “Oath of Allegiance” and become U.S. citizens.

We witnessed individuals from about 40 different countries, from Algeria to Vietnam, be sworn in during this very moving ceremony.

Afterwards, Judge Stong hosted us for a lively session in her chambers, during which she graciously responded to students’ questions. She shared with us why she, as a U.S. Bankruptcy Court Judge, chooses to preside over naturalization oath ceremonies. She also asked us if anyone knew the full text of Article I, Section 8, Clause 4 of the Constitution. We knew the first part of the clause, which reads, “To establish a uniform Rule of Naturalization …” Judge Stong reminded us that the rest of the sentence reads, “and uniform laws on the subject of bankruptcies throughout the United States.” Just as becoming a U.S. citizen means adopting a second homeland, Judge Stong sees her role as a Bankruptcy Court Judge as enabling people to have “second chances.”

The students and I were delighted to be guests at the ceremony, and with Judge Stong’s support, we hope to make participation in such ceremonies an annual event.

Beginning this June, NYLS’s new Summer Pre-Law Program will take place in The Plumeri Center. The program is tailored for rising college juniors, particularly those from underrepresented groups. Its goal is to increase access to legal education and the profession by providing opportunities to explore the law and create a pathway to earn a J.D. degree at NYLS.

By learning in The Plumeri Center, participants will see first-hand the influence and impact they can have as future lawyers. Under the guidance of NYLS faculty members, they will study Introduction to the Legal Method, Written Legal Communication, Introduction to LSAT Preparation, Academic Success, and Professional Development. They will also complete a Project-Based Capstone, including a simulated “client” representation. The program spans two consecutive summers, and NYLS will stay in touch with participants throughout to provide them with law school-related resources.

The Summer Pre-Law Program was developed by the NYLS Office of Diversity and Inclusion and the NYLS Faculty Committee on Diversity and Inclusion. In the interest of advancing access to legal education, there will be no cost to participating students.

Post-Conviction Innocence Clinic Scores Three Significant Victories

NYLS’s Post-Conviction Innocence Clinic had an active and successful spring semester.

Its most dramatic win came on May 22, when a judge in Suffolk County, Long Island overturned the 1976 murder conviction of Keith Bush. Bush has been represented by NYLS’s Post-Conviction Innocence Clinic for 13 years. He was convicted of killing a teenage girl when he was 17 years old. For more than four decades, he maintained his innocence, and for 33 years—most of his adult life—he was imprisoned. After re-investigating the entire case, the clinic, led by Distinguished Adjunct Professor Adele Bernhard, was able to demonstrate that all of the evidence originally used to convict Bush has since been disproved. Evidence indicates that another man was the likely culprit.

New Summer Pre-Law Pipeline Program Offered in The Plumeri Center

By OCEL Staff

Since its founding in 2015, The Joe Plumeri Center for Social Justice and Economic Opportunity at NYLS has been home to programs that protect New Yorkers, advance equality, and provide essential hands-on training to the next generation of lawyers.
Read more about this momentous decision, as well as two additional cases in which the clinic scored important wins for its clients, **Krivak** and **Molina-Cirino**, at [www.nyls.edu](http://www.nyls.edu) under “Community News.”

---

**Office of Clinical and Experiential Learning Hosts Successful Open House**

*By OCEL Staff*

On March 26, the Office of Clinical and Experiential Learning (OCEL) held its Open House on campus. Students had the opportunity to speak with faculty and current students from dozens of clinics, simulation courses, externships, and field placement courses. More than 300 students attended to find out about the many experiential learning opportunities available to them at NYLS. Applications for OCEL courses opened on March 26, and we are eager for another year of hands-on skills training in 2019–20.

---

**Parting Thoughts: Welcome to the United States**

*By Danney Salvatierra 3L, Asylum Clinic Participant*

When I met my client, D., I immediately knew I wanted to help him. However, I had no idea how difficult the process of helping him would be. D., a gay man from Russia, was persecuted for over 20 years because of his sexuality.

For the past few months, I have spent hours reading human rights reports. I discovered that my client’s story is the story of many. I have also spent hours speaking to D. and asking him questions about his life. Many times, he would look down when he spoke about the friends he lost.

“I know this is hard for you,” I would say to him. He would look back up and nod. His eyes spoke louder than any words could.

Next, D. had his asylum interview. He was interrogated by a stranger who wanted him to speak about the same difficult, personal things he had shared with me. As future lawyers, we prepare our clients for their interviews, but no one can truly prepare a lawyer for the experience of being inside that small room, hearing your client speak, hoping the asylum officer sees what you saw. The pain. The frustration. The hope.

On a day in late February, I was having lunch and waiting to hear the outcome of D.’s case. D. was also waiting in person at the Asylum Office. My heart was racing. The phone rang: an update.

During that call, I learned that justice was done. D. received asylum. His life was saved. The life of his husband was saved.

Welcome to the United States, D.!