

IN PRACTICE

The Clinical Law Program at the University of Maryland School of Law

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International Clinic Advances Justice Around the World

Since the dawn of the global financial crisis two years ago, there has been an unprecedented rise in the use of comparative analysis, the creation of private international law, and the establishment of inter-governmental legal institutions. In light of this dynamic shift, the University of Maryland School of Law began offering a new International and Comparative Law Clinic this spring, building on the Law School's groundbreaking LEAD Initiative to help students develop cross-cultural competence they need to practice law in today's global arena.

"The LEAD Initiative keeps Maryland at the forefront of innovative legal education. This new clinic expands law-related skills of citizens globally, and provides unique opportunities for our students and faculty to collaborate and interact with lawyers from an international perspective," said Dean Phoebe Haddon.

Students enrolled in the new clinic fulfill a full semester of work, while spending a substantial part of the term in either Namibia, China, or Mexico/Latin America. Dur-

ing the first few weeks of the semester, the Clinic is held at the Law School, and includes an intensive classroom component that focuses on the principles of international law and on the law of the countries that students will be working in. While working abroad, students will participate in weekly classes through video conferencing, communicate with their professors via email, and post work online.



Clinic students meet with workers in Zatecas, Mexico

In Namibia, students work on a variety of projects, including claims for access to drinking water and working on a report about paralegals, hoping to enhance the legal infrastructure of a country with fewer than 500 lawyers for a population of more than 2 million.

"You could have the most progressive constitution in the world, and Namibia has one of them, but when you go into the countryside people don't know their rights," says Emily Siedell 3L.

The students participating in the Mexico/Latin America project helped introduce migrant workers to the legal issues they will confront in the U.S., and worked with transnational litigation and law reform projects in partnership with Centro

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In this edition of *In Practice*, we focus on some of the ways our clinical work has expanded over the past few years. We have added clinics that focus on immigration, workers rights and consumer protection, among others. In spring 2010, we offered an International and Comparative Law Clinic for the first time, with our students spending a portion of the semester in China, Mexico and Namibia. We have also brought teaching fellows into several of our clinics. Moreover, a couple of our long-established clinics are engaged in innovative litigation that, if successful, will address systemic issues that impact our clients and client-communities. Together, all of our clinics are helping to meet critical unmet legal needs in Maryland and beyond, and are providing our students with the multifaceted skills that the legal profession demands, both now and in the future.

*Michael Pinard, JD
Co-Director, Clinical Law Program*

Environmental Law Clinic's Clean Water Act Citizen Suit Moves Forward Against Perdue

On July 20, 2010, the Honorable William M. Nickerson, judge for the United States District Court for the District of Maryland, ruled that the School of Law's Environmental Law Clinic's suit against Perdue Farms Incorporated ("Perdue") will move forward. The Clinic's theory of liability against Perdue focuses on Perdue's control of concentrated animal feeding operations (CAFO) or "integrator" liability. This is the first case of integrator liability under the Clean Water Act brought in federal court in the United States against the poultry industry.

The Environmental Law Clinic, on behalf of the Assateague Coastkeeper, the Assateague Coastal Trust, and the Waterkeeper Alliance, filed a citizen suit against Perdue and Hudson Farms, one of Perdue's chicken factory farms. The Clinic suit alleges that under the Clean Water Act, both the chicken factory farm and Perdue are liable for discharges of various pollutants into Chesapeake Bay tributaries, including fecal coliform, E. coli, nitrogen, phosphorus, ammonia, and arsenic from chicken feces and waste. The Clinic contends that, pursuant to federal regulations, Perdue is liable for this pollution as an "integrator," or party "which (is) responsible for or control(s) the performance of work" at Hudson Farms.

The defendants moved to dismiss the case on multiple grounds, including that Perdue did not own the farm from which the pollution emanated, nor is it on the CAFO Clean Water Act discharge permit. The Court agreed with the Clinic and ruled that Perdue may be held liable as an integrator for the pollution discharging from Hudson Farms. The key issue decided by the Court is whether Perdue could be liable assuming it had sufficient control over Hudson Farms' handling of chickens and chicken waste. The Court noted that:

"According to Plaintiffs, Perdue owns the chickens and provides all of the feed, fuel, litter, medications, vaccinations and other supplies necessary for the Hudson Farm CAFO to grow the chickens. Plaintiffs also allege that Perdue dictates the aspects of care for the chickens such as the type of buildings, equipment, and other facilities used in the operation, and makes periodic site visits to ensure compliance with its dictates."

The Court found that these allegations were "sufficient to state a plausible claim against Perdue." As a result, the Clinic's citizen suit will move forward against both the chicken factory farm and Perdue. The Court's recognition of integrator liability could have significant impact on CAFO's throughout the country. Jane Barrett, the Environmental Law Clinic Director, believes that "the court's opinion should serve notice to com-

Extending liability beyond the individual farmers to corporations controlling CAFOs is an important step to reigning in these large animal (and waste) producing operations for two reasons. First, integrators control numerous factory farms. If they can be held liable for pollution from those farms, they will have a financial incentive to control pollution. Second, Perdue has the financial means to eliminate or reduce their factory farms' pollution. Perdue is the third largest poultry company in the United States with annual sales in excess of \$4.6 billion. The Clinic's theory of liability against Perdue could also apply to other large poultry, beef, and pork integrators across the country.

panies that they cannot dictate the manner of farm operation, own the animals and supplies, walk away with the profits, but leave a mess behind for others to handle. If they control the animal and what goes into the animal, they should be responsible for what comes out the other end."

The Clinic will now have the opportunity to show that the manner in which Perdue and the factory farms produce chickens and handle the attendant waste harms Chesapeake Bay water quality. This citizens' suit provides a mechanism to change CAFO practices which will protect the water quality, productivity, enjoyment, and use of the Chesapeake Bay – a vital resource to the state of Maryland and its citizens.



The Hudson Farm in Berlin, MD.

IP Clinic Selected For USPTO Trademark Pilot Program

The Intellectual Property Law Clinic at the University of Maryland School of Law has been selected to participate in the United States Patent and Trademark Office's (USPTO) expanded Trademark Law School Clinic Pilot Program. The initial Law School Clinical Certification Program was launched by the USPTO in 2008 with participation limited to only five schools nationwide. Recently, the USPTO announced that 20 law schools would be admitted to the expanded program this fall, and Maryland is honored to take part.

Beginning in the Fall Semester 2010, students enrolled in the Intellectual Property Law Clinic will have the opportunity to obtain limited recognition to practice before the agency in trademark application matters. Under the supervision of the faculty clinic supervisor, students will draft and file trademark applications, respond to office actions from the trademark examiners, and draft and file briefs in appeals to the Trademark Trial and Appeal Board. Participation in the program will significantly enhance the services that the clinic can offer to emerging high technology companies.

The Maryland Intellectual Property Legal Resource Center (MIPLRC or "the Center") was established in 2002 as a joint initiative of the University of Maryland School of Law and the Montgomery County Department of Economic Development. The MIPLRC provides free legal assistance on intellectual property matters to emerging technology companies and also trains law students to serve the needs of early-stage high technology companies. The Center was initially created in response to growing demand for increased access to legal services by Maryland's emerging high tech and biotech companies. Many startup companies, otherwise unable to afford legal services, face challenges in protecting their intellectual property rights. The Center was the first law school program of its kind in the United States to be situated in technology incubators.

In September 2009, the MIPLRC opened an office on the campus of the University of Maryland at College Park, where it is housed in the Technology Advancement Program (TAP) Incubator operated by the Maryland Technology Enterprise Institute (MTECH), a division of the A. James Clark School of Engineering. From its locations in College Park and the School of Law in Baltimore, the Center provides legal services to early-stage technology companies throughout Maryland. The Center performs an important role in the state's effort to promote technology entrepreneurship and to nurture emerging companies, resulting in economic growth and the creation

of valuable jobs.

The Center delivers legal services primarily through law students, who practice under the supervision of experienced faculty members. Second- and third-year law students interested in participating in the Center's mission may enroll in the Intellectual Property Law Clinic, a five- or seven-credit clinical course offered in the fall, spring, and summer semesters. The legal services provided

by student attorneys have included preparation of draft patent applications, assistance with filing trademark applications and copyright registrations, drafting of licenses and confidentiality agreements, performance of preliminary prior art searches, and provision of counseling on the development of an IP portfolio. By interacting continually with technology entrepreneurs and working in their midst, law students develop sensitivity to, and expertise in, dealing with the unique challenges faced by their clients. Since July 2002, approximately 300 clients have received legal services provided by nearly 100 student attorneys.

In addition to its clinical component, the Center also fulfills an academic function. All students enrolled in the Intellectual Property Law Clinic are required to attend a weekly class meeting, where they receive instruction on practical topics, such as how to prepare and prosecute a patent application and how to draft a nondisclosure agreement tailored to a client's specific needs. The MIPLRC is currently considering a plan to provide academic offerings for local attorneys, entrepreneurs, scientists, and researchers. In the future, the Center may also offer IP short courses for business and engineering students.



Workers' Rights Clinic Expands into Practice

Even though the Workers' Rights Clinic is a one-semester clinic every Spring, the students accomplish great things over a period of thirteen weeks.

Litigation Work to Help the Unemployed Access a Vital Safety Net

Unemployment insurance is a vital safety net for people who lose their jobs through no fault of their own. The loss of a job is especially stressful when a former employer contests a worker's right to receive unemployment benefits and the worker must attend an administrative hearing.

The students in the Workers' Rights Clinic help claimants navigate the unemployment insurance appeals process. Students represent claimants in unemployment insurance appeals cases before administrative hearing examiners. The students learn the critical importance of these benefits, seeing first-hand that their clients need benefits to prevent foreclosure or eviction and provide basic necessities for their families while they search for new work.

Through their advocacy, students in the Workers' Rights Clinic have helped prevent families from becoming homeless and slipping into poverty because of unexpected job loss. Many of our clients have had eviction notices posted on their doors, utilities turned off, cars repossessed, and the real risk of bankruptcy or homelessness after initial denials of unemployment benefits. Some clients have received benefits and must defend their right to receive them after an appeal by the employer. With student representation, these clients are able to receive their benefits so they can pay their rent and utility bills and have stability and peace of mind while they obtain new work.

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Here are just a few examples of individuals for whom the clinic has been able to win benefits that were initially denied:

- One client reported that she was being sexually harassed by a supervisor, who later fired her. The employer claimed she was fired because she was late to work. The Department of Labor initially believed the employer and denied benefits. Before the appeals hearing, the client's car was repossessed and her landlord was preparing to evict her. The student prepared a case to show that she was fired in retaliation for her protected activity of reporting harassment, and that the one day that she was late many other employees were also late (and not fired) due to a major delay on the Metro subway system. She received her benefits.
- A nurse was concerned about safety violations being committed at a health facility and she reported them to higher management. Her supervisor then verbally abused and retaliated against her. Despite months of repeatedly reporting these problems to company management, no remedial action was taken. Fearing for her own safety, she finally resigned from the facility. She was initially denied benefits because she "quit." After an unusually long four-hour administrative hearing (at which the employer was also represented by counsel), the student attorney won a decision that our client had "good cause" to leave the employment as a result of the abusive conditions and the employer's lack of corrective action.
- A salesperson worked for a company based on an agreed compensation rate. The company changed that compensation agreement, to the point where our client could not pay for his basic living expenses and was forced to search for a living wage. He was initially denied benefits and was the brink of homelessness prior to the hearing. The student attorney proved that there was a drastic change in job conditions and benefits that



constituted “good cause” for our client to leave employment.

Through cases such as these, students in the Workers’ Rights Clinic learn about access to justice issues and their power as attorneys to make a meaningful difference in people’s lives. Students also develop key litigation skills such as conducting legal interviews and building client relationships, identifying key legal issues, developing a theory of the case, preparing and conducting direct and cross-examination, and delivering closing statements. Students have the opportunity to be primarily responsible for at least two hearings per semester.

Public Education

Because the Workers’ Rights Clinic can directly represent only a limited number of people during the thirteen-week semester, the students have developed educational materials to teach claimants how to effectively present their cases and represent themselves at administrative hearings. They conducted weekly “Know Your Rights” trainings to claimants at “One-Stop” Career Centers, to help claimants understand the appeals process and learn how to most effectively present their cases pro se. In conjunction with the Job Opportunities Task Force, they also held a forum at the law school to train nearly 50 service providers about the unemployment insurance appeals process.

Wage Investigation

In addition to their litigation work on behalf of unemployment insurance claimants, the students conducted an investigation about wage violations at a major school bus company. After researching federal and state wage and hour laws and extensive personal interviews with workers, the students prepared a report documenting their findings.

Appellate Advocacy

Working together with the Maryland Employment Lawyers Association, the Workers’ Rights Clinic drafted an amicus curiae (“friend of the court”) brief in a discrimination case in the Maryland Court of Appeals, *Taylor v. Giant*. The case will decide many important issues applicable to discrimination cases. The portion of the brief written by the students argued that discrimination claims under Maryland’s fair employment laws are not pre-empted by a federal labor law called the Labor Management Relations Act. The students’ work on amicus curiae briefs is a powerful way to improve the law for all Maryland workers.

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de los Derechos del Migrante, an international program based in Zacatecas, Mexico that represents many migrant workers.

The students prepared for the trip by reviewing a 1,000-page Freedom of Information Act request in a case involving 10 hog pen workers in the Midwest. After meeting with clients in Zacatecas, the students decided to change their legal strategy.

“It was very important that we were on the ground and were able to go into the community,” says Carlos Guevara 3L. “It was instrumental for us to see the merits of our claim.”

As part of an exchange program with the Law School of the Central University of Finance and Economics (CUFE), in Beijing, China, students focused on projects related to the development and implementation of micro-credit and micro-financing laws that are intended to benefit low-income residents, particularly in rural areas, who have small farms and home-based businesses.

Ravi Kambhampaty ’10, who went to Namibia, sums up the feelings of all the clinic participants: “When you see people who want to improve their situation, you want to help.”

Tobacco Control Clinic Challenges Cigar Packing Laws

The Tobacco Control Clinic recently celebrated a victory in a cigar regulation case in Prince George's County and regrouped after a loss in a similar case in Baltimore City. In Prince George's County, the Circuit Court upheld a local ordinance requiring that small, cheap cigars be sold in minimum packages of five, finding that the County Council had the authority to pass such a law, State law did not preempt such action and the law did not violate the Equal Protection Clause or suffer any constitutional infirmities. The Circuit Court for Baltimore City did not answer the legal questions decided in the Prince George's County case; rather, the Court found that the City's Health Commissioner lacked authority to impose a similar minimum packaging requirement by health regulation. Both cases have been appealed.

Since 2007, students enrolled in the Tobacco Control Clinic have been engaged on the issue of how to reduce the number of young people who smoke small, cheap cigars, like Black and Mild, Swisher Sweets and Phillies Blunt. These cheap products are available by the single for less than \$1 and are offered in youth-enticing flavors, like cherry, green apple and watermelon. While cigarette smoking among young people has been stagnant in recent years, smoking of these cheap cigars is on the rise. One approach to reducing youth access to the products is minimum packaging, raising the price of access from below \$1 to more than \$3. Federal, state and some local laws mandate that cigarettes be sold in minimum packages of 20 for this reason. Tobacco Control Clinic students have conducted research on the use of the small, cheap cigars among young people, the health impact of that use and the efficacy of various regulations related to reducing tobacco use among youth. As a consequence, students drafted legislation to impose a minimum pack size for Prince George's County and assisted the Baltimore City Health Commis-

sioner in drafting a health regulation that would impose the same requirement. Students also worked on similar legislation before the Maryland General Assembly as well as legislation to prohibit flavored cigars (just as flavored cigarettes are prohibited) and impose a higher tax on cigars (as tax increases on cigarettes have led to decreased youth cigarette use).

Ultimately, the students succeeded in securing minimum packaging legislation through the Prince George's County Council and that law was immediately challenged in court as being outside the County's power, preempted by State law and unconstitutional. With the assistance of Clinic students, the Center for Tobacco Regulation provided support to the Prince George's County Attorney in defending the ordinance. In July, the Circuit Court agreed with the County and issued summary judgment upholding the law. An appeal was filed and the appellant cigar manufacturers and sellers have also petitioned for certiorari to the Maryland Court of Appeals. Incoming Tobacco Control Clinic students will assist in preparing an amicus curiae brief in support of the County.

In Baltimore City, the students' efforts supported then Health Commissioner, Dr. Joshua Sharfstein (now Deputy Secretary of the Food and Drug Administration), in issuing a cigar minimum packaging regulation under the Commissioner's nuisance abatement powers. Prior to its effective date, the regulation was challenged on the same bases as presented in Prince George's County with the added argument that the Commissioner's nuisance abatement powers do not extend to a cigar packaging regulation. The Circuit Court found for the plaintiff cigar manufacturers and sellers on that authority issue unique to Baltimore City, declining to decide the other issues. The City has appealed that decision and incoming Tobacco Control Clinics will prepare an amicus brief in support of the City in the appeal.

While a minimum packaging law is one of a variety of policies that may reduce youth access to and use of the popular, cheap cigars, the decision in these cases may have a broad impact on local jurisdictions' public health powers. Moreover, these laws are the first of their kind and public health and tobacco control advocates across the country are interested in the outcome of the cases and, if allowed to go into effect, the impact of the minimum pack size restriction. The Center will continue to provide support to the local health officials, and provide invaluable experience to Clinic students making a positive impact on the public health.



Immigration Clinic Responds to Community Needs

In this time of increasingly aggressive immigration enforcement policy and politics, the University of Maryland Immigration Clinic has been creatively responding to the community's needs in a variety of ways.

On February 20, 2010, just over a month after the devastating earthquake in Haiti, the Clinic sponsored a one-day workshop on Maryland's Eastern Shore to assist Haitians who qualified to apply for Temporary Protected Status in the United States. Law student volunteers assisted eligible individuals to fill out forms and gather documentary proof for their applications, working under the supervision of Clinic faculty member Maureen Sweeney and UM (and Immigration Clinic) alum Michelle Mendez. Temporary Protected Status will allow these individuals to stay and work in the United States while Haiti recovers from the devastation of the earthquake.

The Immigration Clinic has also been working to assist the Maryland Office of the Public Defender (OPD) to set up systems to advise its non-citizen clients about possible deportation consequences of convictions. Non-citizens accused of crimes very often do not realize that a guilty plea can lead to automatic deportation under our current immigration laws. This is true even for relatively minor offenses, such as simple assault or theft with a suspended sentence of one year. On March 31, 2010, the U.S. Supreme Court held in the case of *Padilla v. Kentucky* that non-citizens have a right to know when a plea deal will subject them to deportation and that criminal defense attorneys have a duty under the Sixth Amendment to advise them about immigration consequences.

Professor Sweeney has been working with OPD attorneys and pro bono immigration attorney volunteers to set up training and consultation mechanisms to make sure OPD clients get the advice they need. Clinic students are joining the work this fall as they gather intake information and do preliminary research on individual cases for a panel of pro bono experts who will be advising public defenders and their clients about immigration consequences.

The Clinic also helps increase access to legal counsel for individuals facing removal proceedings before the Baltimore Immigration Court. With co-host World Relief Baltimore Immigration Legal Clinic, the Clinic runs a program of free legal consultations twice a month. The program, staffed by clinic students and pro bono attorney volunteers from the Washington/Baltimore region, provides free advice and referral services

to walk-in clients. Pro bono attorneys advise participants about whether the law provides them with possible relief from deportation, and they refer them for further representation where appropriate. This advice and referral reduces the vulnerability of these individuals to "notarios" and other unscrupulous individuals willing to take their money and give them bad legal advice.

Immigration Clinic Wins Landmark Suppression Victory

The Immigration Clinic recently won what may be the first successful Motion to Suppress in immigration proceedings in the mid-Atlantic region. The Clinic represented two sisters who were arrested in their bedroom by ICE agents who raided their home as part of a larger investigation. During the course of the raid, an ICE agent twice sexually groped one of the clients. The Immigration Judge held that this was an egregious violation of the sisters' 4th Amendment rights to be free from unreasonable search and seizure, and he suppressed all evidence gathered by the agents in the course of the raid.

Immigration Clinic students carried this complex case from its beginning right through trial. They did intense factual investigation, wrote and exhaustively briefed the Motion to Suppress and other motions, obtained evidence from witnesses, prepared the clients and legal arguments for trial, and conducted a full evidentiary hearing in Immigration Court. The Clinic's briefs served as models for other pro bono attorneys working on similar cases, and Clinic students presented their arguments and strategies to a gathering of immigration litigators from around the state.

After 15 Years, A Win in Harford County, MD Case

More than 15 years after University of Maryland School of Law Professors Sherrilyn Ifill and Richard Boldt and students began working with a community in Havre de Grace, the Maryland Court of Appeals in a 5-2 decision ruled in favor of the community.

The dispute involved opposition to the construction of a rubble landfill 25 feet from a historic landmark, in the center of a rural working-class community in Harford County. Since the School of Law became involved in the case in 1994, approximately 100 students in Professor Ifill's Legal Theory and Practice (LTP) course have provided significant support for the residents of Gravel Hill and Webster Village. The students worked on zoning issues, environmental permitting, historic landmark designation, and endangered species research. Maryland Law students were instrumental in obtaining county historic landmark status for the St. James African Methodist Episcopal Church after their research at the National Archives confirmed that at least eight African-American Civil War veterans are interred in the graveyard of the St. James A.M.E. church, which lies at the center of the community.

"This decision marks the third time our clients have won in the Court of Appeals," Professor Ifill said. "Had they not had the assistance of a pro bono attorney who happened to hear about the case in 1992, and then our LTP students, the landfill would have been constructed long ago."

Adjunct Professor Jennifer Schwartzott '01, an Associate at Miles & Stockbridge, P.C., served as co-counsel after having worked on the case as a student in Professor Ifill's LTP and Civil Procedure course in the late 1990s and later as a 3L teaching assistant. After graduating, she joined Miles & Stockbridge and immediately asked for permission to continue working on the case, pro bono.

"The clients were really great people and so appreciative of the help," Schwartzott said. "They had a strong case and I wanted to continue working with Professor Ifill on such a compelling matter. I have enjoyed every aspect of working with her; she is a good role model for client relations and her oral advocacy and insight on the written documents we had to craft was incredible."

Professor Ifill sees the work of students on this case as a testament to the success of the Cardin Requirement, a unique

The courses in which Professor Ifill's students represented the Gravel Hill community—LTP Civil Procedure and LTP Complex Litigation—allowed students to work on environmental justice cases, which provided a lens through which students could critically examine civil litigation rules and practices. It also forged in students like Schwartzott a strong commitment to doing pro bono work.

feature at the School of Law which requires that students, as a prerequisite to graduation, take one course in which they work on representing the legal interests of poor or underserved individuals or communities. The courses in which Professor Ifill's students represented the Gravel Hill community—LTP Civil Procedure and LTP Complex Litigation—allowed students to work on environmental justice cases, which provided a lens through which students could critically examine civil litigation rules and practices. For students like Schwartzott, it also forged a strong commitment to doing pro bono work.

According to Professor Ifill, residents in the affected communities—black and white—lived in adjoining communities that had never before worked together. When they learned of the planned rubble landfill they joined forces to gather documents, attend hearings, and complete scientific research in order to protect their community. Over the course of their battle, they developed lifelong bonds of friendship and support.

"I've been very impressed with the way people worked together across racial lines," Professor Ifill told the Baltimore Sun.

Looking Forward, Looking Back: Five Years of One Consumer Law Clinic's Involvement With Katrina

In August of 2005, Hurricane Katrina devastated millions of people's lives and destroyed billions of dollars worth of property. In Mississippi, all 82 counties were declared disaster areas for federal assistance.

The School of Law responded to Katrina by offering assistance on many levels. Chief among them have been the clinical students who have spent time on the ground in Mississippi and working on cases in Baltimore.

Professors from several diverse backgrounds responded. "Boots on the ground" responders included Doug Colbert, who offered assistance through his Lawyers at Bail model; Barbara Bezdek and Brenda Blom, who responded with Community Justice Models; and Michael Millemann, who responded by establishing a Summer Consumer Protection Clinic in partnership with the Mississippi Center for Justice.

Although many contractors faithfully rebuilt their customers' homes, others repaired them in a substandard manner or never completed the job. Some contractors, after getting paid, failed to make a single repair or further damaged their customers' property. Many of these contractors also falsely represented that they were licensed, bonded, and insured. With no bond to collect from, many victims had no avenue of recovery.

In an effort to help these victims, the Clinic accepted 35 contractor fraud cases. During their summer in Mississippi, students interviewed clients and photographed the damage from Hurricane Katrina, and obtained documents such as the contracts and cancelled checks showing payment. After the initial interview, the cases were then further investigated by students back at the Law School.

In order to perform the proper legal and factual analysis, the students had to become familiar with the substantive law and procedural rules of Mississippi. Students used a custom made "Mississippi Contractor Fraud" manual, and studied relevant statutes and case law which related to particular claims.

Working in teams of two people per case, students engaged in a range of activities including:

- Counseling clients about the strengths and weaknesses of their case;
- Determining which clients we could help, and which did not have viable legal claims;
- Working with coordinating counsel from the Mississippi Center for Justice;
- Talking with law enforcement authorities in Mississippi

Katrina presented a vehicle by which to measure the pro bono response of individual lawyers and bar associations. While many of New Orleans' lawyers were busy digging out their law offices Maryland law students were literally going from jail to jail trying to get bail release for people who had been arrested right before the levees broke.

- about particular victims or particular contractors;
- Sending out demand letters and negotiating with some contractors;
- Drafting complaints, discovery and motions;
- Interacting with the clients on a regular basis;
- Assisting other pro bono counsel in Maryland on related Mississippi cases;
- Drafting Affidavits in support of motions for default judgment against defendants who failed to file an Answer to the Complaint.

As a large clinic with many different specialty areas of practice, common themes emerged from the Katrina project. First, Katrina presented a vehicle by which to measure the pro bono response of individual lawyers and bar associations. While many of New Orleans' lawyers were busy digging out their law offices, Maryland law students were literally going from jail to jail trying to get bail release for people who had been arrested right before the levees broke.

Second, Katrina demonstrated the fundamental importance of consumer protection laws. The "disaster capitalists" are always one step behind the storm, and two steps ahead of law enforcement. Without private lawyers taking these cases pro bono or under fee shifting statutes, most victims would never see redress.

Third, Katrina validated the approach of the community justice model, which in this case helped to alleviate tensions and to reach common ground on what constituted realistic expectations under the circumstances.

As our Katrina consumer protection project winds down, we are applying the lessons learned from representing Katrina victims to our current concentration: debtor assistance, foreclosure prevention, fighting abusive debt collection practices and protecting consumers from an industry of debt buyers which often runs roughshod over the rights of the most vulnerable among us.

JustAdviceSM: A Primer in Law Practice Management for Students and Quality Legal Advice for the Community

By Professor Leigh Maddox, Kat Hyland 3L, and Sean McCarthy 3L

“Excuse me sir, do you need legal advice?” third-year law student Sean McCarthy cheerfully asks a man passing by the Community Justice Initiative on 55 N. Paca Street. “If so, the law school clinic has the *JustAdvice* Program which offers thirty minutes of face time with a lawyer for ten bucks to answer your legal questions.” Sean extends a flier that lists the dates and times of upcoming sessions. The man pockets the handout, kindly smiles, and walks away. What opened its doors to the public as a small clinic project in the summer of 2009 has grown rapidly to become a significant legal outreach initiative. With nearly 500 customers served, the Program, housed in the Community Justice Clinic, targets the working poor and middle class who cannot afford to hire private attorneys but who earn too much to qualify for Legal Aid. This semester, the *JustAdvice* team eagerly anticipates progress in three areas: campus-wide collaboration, community outreach, and high-quality legal advice.

Law students and professors are vital to the program’s success. To date, the clinic has dedicated 3,000 student hours and 600 professor hours to administer the program. The educational payoff is huge. In addition to learning how to run a small legal business, students learn how to work with clients, take advice from supervising attorneys, and perform on-the-spot legal research and document preparation. And customers appreciate the close attention students provide. A recent customer remarked, “The law student who shadowed my case was very kind and helpful.” The program’s popularity motivated supervising Clinic Professor Leigh Maddox to turn to the rest of the law school campus for help and involvement.

First, *JustAdvice* team members joined forces with other law students and faculty outside of the Community Justice Clinic. Last spring, students and fellows from the Center for Health and Homeland Security, Consumer Protection Clinic, Health Law Program, HIV Aids Clinic, Immigration Clinic, Mediation Clinic, Tax Clinic, and Workers’ Rights Clinic came to sessions to learn and provide advice from their subject areas. Team members hope to continue and expand the role other law students can play during the fall.

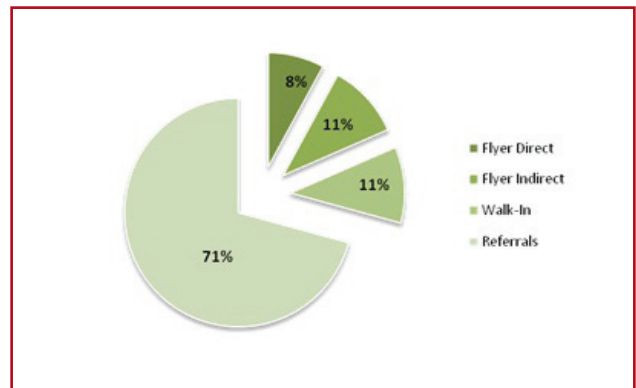
This past summer, the Program welcomed social work students from the Law and Social Work Program at trainings and sessions. These students supplemented legal advice by providing mental health services and other social support options to customers in need. Their involvement marked the Program’s first attempt to bridge the gap between the Law School and

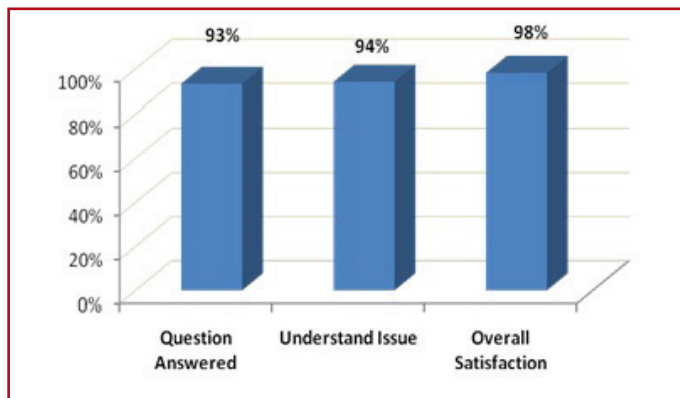


From Left: Professor Maddox with Ornela Fecanji '10, Intern Katherine Pecore, Kat Hyland 3L, Anne Blackfield '10, CJC Clinical Law Fellow, Sean McCarthy 3L, Volunteer Attorneys Tony Brennan, Stan Rohd, and Don McPherson, Research Assistant Chris Ramos, and Volunteer Attorney Tony DePastina.

the other schools on the downtown campus. Finally, this past summer, the *JustAdvice* Program became a client of the Intellectual Property Clinic, who helped it submit a trademark application to the United States Patent and Trademark Office.

Word is out among the community members about *JustAdvice*’s services—a roadmap for how to proceed with a legal problem, quick document preparation, referrals, or mere peace of mind. Compared to the 23% of all customers who heard about the program from a friend or colleague in their communities at the end of the summer session in 2009, 71% of customers had heard about the program by word-of-mouth at the end of summer 2010. Publicity has also spread because the clinic students assigned to the Program have sent





out mass mailings in the beginning of each academic term. They additionally produced a short video to promote the program online and have participated in print and television interviews. The Program seems to be filling its intended gap, with customer referrals pouring in from churches, community organizations, and the Legal Aid Bureau. More importantly, the customers are highly satisfied with the program—98% of customers have expressed overall satisfaction with the program, and would rate their experience “a nine out of ten.”

As of September 1, 2010, the *JustAdvice* Program has served nearly 500 customers at seven different locations: Brooklyn-Curtis Bay Coalition, Cherry Hill Senior Manor, Cherry Hill Town Center, Dee’s Place, Hollywood Diner, University of Maryland School of Law, and Washington Village Neighborhood Planning Council.

This fall, the Program plans to partner with the Ulman Cancer Fund for Young Adults to hold sessions at the University of Maryland Greenebaum Cancer Center. It also plans to offer services at the Center for Urban Families located near Mondawmin Mall. These new locations will help *JustAdvice* team members—both present and future—develop a closer relationship with the rest of the campus, broaden its medical and health law knowledge, and provide yet another option for community members.

To learn more about the *JustAdvice* Program, follow us on Facebook (“baltimorejustadvice”) or Twitter (@BaltJustAdvice), and visit our blog at <http://justadvice.wordpress.com>.

Real Appeals: The Appellate and Post-Conviction Advocacy Clinic

The Appellate and Post-Conviction Advocacy Clinic

teaches students about criminal appeals and post-conviction advocacy through the representation of real clients. Each year, the Clinic handles approximately ten appellate cases and five or six on-going post-conviction matters. During the fall semester, the scope of representation focuses primarily on direct appeals before the Maryland Court of Special Appeals (Maryland's intermediate appellate court). The Office of the Public Defender refers the appellate cases handled by the Clinic. Once referred, the Clinic becomes exclusively responsible for representing each client in the direct appeal of his case. During the spring semester, the clinic's work shifts largely to post-conviction matters. This representation entails, in most cases, a post-conviction proceeding in state court. However, increasingly, the clinic has taken on a number of cases requiring clemency pleas and claims raised under the newly-enacted writ of actual innocence statute.

The clinic is taught by Professor Renée Hutchins. Professor Hutchins joined the law school faculty in the fall of 2004 after spending just over a decade in practice. Through her research and writing Professor Hutchins seeks to provide analysis of and thoughtful commentary on questions with some practical relevance to the field of criminal procedure.

Students in the clinic have done an impressive job of providing high quality legal representation to indigent inmates seeking to challenge their wrongful convictions. Of particular note, over the last several years, the clinic has enjoyed a number of successes. For example, early last year the clinic secured a new trial for a post-conviction client who had been wrongfully convicted of sexual abusing the young son of a family friend. At a day-long hearing, the clinic presented substantial evidence that trial counsel had provided constitutionally inadequate assistance by failing to meaningfully prepare for trial, and by failing to sufficiently challenge the State's paper-thin case against the client. The Court overturned the client's conviction, finding that counsel's assistance was indeed constitutionally inadequate. Upon retrial, the State's Attorney's Office ultimately nol pros'ed all of the charges.

Also last year, the clinic successfully represented an appellate client who had been convicted of numerous felony drug offenses. The clinic argued that the conviction must be overturned based upon the trial judge's excessive involvement in the prosecution, which included more than one hundred individual comments and questions by the court. Agreeing with the clinic's argument of excessive entanglement, the

Over the summer, Professor Hutchins' article, "Tied Up in 'Knotts?': GPS Technology and the Fourth Amendment," 55 *UCLA Law Review* 409 (2007) was cited by the U.S. Court of Appeals for the D.C. Circuit in *United States v. Maynard* (2010). In *Maynard*, the Court held that the extensive warrantless use of GPS-enabled tracking violated the defendant's Fourth Amendment right to be free from an unreasonable search. As noted by the Court, this analysis was advanced by Professor Hutchins in her article.

Court of Appeals reversed the conviction. Specifically, the court found that the judge's conduct improperly led to an appearance of partiality that violated the client's constitutional right to a fair trial.

More recently, the clinic successfully represented a young man whose car was illegally searched by police after he had already been handcuffed and detained in the back of a police car. Relying up on the Supreme Court's recent *Arizona v. Gant* decision, the clinic argued that the proceeds of the search should be suppressed. Because the client had only been detained for a traffic violation and because there was no possibility that he could have accessed the car based upon his detention in the back of the police cruiser, the clinic argued that *Arizona v. Gant* mandated reversal. In response, the State first argued that the record was not sufficient to determine where the client was at the time of the search. In the alternative, the State urged the court to find that the search (even if prohibited by *Gant*) was insulated by application of the good faith exception. Carefully garnering every shred of positive evidence provided by the police testimony at the suppression hearing, the clinic successfully argued that the record was clearly sufficient to establish the client's location at the time of the search. Next, the clinic provided a thorough review of the policy and state law justifications for rejecting the State's reliance upon the good faith exception to the warrant requirement. The Court of Special Appeals agreed. Embracing the argument advanced in appellant's brief, the court rejected the State's argument that good faith reliance on existing law insulated the illegal search in the case and overturned the client's conviction.

Prof. Blom Honored for Public Service by Board of Regents

Naming her “a tireless advocate for justice for the state’s most vulnerable citizens,” the University System of Maryland (USM) Board of Regents has named School of Law Professor Brenda Bratton Blom, Co-Director of the Clinical Law Program, a recipient of its 2010 Faculty Award for Public Service. The Regents’ Award is the highest honor presented to faculty members who have achieved excellence in five areas including teaching; scholarship, research or creative activities; public service; mentoring; and collaboration.



In nominating Professor Blom, Associate Dean Michael Van Alstine emphasized Professor Blom’s work with the School of Law’s Community Justice Initiative, which has supported communities affected by over-incarceration. Associate Dean Van Alstine wrote, “Under Professor Blom’s leadership, nearly 50 regional and national partner organizations, ranging from neighborhood associations to the

Maryland General Assembly, the City of Baltimore, and the Baltimore Police Department, are collaborating to develop strategies that utilize effective alternatives to the traditional criminal justice system to help curtail crime and improve the quality of life in our community. A fundamental responsibility of law and legal institutions is to pursue justice in society. Professor Blom’s guidance and vision have helped make the University of Maryland School of Law a leader in this pursuit.”

The Board of Regents established the Faculty Awards fifteen years ago to publicly recognize distinguished performance by educators and researchers in the University System. The Board announced the 16 recipients that were selected for the 2010 award on April 16, during a meeting at the University of Maryland University College.

Consumer Protection Clinic Receives \$395,000 Award

The University of Maryland School of Law’s Consumer Protection Clinic was presented with a cy pres award of \$395,000 on May 5 as the result of funds that had been unclaimed through a class action suit in Montgomery County courts more than a decade ago. The Consumer Protection Clinic was one of 13 consumer advocacy programs in Maryland to receive part of the \$2.4 million judgment.

The award will enable the School of Law to continue operating the Consumer Protection Clinic, after financial cuts nearly shut its doors. “We had already taken steps to close it down,” Professor Michael Millemann said in a May 6 Washington Post article about the award. “This has been a long time coming, but from our perspective, it’s a terrific result.”

Cy pres awards are made by will or trust to an organization which comes closest to fulfilling the purpose of the gift, usually charitable or educational, after the named recipient of the gift does not exist, has dissolved, or no longer conducts the activity for which the gift is made.

The funding was distributed to organizations that would use the monies for a purpose similar to the aim of the original lawsuit. Using federal, state and common law, the School of Law’s Consumer Protection Clinic helps victims of fraud and other unfair or deceptive trade practices to enforce our consumer protection laws. Cases also involve home improvement contractor fraud, home foreclosure defense, auto repossession defense, debt collection defense or other matters faced by consumers in financial distress.

Publications & Presentations

Fall 2009 and Spring 2010

Jane Barrett

Recipient, 2010 CLEA Outstanding Advocate for Clinical Teachers Award.

“Overview of De-Delegation under the Clean Water Act: A Review of Strategic and Legal Issues,” Waterkeeper Chesapeake Annual Conference, Baltimore, Maryland (October 28, 2009).

Moderator, Panel on Global Environmental Law Multilateralism and Global Law Conference University of Maryland School of Law, Baltimore, Maryland (October 23, 2009).

Barbara Bezdek

Recipient, Fullbright Award to teach Land Use, Land Tenure Security, and Community Development Law at the Shanghai University of Finance and Economics (Spring 2011).

“Putting Community Equity in Community Development: Resident Equity Participation in Urban Redevelopment,” Chapter 7, in *AFFORDABLE HOUSING AND PUBLIC-PRIVATE PARTNERSHIPS* (Robin Paul Malloy & Nestor Davidson eds.) (Ashgate Publishing Ltd., 2009).

“The Alinsky Prescription: Law Alongside Organizing,” 42 *John Marshall Law Review* 101 (Symposium) (2009).

“Alinsky’s Prescription: Democracy Alongside Law,” 42 *John Marshall Law Review* 723 (2009).

“Between a Rock and a Hard Place: Seismic Economic Times Reveal our Need for Shared Equity Housing,” Poverty and Economic Mobility Conference, American University Washington College of Law, Washington, D.C. (October 26, 2009).

Brenda Bratton Blom

Recipient, 2010 University System of Maryland Board of Regents Faculty Award for Public Service.

“Problem Solving Courts: A Conversation with the Experts,” Moderator of Panel “What Does the Future Hold for Problem Solving Courts?” Sponsored by the *Journal of Race, Religion, Gender and Class*, University of Maryland School of Law, Baltimore, Maryland (November 6, 2009).

Pamela Chaney

“Tax Benefits for Taxpayers Supporting Dependents with Disabilities,” SPROUT Program, Northrop Grumman, Linthicum, Maryland (February 23, 2010).

Marc Charmatz

“Revitalizing the ADA: The Americans with Disabilities Amendments Act of 2008,” Civil Rights Litigation and Attorney Fees Annual Handbook (National Lawyers Guild, 2010) (with Anna McClure and Caroline Jackson).

Douglas Colbert

“It’s Not Funny: Creating a Professional Culture of Pro Bono Commitment,” in *VULNERABLE POPULATIONS, ECONOMIC REALITIES* (Carolina Academic Press, 2010).

Presentation, “Framing Problems and Finding Solutions—A Look at the Effects of the Recession on Social Welfare” at American University Washington College of Law, Washington, DC (January 28, 2010).

Interview, “The Firing of Maryland’s Public Defender: Just Cause or A Step Toward Assembly Line Justice?,” The Marc Steiner Show (September 1, 2009).

“Loss for Poor Defendants, Maryland’s Public Defender Forced Out,” *Baltimore Sun* (August 26, 2009).

Kathleen Dachille

“The Family Smoking Prevision and Tobacco Control Act of 2009: Relevant Provisions and Potential State and Local Government Action,” MD QUIT Annual Conference, Ellicott City, Maryland (January 21, 2010).

“Nutrition Labeling in Chain Restaurants: Increasing Knowledge and Decreasing Waistlines,” American Public Health Association Annual Meeting, Philadelphia, Pennsylvania (November 10, 2009).

“Maryland Legislative Process and the Role of Young Advocates,” TRASH Youth Advocacy Training, Baltimore, Maryland (November 7, 2009).

Moderator, “Maryland Democratic Legislators Panel,” University of Maryland School of Law, Baltimore, Maryland (October 15, 2009).

Panelist, “Supreme Court Preview: *Salazar v. Buono*,” University of Maryland School of Law, Baltimore, Maryland (October 12, 2009).

Panelist, “Supreme Court Preview: *Stop the Beach Renourishment v. Florida Department of Environmental Protection*,” University of Maryland School of Law, Baltimore, Maryland (October 12, 2009).

Deborah Eisenberg

“Shattering the Equal Pay Act’s Glass Ceiling,” 63 *SMU Law Review* 17 (2010).

“Opening the Doors to the Local Courthouse: Maryland’s New Private Right of Action for Employment Discrimination,” 9 *Maryland Law Journal of Race, Religion, Gender & Class* (2010).

Quote, “A Delicate Condition: What’s Behind the Rise in Pregnancy Discrimination Claims and How Employers Can Protect Against Them,” The Daily Record at 8B (March 15, 2010).

Testimony, House of Delegates Economic Matters Committee, in support of House Bill 91, Unemployment Insurance Modern-

ization Act, Maryland General Assembly, Annapolis, Maryland (January 28, 2010).

Testimony, Senate Finance Committee, in support of Senate Bill 107, Unemployment Insurance Modernization Act, Maryland General Assembly, Annapolis, Maryland (January 26, 2010).

Op-ed, "Benefits for Everyone: Modernizing the Unemployment Insurance System is Good Business, Too," *The Baltimore Sun* (January 26, 2010).

"Wages: From Full to Fair to Equal," Maryland Employment Lawyers Association Annual Conference, Baltimore, Maryland (December 4, 2009).

Peter Holland

"Fraud is Fun or: How a Foreclosure Rescue Scam Changed My Life" *Trial Reporter: Journal of the Maryland Association for Justice, Inc.* (Fall 2009).

Renée Hutchins

Cited by the U.S. Circuit Court of Appeals in *U.S. v. Maynard* (2010), "Tied Up in 'Knotts'? GPS Technology and the Fourth Amendment," *55 UCLA Law Review* 409 (2007).

Panelist, "Supreme Court Preview," University of Maryland School of Law, Baltimore, Maryland (October 12, 2009).

Sherrilyn Ifill

Lecture, "Wise Latinas, Black Raconteurs, and White Umpires: Conceptions of Race and Judging in Supreme Court Confirmation Hearings, 1955-2009" (March 18, 2010).

Susan Leviton

"Who Is Disabled: Differences in Educational Classification and Medical Systems," Pediatric Topics in Growth and Development Seminar Series, University of Maryland Medical School, Baltimore, Maryland (December 15, 2009).

"Race, Class and the Quest for Educational Reform," Sergeants Inn, Hamilton Street Club, Baltimore, Maryland (November 4, 2009).

Leigh Maddox

Interview, "Discussion of NAACP Support of Proposition 19, California Marijuana Legalization Initiative," Marc Steiner Show (June 30, 2010).

Interview, "JustAdviceSM," with Kia Jackson, WJZ Baltimore (May 2, 2010).

Panelist, "A Web of Learning Opportunities: How ADR Programs Can Weave Together Legal Instruction, Research, and Services to the Community," Legal Educators Colloquium, American Bar Association, Section of Dispute Resolution Conference (April 10, 2010).

Moderator, Film Screening and Panel Discussion, "At the End of Slavery: The Battle of Justice in Our Time," University of Maryland School of Law, sponsored by the Christian Legal Society (April 1, 2010).

Michael Pinard

"Collateral Consequences of Criminal Convictions: Confronting Issues of Race and Dignity," *85 New York University Law Review* 457 (2010).

Panelist, "Bridging the Traditional Clinical/Doctrinal Divide," Southeastern Association of Law Schools, 2010 Annual Conference, Palm Beach, Florida (August 1, 2010).

Panelist, "Criminal Record Expungements," 12th Annual Maryland Partners for Justice Conference, Baltimore, Maryland (May 27, 2010).

Mini-Plenary Presenter, "Three Year Arc for Outcomes and Assessments," AALS Conference on Clinical Legal Education, Baltimore, Maryland (May 5, 2010).

Moderator, "Juvenile Justice: A Plurality of Perspectives on Persistent Problems," Southeastern Association of Law Schools 62nd Annual Meeting, Palm Beach, Florida (August 6, 2009).

Shruti Rana

"Integrating Comparative Perspectives into Contracts Courses," Teach-In on New Approaches to Teaching Contracts, AALS, New Orleans, Louisiana (January 8, 2010)

"Chevron Without the Courts?," William & Mary Law School, Faculty Workshop, Williamsburg, Virginia (November 10, 2009).

Maureen Sweeney

Moderator, Immigration 101 Panel, Maryland Partners for Justice Conference, Baltimore, Maryland (May 27, 2010).

Trainer, *Padilla v. Kentucky* and Immigration Consequences of Convictions, Maryland Office of the Public Defender, Sentencing Conference, Annapolis, Maryland (May 7, 2010).

Interview, "Students Help Haitians Apply for TPS," WBOC - TV, Channel 16, Salisbury, Maryland (February 20, 2010).

Panel Moderator, "Working Session: Practical Considerations: Creating a Domestic Best Interests Determination," Practical Considerations: The Nexus of Social Work and Law in International Child Welfare, University of Maryland School of Social Work, Baltimore, Maryland (October 31, 2009).

Ellen Weber

"Medical Marijuana and the Law" *362 New England Journal of Medicine* 1453 (2010) (with Diane Hoffmann).

"Failure of Physicians to Prescribe Pharmacotherapies for Addiction: Regulatory Restrictions and Physician Resistance," *13 Journal of Health Care Law & Policy* 101 (2010).

Deborah Weimer

Recipient, 2009 Benjamin L. Cardin Distinguished Service Award, Maryland Legal Services Corporation.

"Advocacy and Policy Change," Interdisciplinary Collaborative Education Conference: Partnerships Between Law Schools and Health Professions, Georgia State University Law School, Atlanta, Georgia (September 24-25, 2009).

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