
CLINIC HAPPENINGS

HUSL CLINIC VOLUME NO. 1 ISSUE NO. 5 AUGUST 2004



Photographs by Bruce Kluckhohn, appearing in David Kelly, *Clinical Trials*, 3 [Equal Justice Magazine](http://www.ejm.lsc.gov/EJMIssue6/) 24, 26 (Summer 2004).
<<http://www.ejm.lsc.gov/EJMIssue6/>>

Hamline's Education Law Clinic received national recognition over the summer. The picture above was taken from an article entitled "Clinical Trials" published in *Equal Justice Magazine* in the Summer 2004 issue. The article highlights the first hand experience offered to law students through the clinic which is aimed at helping "low-income children overcome some of the barriers that make it difficult to succeed in school, such as limited English proficiency, inadequate special education programs, discrimination and homelessness." *Id.* The clinical programs are beneficial to both up-and-coming lawyers attempting to learn the ins and outs of the law, but also to low income clients who may otherwise go unrepresented. The picture shows Hamline University Law students Chris Frampton (left) and Kerstin Forsythe (center) standing outside the Ramsey County Government Center in St. Paul, Minnesota discussing a case with their clinical professor Lilian Ejebe. Ms. Ejebe is a staff attorney at LSC-funded Southern Minnesota Regional Legal Services. *Id.*

The article covers the two students' representation of their client, a woman with a 17

year old daughter, who missed a substantial amount of school due to migraine headaches. The condition was diagnosed and confirmed by a physician and the client wanted the school to make accommodations for her daughter which is required under the Federal Rehabilitation Act of 1973. As a result of Forsythe and Frampton's work on the case, the parties settled, *and* the school agreed to most of the accommodations sought and client's daughter is no longer considered truant when her headaches kept her from attending school. *Id.* at 26-27.

The case is a great example of the hands-on experience offered in a clinical course. The students had the opportunity to research legal strategies and do various interviews to aid them in representing their client. They learned how the legal system works by putting their law school education into practical use. "Students in law clinics confront many of the same types of problems that attorney's confront in practice. The experience they gain dealing with legal dilemmas can give them the confidence to become effective lawyers from the moment they take their first jobs." *Id.* at 28.



"Forsythe signed up for the experience with a preexisting commitment to the public service ideal. She even had experience as a legal aid volunteer. 'Even though there are challenges working with low-income clients, there are also a lot of benefits. You get to see how it really impacts their lives. That means a lot to me,' she says." *Id.* at 31.



"Frampton had always pictured herself working with children. She joined the clinic because 'it would provide a broad view of the issues that surround kids.' However, her perspective has

changed as a result of her looming debt. She has accepted a job in real estate and trusts. 'It's not my ideal, but it's a job,' she says." *Id.* at 32.

ALTERNATIVE DISPUTE RESOLUTION CLINIC:

Dar Nubson and Dan Key put all their experience and maturity to work. Their client had lost his job, in part because of his own actions. But nevertheless, he felt he had been discriminated against. Dar and Dan after detailed and careful investigation felt it was a weak case, at best. But they got his job back anyway! How? By going over to the company, meeting for 4 hours with the President and convincing him that their client is a "good guy". They got their client a good job, back pay and a future- with a case that seemed weak from the beginning. Both Dar and Dan took negotiation to an art form. Their client is so very happy to be working again at a living wage job with good benefits and a future.

Cindi Hills, with the encouragement and advice of Student Director **Michelle Kunzman**, put all her experience as a Human Resources employee for a Minnesota County to excellent use for her client. The client had lost her job "because she was pregnant". The employer said she lost it because she was on probation and they decided not to renew her contract. Cindi met many times with the client, dealt with many tears, stayed patient and understanding over many months. She negotiated hard and civilly at the Equal Employment Opportunity Commission Mediation. Twice the mediation ended without an agreement. But on the third try the School District paid back wages and gave the client a good employment recommendation. Cindi did all this, worked full time for a northern Minnesota county, commuted on weekends and had her second healthy son during the 2004 Spring Semester. And she is a weekend student to boot!!

Jason Overgard and Elimu Kajunju had a most interesting case. The bank said it did not treat their client illegally when it refused to cash a check at the drive-up window, even though other employees from the same organization who were white had cashed similar checks from the organization at the same window. The bank

denied discrimination. Jason and Elimu recommended that the client pursue her case with the Minnesota Department of Human Rights. They wrote a very useful brief for the client to be given to the Department's investigator. Here is what the client said of them: "I really appreciate the hard work that was put into my case. I truly do not believe I could [have] asked for a better team. The case was handled with dignity and respect".

Michele Satterlund, a Student Director in the Clinic, not only got a large settlement for her client who faced hostile comments like "I'd like to get into your pants", but also won the Unemployment Compensation case which the employer had fought. The Unemployment Compensation case was not part of the Hamline's ADR Clinic for Michele, but she was so incensed about what happened to her client she volunteered to do it anyway. A double win.

Michelle Kunzman decided that the EEOC needed some good volunteers. So while working in the Hamline ADR Clinic as a Student Director she also worked as a volunteer at the EEOC Mediation Program. They "loved" her there. She now has the Hamline Program (especially her Professor Joseph Daly) and the EEOC "shaped up".

Professor Joseph L. Daly stated: "Spring 2004 was a great Semester for the Hamline University School of Law ADR Clinic, with the very first Weekend students to take a clinic doing professional and honorable advocacy for their clients."

CHILD ADVOCACY CLINIC:



*Congratulations
Michele Newell on a
Minnesota
Appellate Court
victory!!!*

Michele Newell, 3L was the Student Director for the Spring semester. Michele returned from her summer job in Colorado for the exciting but nerve-racking opportunity to argue one of her cases before

the Minnesota Court of Appeals. Michele did a tremendous job of researching and writing the brief as well as arguing eloquently before the appellate court! Her hard work paid off; the Court issued its opinion September 14, 2004, reversing the trial courts decision to dismiss a termination of parental rights case and remanding the issue for trial court determination, just as Michele had argued for. To read the Court's opinion go to:

<http://www.courts.state.mn.us/opinions/coa/current/opa040461-0914.htm>

Michele was a tireless and zealous advocate on all of the cases that were assigned to her. Student Directors are assigned the more complex cases due to their completion of one clinic semester prior to assuming the Student Director role. Michele's compassion for children transformed into excellent legal work on behalf of her clients. Michele is an excellent Certified Student Attorney.

CHILD ADVOCACY BOWLING NIGHT Spring 2004 Class



From top Left : Julia Martin, LeAnn Jones, Michele Newell, Kelly Knight, Dora Villarreal, Molly Kalb, & Professor Mary Jo B. Hunter; aka Ho-Chunk Princess and Bowling Queen.

The law students in the Spring 2004 class chose to end their semester with a bowling party at Minnehaha Lanes in Saint Paul. As they prepared for our fun outing as a class, some of the students challenged Prof. Hunter that they would beat her at bowling! Although she

scoffed at the notion, Prof. Hunter took up the challenge.

The scores of the challengers speak for themselves!! The bowler with the lowest scores was Molly Kalb, 3L and former Student Director from Fall 2003 class. Molly had an average of 65 for her two games.

Next, Dora Villarreal averaged 78. The averages moved up a bit as Spring 2004 Student Director, Michele Newell averaged 80 per game. Scores jumped up a bit as LeAnn Jones (who is the Fall 2004 Student Director) averaged 96 with her bowling. Julia Martin ended up with an average of 97 and the top bowler for the evening was Kelly Knight! Kelly averaged 102 for the evening!!

And, you ask, what was Professor Hunter's average? Drumroll please...141 was her average. Words of caution to future clinic students...do not pick bowling for our fun end of the semester event. Or, if you do, don't challenge Professor Hunter. Nevertheless, a good time was had by all!

Spring 2004

(The class year is as of last Spring semester.)

Rachael Hernandez, 3L, advocated on behalf of several children during the semester. Rachael made extraordinary efforts in working with a young man who was "on the run". Rachael worked hard to provide him with legal advice while staying within the boundaries of the Rules of Professional Responsibility. Sounds easy but it takes effort and thoughtful examination of the attorney-client role.

Jodie Humphrey, 2L, handled a variety of cases. She represented a Guardian Ad Litem (GAL) in Hennepin County and acted as a GAL in Ramsey County. Jodie worked hard on her cases but more on that later in this newsletter! Jodie and another law student learned that Mapquest is not always your friend as they became incredibly lost when

they attempted to find a home that they were visiting as the Guardian Ad Litem.

LeAnn Jones, 2L, jumped into the mix by representing a Guardian Ad Litem at a hearing without any hesitation. LeAnn is a natural and conducted herself like a seasoned professional.

Kelly Knight, 2L, learned that visiting children who are “special needs” children means hanging on to your car keys. Despite the antics of a busy child, Kelly conducted a professional visit with the children and their foster parents to prepare for an upcoming hearing. The result was an excellent preparation of a court report.

Julia Martin, 2L, partnered with Kelly Knight. The two of them prepared for court with thoroughness and concern for the best interests of the children.

Dora Villarreal, 2L, provided invaluable assistance in the clinic with her Spanish speaking ability. Once she and Jodie finally arrived at the above mentioned home visit, Dora was able to take command of the interview process. Her skills enabled her as well as Jodie to advocate for a change of placement for a small child. Both Jodie and Dora saw the need to look out for the best interests of the child. Admirable!

EDUCATION LAW CLINIC:

Three students, **Ivy Bambenek**, **Kerstin Forsythe** and **Chris Frampton** participated in the Education Law Clinic during the 2004 spring semester and achieved outstanding results for their clients and SMRLS' Education Law Advocacy Project. The students rapidly learned various education laws through extensive research projects and classroom discussions. The students also represented clients at Individual Education Planning meetings. In one difficult case, the clinic students succeeded in getting a school district to implement a Sec. 504 accommodation plan for a client whose debilitating migraines were affecting her school attendance and performance. The school

district, represented by a private law firm, was very resistant to evaluating the client's eligibility for special education services. The clinic students met with the client several times to determine her educational needs, researched and responded to the legal issues raised by the school district attorney and participated in school meetings.

Kerstin Forsythe also conducted extensive investigative work on Youth Programs established under the federal Workforce Investment Act. Her finding was helpful in identifying problems with the implementation of the law and in developing advocacy strategies for enforcing youths' rights under the law.

IMMIGRATION CLINIC:

A collaboration between Hamline Law School and the non-profit law firm of Centro Legal, Inc., the Immigration Clinic recently completed its' fourth successful year. Students represent clients in a variety of immigration law cases which are referred to the clinic from Centro Legal. Students gain hands-on, practical experience by representing clients through all phases of their immigration cases, including family petitions, applications for residency and citizenship, removal and deportation cases, visa applications, and claims made on behalf of victims of torture, abuse, and violent crime. The clinic provides students with a high level of direct client contact, and the opportunity to participate in and observe local Immigration Court hearings. The clinic offers students the added challenge of counseling many non-English speaking clients, a useful tool in helping today's increasingly diverse client community.

Highlights from the Immigration Clinic's 2004 cases include:

- Assisting the victim of a drive-by shooting in receiving legal immigration status and a work permit in the United States;
- Representing a family of 4 applying for political asylum;
- Assisting a U.S. citizen in petitioning for the immigration of his wife from the Dominican Republic;

- Assisting another U.S. citizen in petitioning for the immigration of her elderly mother from Ecuador;
- Assisting a young woman in applying for and receiving citizenship in the U.S.
- Counseling and representing clients at immigration hearings who are in immigration detention

INNOCENCE CLINIC:

The Innocence Clinic works in conjunction with the Innocence Project of Minnesota. In the clinic, students have the opportunity to investigate claims of actual innocence being made by inmates in Minnesota, and North and South Dakota. Students start working a claim by obtaining primary source material – police reports, forensic reports, court pleadings, transcripts, appellate briefs and opinions. At that point, many of the students have had the opportunity to talk to the trial and appellate attorneys who had previously worked on the case. This usually gives the students a great deal of insight into the legal process.

After reviewing all of the source material, if the case still appears to be a viable one, the students will often visit the inmate in prison. Most of the students find this to be very interesting and rewarding as few of them have ever visited a prison. It also gives them an opportunity to meet the inmate in person and question them about their claim. At this point, the students often develop strong feelings about the inmate’s claim. Students also search for new evidence, visit crime scenes and interview witnesses. Although there are some frustrating moments like difficulty in locating witnesses or their lack of memory once found, the students find this “hands on” experience to be a very worthwhile. Overall, past clinic students have really enjoyed their time in clinic and benefited from the experience of working on real cases.

MEDIATION CLINIC:

The Mediation Clinic is collaboration between Hamline and four providers of mediation services in the community --

Washington County conciliation court, the Mediation Center for Dispute Resolution, the Dispute Resolution Center, and the Minneapolis Mediation Program. The Mediation Clinic offers students the opportunity to put mediation training into practice in the metro-area conciliation and housing courts. In addition to weekly class hours, students mediate a range of cases in the local courts, including but not limited to unlawful detainer actions; breach of contract matters; landlord-tenant issues relating to the nonpayment of rent, the return of security deposits, and repairs; business-consumer matters such as theft of service or quality of service issues; as well as employment disputes; property damage; and money owed.

With the assistance of student-directors, students manage the fast-paced mediation process from beginning to end where they not only inform potential parties of the benefits of mediation, inviting them to consider the process as a means for effectively resolving the disputes that brought them to court, but they also draft settlement agreements that are presented to the court for review and incorporation as part of the court’s binding order. Cases are reviewed in class (to the extent permitted by the rules of confidentiality) to celebrate successes, troubleshoot challenges and share best practices. The experience is incomparable and a must have for students contemplating a career in ADR.

SMALL BUSINESS/NON-PROFIT CLINIC:

Hamline’s Small Business/Non-profit Clinic has been working to provide low-income clients with advice on the fundamentals of starting and developing a business for over 6 years. Students who have taken the clinic have had the opportunity to work with a variety of clients including international clientele.

An article entitled “Theory Meets Practice in the Real World”, which will appear in the September publication of the Hamline Advocate, highlights some of the work students have done to aid international clientele in forming non-profit organizations. Two years ago, the students in one case tackled complex requirements of business law to aid a client in setting up a pro bono mobile medical clinic in

his home village in India, which has since aided over 55,000 patients and now serves 60 villages. This case is just one example of the practical experience the Small Business clinic has to offer. Students who choose to participate will have the opportunity to delve into an area of law that is both challenging and diverse.

STATE PUBLIC DEFENDERS CLINIC:

The State Public Defender Clinic, which was previously the LAMP (Legal Assistance to Minnesota Prisoners) Clinic, had a successful first semester. The students worked on a number of criminal cases, at the post-conviction or appellate level, and represented clients at parole revocation hearings.

Some highlights from spring semester include: Student Attorney **Mark Enslin** wrote an appellate brief to the Court of Appeals from a post-conviction order denying his client's motion to withdraw his guilty plea. That case is currently pending at the court of appeals. In another case, **Mark Enslin** was successful with a post-conviction matter regarding restitution, where he argued against the state's position to dismiss the petition without a hearing. The district court ruled against the state, ordered a hearing, and then the county attorney agreed to significantly reduce the restitution amount originally ordered. Student attorney **Betsy Schollmeier** filed a post-conviction petition to obtain jail credit for an extended jurisdiction juvenile. While this matter was pending, the Minnesota Supreme Court decided *State v. Garcia*, holding that the EJJ defendants are entitled to this jail credit and the statute prohibiting the credit violates equal protection. **Betsy** had made the same arguments and her client received over a year in jail credit against his adult sentence.

Student Director **Andrew Karlsen** successfully challenged his client's felony DWI conviction, specifically the prior alcohol-related driving violations used for enhancement. The result was that his client did not have the requisite priors for a felony level offense; he was only guilty of a gross misdemeanor offense, and his 58-month prison sentence was reduced to a year. **Andrew** also was successful in another case in which he represented a client in a contested hearing regarding termination of the

defendant's parental rights in district court – the result was that his client's parental rights were not terminated.

We're waiting on a number of decisions from pending cases that the summer clinic students worked on, including some of the cases resulting from the *Blakely v. Washington* decision (where the U.S. Supreme Court held that an upward departure from a presumptive guidelines sentence is unconstitutional unless a jury, not a judge, determines the existence of departure factors).

TRAIL PRACTICE CLINIC:

Sara Smith and Jennifer Van Dulmen had represented a clerk who was fired from a job for three incidents of alleged misconduct in fall semester, 04. **Sara and Jennifer** prepared the client to testify regarding these incidents. They found a witness who also testified. **Sara and Jennifer** did an excellent job preparing the client to tell her story through direct examination. They argued that she acted as a reasonable employee and did not disregard her employer's interests. She was found not to have committed misconduct and was allowed to receive unemployment insurance benefits. In spring semester, 04 **Carrie Doom and Barry McKee** preserved that victory by successfully countering the employer's appeal to commissioner with a persuasive legal brief.

Carrie Doom and Barry McKee represented an individual who took a cigarette break and was locked out of the building. The employer fired the employee for misconduct for taking too long of a break. **Carrie and Barry** conducted a thorough investigation and were prepared to prevail at trial when the employer gave up and conceded defeat without a trial. The employee received unemployment insurance benefits.

Patty Morris and David Hoke represented an individual who was fired for missing work. The employee, who lived 65 miles from work, called the employer to state that he would miss work due to the fact that his car was in the shop. **Patty and David** proved in a telephone hearing that the employee had never been absent before, that he called in on time, that there was no way

for him to get to work 65 miles away without a car, and that he had not committed misconduct. They prevailed and he was found eligible for unemployment compensation.

Patty Morris and David Hoke represented an employee fired for multiple allegations of misconduct. They did a thorough investigation and found the employee had never been notified by the employer of their concerns. As a result of the investigation the employer stated it would be in their best interest to withdraw their appeal. The employee thus was able to retain unemployment benefits and **Patty and David** won without a trial.

Debra Newell and Ann Verme represented a parent with extreme family emergencies that caused absence from work. They proved that the employee had good cause to miss work and not notify the employer due to the extreme nature of the family crisis. This maintained the employee's eligibility for benefits. The employee was disqualified from benefits for few weeks due to not being "available" for work.

Debra Newell and Ann Verme represented an employee who believed he had been fired while the employer claimed he quit. **Debra and Ann** did an excellent job preparing the client for direct exam. This was not an easy task but was accomplished with many practices. The employee presented his position very well in trial but he employer won the credibility contest.

CLINIC STAFF:

SUMMER ASSISTANT

The summer of 2004 went by quickly for **Jodie Humphrey** who worked with Prof. Hunter as a Research Assistant/Student Director. Jodie took off a few days after the exams in the Spring, then she returned to work for the summer. Her first task was to conduct a complex trial. Jodie did quite well in the case which involved terminating the parental rights of several children in an Indian Child Welfare Act case. Jodie represented the Guardian Ad Litem who represented the best interests of the children.

Jodie worked diligently all summer in various roles to advocate for the best interests of children. She assisted the clinic by working on this newsletter and doing a great job on it!

While Prof. Hunter went on vacation, Jodie fielded calls and handled cases in the clinic. She also assisted in file destruction which was a "first" in the clinic after many years.

Jodie Humphrey has been a great asset to the entire Clinic this summer. She worked hard while exhibiting a winning smile and great attitude. Thank you, Jodie!

--Submitted by Mary Jo Hunter,
Associate Clinical Professor

Vickie Jauert has a B.A. in history from the University of Minnesota-Morris and is a current member of the UMM Alumni Association. She is currently working on a Master's Degree in public administration to be completed May, 2005.

Vickie has been the Administrator of the Hamline University School of Law Clinic/Skills Program for 15 years. Vickie served two years as Administrative Staff Association Representative at Large to the University Council, and also served as Vice Chair of the ASA Executive Committee in 1998-1999 and Chair 1999-2000.

Prior to coming to Hamline, she worked as the Administrative Assistant for the State Bar of Texas, Board of Legal Specialization for 7 1/2 years.

Vickie is married with two children, John, 17 and Jason, 10 and her favorite past time activity is camping in Ely with her family.

Felecia Brookshire joined the Clinic as the Legal Secretary in July 2004. Prior to joining the Clinic, she worked in the Faculty Secretaries office from January 2003 to June 2004. Felecia is the proud mother of two wonderful children, Dominique who is 15 and Daaiim who is 10. She also is eagerly expecting a third addition to her family in October. Felecia is most happy when she spends her free time with her children.

Prior to coming to Hamline, she worked as a Legal Secretary at the Minneapolis law firm Malson, Edelman, Borman & Brand for 5 years.

Katrina Kaiser is a clinic student worker and is now a senior at Hamline University. She is majoring in Psychology, with a minor in Anthropology, and is also working toward her Forensic Science Certificate. Katrina plans to pursue a Master's Degree in Psychology.

Sara Ormseth is also a clinic student worker and is a junior at Hamline University. She is a Management major with a Marketing Concentration.