

FINAL REPORT

Equal Justice America Disability Rights Clinic

John Jay Legal Services

Pace University School of Law

June 29, 2015

Introduction

Completing its fifteenth year of operation, the Equal Justice America Disability Rights Clinic at Pace University School of Law continues its dual mission of training future lawyers and providing free legal services to low income persons with disabilities and their families.

Pace Law School's clinical offerings, under the umbrella of John Jay Legal Services, enable students to gain proficiency in lawyering skills while representing clients pursuant to a Student Practice Order issued by the Appellate Division, Second Department of the New York State Supreme Court. Under supervision of full-time clinical faculty, students enrolled in clinical courses perform all lawyering functions normally reserved to lawyers admitted to practice. In addition to the Equal Justice America Disability Rights Clinic, John Jay Legal Services also provides representation to individuals by legal interns enrolled in the Investor Rights Clinic, the Barbara C. Salken Criminal Justice Clinic, the Neighborhood Justice Clinic, and the Immigration Justice Clinic. In addition to these client representation clinics, field work in the non-profit legal arena is available to students through the Legal Services/Public Interest/Health Law Externship, the Family Court Externship, the Prosecution Externship, the Environmental Law Externship, and the Honors Prosecution Externship, a joint undertaking with the Westchester County District Attorney's Office.

The Equal Justice America Disability Rights Clinic

The Equal Justice America Disability Rights Clinic provides students with the opportunity to learn and apply lawyering skills as well as the substantive law relating to the rights of persons with disabilities in a highly controlled and intensively supervised legal practice environment. For most students, it is their first experience with law as lawyers.

For the 2014-2015 academic year, the Clinic was again offered as a two-semester course. A total of four* students participated in the Clinic, including two students participating in the inaugural year of the Pro Bono Scholars Program, an initiative of Chief Judge Jonathan Lippman, designed to increase access to legal services by the underserved. The Pro Bono Scholars worked full-time in the Clinic in the spring semester, having taken (and passed) the New York Bar Exam in February. The remaining were full-time students who were enrolled for a total of six credits each semester. All students participated in the seminar which provided two academic credits each semester. Students are expected to spend on average five hours per week per clinical credit on case-related work.

The Seminar Component

In a weekly seminar, students learn and practice lawyering skills such as interviewing, counseling, negotiation, fact investigation, and conducting administrative hearings. The learning of these skills is integrated with relevant substantive law, including eligibility for the government benefit programs available to persons with disabilities (Social Security Disability, Supplemental Security Income, Medical Assistance, special education services) and the planning tools available to disabled persons and their families (guardianships, wills, special needs trusts). The seminar also provides the opportunity for students to present issues and choices from the cases they are working on and benefit from the critical reflection of their colleagues. Ethical issues are discussed as they arise in individual cases with particular emphasis on the complexities of working with clients of diminished mental capacity. Students learn how to read and interpret medical records and work with medical personnel to describe a client's medical condition using

* With declining Law School enrollments, there are fewer students available to staff our clinical programs. However, the Equal Justice America Disability Rights Clinic has been able to handle the same number of cases by offering the clinic for 6 credits each semester and having the Pro Bono Scholars work full-time in the spring semester.

legally relevant terminology. Students also learn how to work with other helping professionals, such as social workers, doctors, nurses and advocates, to identify and meet clients' non-legal needs. Readings focused on learning lawyering skills are supplemented with readings directly relevant to disability law.

The Case Work Component

Clinic students, either individually or in teams, have primary responsibility for the conduct of their assigned cases. The student is responsible for planning each lawyering activity, reviewing the plan with the Clinic faculty supervisor, conducting the activity and finally, reflecting on the experience and the usefulness of the preparation. Throughout the year, each student engages in client interviewing and counseling, fact investigation and witness interviewing, legal research and analysis, and drafting a variety of legal documents and instruments. Most students have the opportunity to appear before a court or administrative tribunal.

The cases handled involved a variety of legal issues faced by persons with disabilities and their families. Clients were referred by several social service agencies with which we have formed alliances, including Catholic Charities, the Westchester County Commission of Human Right, Westchester Residential Opportunities, Mt. Vernon Board of Education, NAMI of Westchester, and UCP of Westchester, Taconic Innovations and Jowonio, case management agencies serving persons with intellectual disabilities. Several clients were referred by other Clinic clients or self-referred. All of the clients are low income. They are unable to pay for the legal help they need and were unable to secure representation from other sources of free legal services. Several cases completed during the year were begun during previous years.

A total of 39 matters were handled by students during the grant year.[†] Of these, 13 were new matters. Thirteen matters were concluded by the end of the grant year and 26 are pending.

The cases involved the following substantive areas:

| <u>Area</u> | <u>Number of Clients</u> |
|------------------------------|--------------------------|
| Art. 17-A Guardianship | 11 |
| Art. 17 Guardianship | 2 |
| Special Education | 3 |
| Lifetime and Estate Planning | 6 |
| Estate Administration | 4 |
| Benefits Issues | 6 |
| Special Needs Trusts | 3 |
| Human Rights | 3 |
| Consumer | 1 |

Case Examples

We continued to work with families who wish to become guardians of their adult children with developmental disabilities. Students worked with 11 such clients during the year. All clients have been counseled about the guardianship process and assisted in identifying standby guardians and obtaining necessary certifications from doctors and psychologists. Letters of guardianship were issued by the Surrogate in 3 cases. We are awaiting a decision in 2 cases. One client decided not to proceed. Petitions are being prepared in the remaining cases.

Six clients were assisted with benefits matters. Two clients were successfully represented at hearings before the Social Security Administration. In one case, a young man

[†] During the summer of 2014, one student worked for credit and two students worked part time on a paid basis. During the summer of 2015, two students are working for credit and one student is working on a paid basis. The students are paid with Federal work study funds.

with a severe mental illness was found eligible for Supplemental Security Income after the hearing before an Administrative Law Judge. In the other, the client who had worked for many years in the insurance industry, was found to be disabled and eligible for Social Security Disability benefits. Each of these clients received retroactive benefits in addition to on-going benefits.

We are involved in four cases requiring the administration of modest estates in Surrogate's Court. Each of these cases involved extensive investigation or challenging family relations. These cases provide excellent experience for the students and a service to the clients who would otherwise see their modest inheritances spent on investigators and lawyers.

In two Special Education cases, the students attended Committee on Special Education (CSE) meetings with the parents and secured needed services for the children. In the third, the student is working with the mother of a young brain-damaged woman to identify an alternative placement and secure needed services as she transitions out of the education system.

Students also worked on 6 cases in which the clients wish to engage in life-time and estate planning. Three of these cases involve providing for a disabled child or sibling through a life-time or testamentary trust. In three cases, students drafted wills, powers of attorney and health care proxies after counseling their clients about available options.

We handled one new case at the Westchester County Human Rights Commission. An elderly woman with a disability had asked her landlord to consent to the designation of a handicapped parking spot outside of her apartment. The landlord refused to sign the consent and the client filed a complaint at the Human Rights Commission. After the Human Rights Commission found that there was probable cause to believe that the landlord had violated the law and noticed the case for a hearing, the student assigned to the case negotiated a full settlement of

the case on the eve of the hearing. The landlord signed the required documents, agreed to extend the client's lease and make all necessary repairs.

Community Outreach

Clinic students and other law student volunteers participated in Westchester County's Senior Law Day on October 29, 2014. After audience members heard a presentation about health care proxies, the law student volunteers assisted them with completing health care proxies and answered their individual questions.

Plans for 2015-2016

In addition to offering the Clinic as a year-long course, the Clinic will again be the placement site for Pace Law students participating in the Pro Bono Scholars Program. We have formed a partnership with the Veteran's Administration long-term care facility in Montrose, New York and will provide life-time and estate planning services to residents who do not have access to legal services. We anticipate handling a similar mix of litigation and transactional matters, assisting low income persons without other means of securing needed legal services and giving future lawyers the skills necessary to help this vulnerable population.