

EQUAL JUSTICE AMERICA
DISABILITY RIGHTS CLINIC

At

JOHN JAY LEGAL SERVICES, INC.
ELISABETH HAUB SCHOOL OF LAW
PACE UNIVERSITY
REPORT

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Introduction

The Equal Justice America Disability Rights Clinic (EJA DRC), operating under the auspices of John Jay Legal Services, Inc. (JJLS) at the Elisabeth Haub School of Law at Pace University, White Plains, NY, successfully transitioned to an evening class format for the Spring 2022 semester. The Law School's clinical offerings enable students to gain proficiency in lawyering skills while representing low- and moderate-income clients pursuant to a student practice order issued by the Appellate Division, Second Department of the NYS Supreme Court. Under the supervision of clinical faculty, students enrolled in clinical courses perform lawyering functions reserved to admitted attorneys and reflect on their personal and professional achievements. In addition to the EJA DRC, JJLS clinical students participated in the Barbara C. Salken Criminal Justice Clinic, Fairbridge Investor Rights Clinic, Food and Beverage Law Clinic, Immigration Justice Clinic, and Pace Environmental Litigation Clinic. In addition to these client representation clinics, field work in legal non-profits and other organizations was available to students in various supervised externships.

The Law School's decision to transition the EJA DRC to an evening class format was motivated in part to offer a clinical experience to "flex" or part-time law students. The EJA DRC continued its dual mission of training future lawyers in fundamental legal skills and providing free civil legal services to qualified disabled persons and their families. This transition required a shift to transactional legal work, such as wills, advance planning documents like health care proxies, living wills, and powers of attorney. Advice and counsel could still be provided on government benefits, guardianships, special needs trusts (with limited court and hearing participation) and reasonable accommodations and modifications in housing. Patricia Angley, Esq., Senior Staff Attorney in the Elder Unit at Legal Services of the Hudson Valley (LSHV), was hired as the new Director of the EJA DRC. Five students, including a fully remote student, successfully participated in the EJA DRC 13 week, 4 credit course (2 credits seminar, 2 credits clinical work) and submitted weekly work logs with a detailed accounting of their work for both the seminar and clinic.

Seminar Component

During the 13-week semester, the students were very well-prepared for class and actively participated in class discussions on the rights of disabled persons and timely submitted written assignments. The first two weeks were remote, and the students rose to this challenge. The students excelled in accepting the continued remote participation of their colleague when we were able to return to the classroom. They learned and practiced essential lawyering skills such as client interviewing, counseling, and negotiation and worked collaboratively in teams, including their remote colleague, to review and present simulations based on detailed fact-patterns of legal challenges faced by disabled persons and their families. One student wrote in her end of year summary that "[b]eing able to practice with and learn from my colleagues in

these simulations has helped me improve these legal skills and has helped me to think about and approach problems in different ways.”

In addition, students learned relevant substantive law on government benefits, including social security and medical assistance (Medicare and Medicaid), vital for the economic independence of disabled persons. They reflected on the burdensome challenges faced by disabled persons to qualify for these benefits and society’s treatment of the disabled today. On their own, students watched and reflected on movies of their choice where a disabled person was a main character and a robust discussion was had after this exercise which coincided with the movie CODA winning best picture at the 94th Academy Awards. Students learned about and drafted wills and advance planning documents and participated in a mock will execution ceremony. Several students commented that the will exercise was the most challenging of the course. They learned about reasonable accommodations and modifications required under fair housing laws and the Americans with Disabilities Act of 1990 (ADA) for disabled persons to have equal opportunities to use and enjoy a dwelling, including public and common areas. They drafted a mock letter to a landlord’s attorney demanding such a reasonable accommodation on behalf of an elderly, disabled tenant. One student wrote about this exercise: “I found this particular topic very interesting as it is ... very important as people with disabilities should be comfortable in their own homes and should have the right to request modifications to accommodate their specific needs.”

The students benefitted from guest lecturers from LSHV, including a senior staff attorney in the Disability Advocacy Project (DAP) and a senior staff attorney in the Elder Unit. The DAP attorney described her challenges in representing clients unfairly denied government benefits, especially those with mental disabilities, and the Elder Unit attorney described her extensive negotiating experience with difficult landlords’ attorneys to preserve her elderly clients’ affordable housing. The students were actively engaged in these discussions and asked thoughtful questions of these seasoned practitioners.

Finally, as a year-end reflection, students were asked to participate in a mock site visit conducted by Equal Justice America and answer questions relating to why the EJA DRC should continue to receive financial support. A third-year student wrote: “I think my experience in the DRC highlighted how everyone has struggles and problems to a varying degree, and some are invisible that we cannot always see. But everyone still has the right and capabilities to live a full and fulfilling life. This course emphasized the need for compassion and empathy for everyone.” All the students argued persuasively that the EJA DRC should continue to be funded.

Client Representation

Students participating in the EJA DRC had primary responsibility for their assigned cases under the supervision of Professor Angley. They were responsible for preparing their weekly case summaries in advance and were required to present these summaries during their weekly case conferences. They worked together in teams, including the remote student, and were

responsible for learning the administrative and time-management systems of JJLS and working professionally with JJLS staff. The students actively engaged in client interviewing, fact investigation, legal research and analysis, client communication, client counseling, and drafting legal documents and correspondence. Strict Covid-19 protocols at the Law School required students to use technology creatively because their access to in-person contact with clients was limited.

The transition of the EJA DRC to an evening class format and its new emphasis on transactional legal representation required modifications in the type of cases students could work on. Special education cases were referred to Student Advocacy, another non-profit provider of legal services to special education students and their families. However, EJA DRC and Student Advocacy maintain a close working relationship, and we anticipate future referrals from this agency. To avoid any ethical conflicts, new clients were screened as to whether they or their families were current or former clients of LSHV. Clients were referred to EJA DRC from the Cancer Support Team, an advocacy group for cancer patients and their families, the Westchester County Bar Association (WCBA), the Westchester Women's Bar Association (WWBA), the Senior Law Day Collaborative (SLDC), or were self-referred. One client was a former EJA DRC client seeking a will modification. In-person outreach efforts for the EJA DRC were restricted during the Covid-19 pandemic, with a resulting decline in new case inquiries. However, as outreach efforts by students and Professor Angley increase, we anticipate an increase in those inquiries for the Fall 2022 semester.

Casework included advising a Spanish-speaking family on the requirements for filing a guardianship under Article 17-A of the Surrogate's Court Procedure Act. This student team was comprised of a third-year student and second-year student, who was fluent in both written and spoken Spanish, and they provided excellent advocacy to this family. The case is presently open, and the EJA DRC summer intern is working on the case. Another student team consisting of two second-year students advised and counseled a former EJA DRC client on her substantial will revision. They consulted with several experienced faculty in order to determine that the client's proposed revisions would not achieve her estate-planning goals and were therefore beyond the scope of the EJA DRC, and they ultimately referred her to the private bar. This team also consulted with a nursing home patient on her advance-planning needs, including a NYS Health Care Proxy and Power of Attorney and was ready, willing, and able to meet with the client at the nursing home under supervision and following strict Covid-19 protocols. While the client ultimately chose not to pursue advance planning at the time, it was an excellent experience for the students to research and prepare for this meeting. Another team advised and assisted a disabled client on how to modify her special needs trust to a pooled trust because her trustee passed away unexpectedly and there was no successor trustee named in the trust documents. This team investigated and researched several non-profit agencies to administer the proposed pooled trust and provided this information to the client who ultimately chose which agency she preferred. This case is ongoing and is also being worked on by the EJA DRC summer intern. Another team interviewed, advised, and assisted a new client

with her will, and researched a related complicated real property issue at the request of this client. The in-class will exercise and mock will execution helped them extensively with this case. There were several inquiries that were beyond the scope of the legal services provided by the EJA DRC and had to be referred to the private bar or other civil legal services providers. All the students, including the remote student, worked closely with JJLS staff on client representation, office protocol and procedures. The students (including the current summer intern) acted professionally throughout the semester and received constructive feedback and support from the JJLS staff.

Outreach

As mentioned above, outreach efforts were limited during the Covid-19 pandemic. Despite the lack of in-person events, we adapted to using technology effectively for outreach. One student, a cancer survivor, shared his very personal experiences and challenges with the Cancer Support Team and prepared extensively for this outreach using Zoom technology and explained the legal services the EJA DRC could provide for cancer patients and their families. This student was also awarded the prestigious Barbara Klein Memorial Award by the Law School in recognition of a student who has overcome adversity and achieved academic excellence. Professor Angley nominated this student based in part on his exemplary work at the EJA DRC. Professor Angley attended numerous events and seminars, both remotely and in-person, sponsored by the WCBA, the WWBA, the SLDC, and the NYSBA Elder and Special Needs Section. She has promoted the EJA DRC as a resource for low- and moderate-income disabled persons and their families and encouraged possible referrals. Recently, she and the EJA DRC summer intern attended an in-person event sponsored by the Senior Law Day Collaborative in Hartsdale, NY and distributed approximately 30 NYS Health Care Proxies (HCP) in English and Spanish and answered questions by the attendees. They even witnessed the execution of the HCP by one attendee who did not want to wait to a later date to sign this important document. The summer intern acted professionally throughout the event and gave her EJA DRC contact information to attendees for possible inquiries. We also anticipate further outreach opportunities during the Fall 2022 Semester.

Conclusion

In conclusion, the EJA DRC has successfully transitioned to an evening class format and will continue to provide essential training in critical lawyering skills to students in the context of helping disabled and elderly persons with direct representation. This transition offers a vital clinical experience for full-time law students and flex or part-time law students in response to their request for such an opportunity. The EJA DRC anticipates that increased outreach will translate into increased inquiries by new clients. Students will continue to practice their skills during simulations and mock legal exercises with fact-patterns directly related to the legal challenges faced by the disabled and their families and reflect upon these challenges. When asked if Equal Justice America should continue to fund the DRC at the Law School, one student wrote that the clinic “exposes law students to essential experiences that help sharpen relevant

legal skills such as: legal research, client counseling and advising and case management. . . My participation in the DRC has equipped me with the experience that I can use to apply to further legal opportunities.”

Respectfully submitted,

Patricia Angley

Patricia Angley, Director