



CLINICAL EDUCATION PROGRAM: *Where the Law Comes to Life*

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Brooklyn Law School's clinical program is one of the most diverse, extensive, and comprehensive in the country. An integral component of the upperclass curriculum, our in-house clinics and externships take full advantage of our ideal location, extending the campus to every state and federal courthouse and hundreds of government agencies, law offices, and business entities throughout New York City.



Professor Stacy Caplow

BLS clinic students appear in federal and state court proceedings on both the trial and appellate level, as well as in administrative tribunals. They assist inmates on death row, represent asylum-seekers, help defrauded investors to recoup their savings, advise new media start-ups, and secure unemployment insurance and debt relief for individuals in financial trouble. Students also have opportunities to mediate disputes in courts and schools. They may travel to a correctional institution to interview a witness or to a Wall Street law firm to conduct a deposition.

Our clinics are taught by full-time faculty members and skilled adjunct professors. It is the student, however, who performs all of the lawyering tasks, learning to exercise sound legal judgment, engage in problem-solving strategies, and take responsibility for decisions just as any licensed attorney would.

Brooklyn Law School is located in the epicenter of New York City's legal community. This allows our externship program, one of the largest in the country, to provide a range of exciting opportunities for students. Every semester, hundreds of our students work in judges' chambers, law offices, and government agencies of all levels. The *2009 Official Guide to ABA-Approved Law Schools* reports that 65% of all BLS students participate in an externship at least once. Many students enroll in both externships and in-house clinics during their upperclass years.

We are proud that the excellence of our clinical program has been recognized with numerous awards from the legal community and grants from public agencies and private foundations, as well as regular inclusion in *U.S. News & World Report's* national ranking of the best clinical law programs. The work of our clinic students consistently receives high praise from judges and lawyers (even opposing counsel) and, most importantly, earns the deep appreciation of their clients.

To adapt to the changing times and developments in the legal profession, we add new clinics every year that address cutting-edge topics in the law. I hope you enjoy reading about some of the new programs and recent victories and activities of our students and faculty at Brooklyn Law School.”

Stacy Caplow
Professor of Law and Director of Clinical Education

Students' Petition Prompts Supreme Court Opinions



Students in the Capital Defender and Federal Habeas Clinic with Professor Ursula Bentele.

Students in the Capital Defender and Federal Habeas Clinic learned on October 20, 2008 that a certiorari petition they had filed in the capital case *Walker v. Georgia* had prompted written opinions by two U.S. Supreme Court justices. “Students who draft petitions on behalf of death row inmates for review of their cases in the Supreme Court know that the chances are extraordinarily small,” Professor Ursula Bentele, director of the clinic, explains. Usually, the order denying certiorari comes on the first Monday after the case appears on the Court’s conference list, she said. “For our client Artemus Walker, that Monday was October 6th, and hundreds of orders denying cert were issued, but his was not among them.”

Two more conferences were scheduled and the justices asked for submission of the record from the Supreme Court of Georgia. When the suspenseful wait finally ended, the students were understandably torn.

“My first reaction to the statement from Justice Stevens and Justice Thomas was a bit selfish — I was excited and astonished that members of the United States Supreme Court took interest in our clinic’s petition and that one Justice (and perhaps more) actually adopted the argument we presented,” said Bethany Jones ’09, who had worked on the petition. However, the Court turned down the case because the claims raised in the petition had not been adequately presented to the Georgia courts.

“After reading through the Justices’ statements,” said Jones, “reality sunk in as I realized how close we came to giving our defendant a chance to be heard in the Supreme Court.” Professor Bentele found it gratifying that “at least one Justice had been persuaded that Georgia death penalty cases were not being given the careful review by the state courts on which the Supreme Court had relied when it approved the Georgia statute.”

“Justice Stevens wrote a lengthy opinion regarding the denial of cert, accepting the students’ claim that the state’s proportionality review failed to guard against arbitrary and capricious imposition of capital punishment,” Professor Bentele added. Justice Stevens particularly noted the continuing concerns about race in a state in which death sentences are imposed most frequently in cases like Walker’s involving black defendants and white victims. His statement prompted a response from Justice Clarence Thomas, who found nothing constitutionally defective about the Georgia court’s review.

Ursula Bentele teaches criminal and capital punishment law, as well as the Capital Defender Clinic at Brooklyn Law School. She is a nationally recognized expert on death penalty issues. An established author of books and law review articles on the subject, she has argued numerous death penalty appeals and is a recipient of the New York City Bar’s

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Thurgood Marshall Award, which is given to attorneys who have represented people sentenced to death. She also participated in the Capital Jury Project funded by the National Science Foundation, in which she analyzed the findings of over 1,000 jurors who had participated in cases where a death sentence was possible. Professor Bentele joined the faculty in 1981, after having served with the Legal Aid Society in its Criminal Defense Division and its Civil Appeals and Law Reform Unit.

Brooklyn Law Incubator & Policy Clinic Takes Root

The Brooklyn Law Incubator & Policy (“BLIP”) Clinic was established in 2008 to train a new generation of lawyers to represent emerging tech, Internet, communications, and new media companies in a broad array of transactional, policy, and litigation issues.

Jonathan Askin, associate professor of clinical law at Brooklyn Law School, teaches the course. Professor Askin is an expert in the emerging area of Internet and new media law, and he recently joined the faculty with a distinct background in private practice with Internet communications companies, as well as public service with the Federal Communications Commission.

In the clinic, students learn the intricacies of representing startups in emerging businesses where few, if any, laws were designed to accommodate new ideas. Students also advocate on behalf of causes and businesses whose interests and concepts have not been represented in the various legislative, regulatory, and judicial arenas. With a diverse client portfolio that includes more than 50 clients, the students confront varying legal, business, and policy challenges across the spectrum of technology, Internet, media, and telecom issues that would confront a modern, technology-oriented law firm.

“BLIP grew out of the recognition that the Internet and digital technology are forcing law and policy beyond traditional legal structures and strictures,” says Askin. “There is a profound need for a new generation of advocates who understand the nature of political and regulatory processes but also appreciate the needs of entrepreneurs whose ideas might be stifled by existing law and policy.”



(L to R) Professor Jonathan Askin with students in the BLIP Clinic.

Recent high-profile matters handled by students in the clinic include guiding the creators of a parody of the *New York Times* in distributing a few hundred thousand copies throughout New York, Los Angeles, Chicago, and San Francisco; successfully challenging a Florida “anti-spoofing” statute that could have precluded the deployment of worthwhile Internet-based communications applications; and representing a client who was sued by Apple for violating its end-user license agreement and IP rights by taking the Mac operating system and repurposing it on other hardware. “BLIP students are attempting to turn this last suit into an antitrust challenge against Apple for control over the Mac OS,” says Askin.

A wide variety of clients are discovering and utilizing BLIP’s unique services. A startup company developing next-generation location-based services for cars came to the clinic for assistance with patent search, review, and preparation, as

well as significant issues related to user confidentiality and privacy. Other clients include a company attempting to redistribute, repurpose, and annotate C-SPAN content for a larger, non-cable audience without fear of allegations of copyright violations; a video game development platform; a Web-based business specializing in on-demand, business quality language translation; a mobile phone SMS payment mechanism; and a minority-owned broadcast TV company with foreign ownership concerns.

The Clinic is also assisting incubator programs at other schools based in New York with good ideas, but no legal support, and it is serving as a magnet to other members within the BLS community. Intellectual Property Law Professors Derek Bambauer and Jason Mazzone will be consulting with BLIP students this year. Also, Steven Kahn, a partner at Weil, Gotshal & Manges, will be spending time in the Clinic advising students on IP matters.

Safe Harbor Project Helps Secure Asylum for Clients



Students in the Safe Harbor Clinic assisted a client from Sri Lanka (second from L) who was granted asylum.

In the Safe Harbor Project, students work in teams to represent individuals in a range of cases affecting their status and entitlements in the United States. Many cases involve applications for asylum, and some involve the immigration status of lawful permanent residents or victims of domestic violence. In most cases students appear either in Immigration Court or before Asylum Officers.

Professors Dan Smulian and Stacy Caplow recently supervised several teams of clinic students who creatively and capably represented clients from many different countries to secure protection in the U.S. One team represented a young Chadian man who had been imprisoned and tortured on two separate occasions by government security forces, and faced almost certain death if forced to return. The students conducted a hearing in Immigration Court after which the judge granted asylum. Three other clinic students secured asylum for another young man from Chad enrolled at Lehman College who, while he was studying in New York, discovered that his father and brothers had been forcibly abducted by the secret police. He is now able to complete his bachelor's degree in business.

Three third-year students helped a Tibetan monk obtain his asylum while another group assisted an asylum seeker from Indonesia, who, as an ethnic Chinese-Christian, had grown up in an environment of intimidation and brutality. In May, right after exams, three students conducted a hearing in Immigration Court on behalf of a Haitian woman who had been kidnapped for a week and sexually assaulted

during her captivity. She also was granted asylum. Other students secured asylum for a gay man from Romania who had been persecuted on account of his sexual orientation.

Some students were so devoted to their clients that, over the summer, they took time away from their full-time jobs to work in the clinic at night and on the weekends. As a result, another Tibetan client received asylum in August, and two other spring semester students pitched in to help write a brief to the Board of Immigration Appeals for a client they assisted in the spring.

During the summer of 2009, students in the clinic spent time on post-asylum matters. They prepared applications for lawful permanent residency, filed asylee relative petitions to reunite clients with their spouses and parents, and advocated for those relative petitions at U.S. consulates worldwide. The wife and two children of a client from Bhutan arrived in the United States after living for years in refugee camps in Nepal. Another client who had escaped a battering spouse finally received her permanent residency after a year-long wait.

The work of the clinic is so rewarding that some full-time faculty members have volunteered to work on cases. On the day before last Thanksgiving, Aliza Kaplan, a professor of legal writing and research, handled an asylum case in Immigration Court, winning protection for her Gambian client.

Brooklyn Law School's clinical program generates exciting opportunities for students to put into practice the legal principles they learn in the classroom. In these sample cases from just a few of the clinics, students accomplished important victories, worked on creative and challenging projects, and ventured into a wide range of legal activities.

Community Development Clinic Helps Reshape Brooklyn

In the Community Development Clinic, students represent community organizations that wish to help shape the future of neighborhoods in Brooklyn that are going through dramatic transformations. Community development corporations, cultural institutions, affordable housing providers, and small businesses that serve underrepresented communities have all been clients. Students draft business formation documents, assist in the formation of joint ventures, negotiate the leasing, purchasing, financing, and renovating of real estate, and draft, analyze, and negotiate contracts.

“Industrial sites are adapting to rapid changes in the local and global economy and new residential and commercial projects are regularly springing up,” says Professor David Reiss, who leads the clinic. “Our goal is to ensure that important, but smaller, voices are heard as Brooklyn communities are rethought, rezoned and redeveloped.”

Corporate and Real Estate Clinic Assists Co-Ops

Professor Debra Bechtel led students who assisted a 20-unit co-op on Edgecombe Avenue in the Bronx with a loss of heat issue. Two third-year students helped the co-op secure a \$175,000 loan in December that paid for delinquent real estate taxes and water bills, a new boiler, and several outstanding bills for plumbing and oil. Two other third-years assisted a Williamsburg co-op that faced problems trying to close a \$120,000 loan in October.

Criminal Appeals Clinic Students Argue Before Appellate Division

Supervised by Adjunct Professors Jonathan Kirshbaum and Jan Hoth, four third-year students argued appeals before the Appellate Division, First Department in Manhattan. The issues in their cases included charging the jury on the potential unreliability of cross-racial identifications; recusal of the trial judge; error in admitting an anonymous 911 call; and charging the jury on self-defense.

Investor Rights Clinic Students Present Program on Financial Literacy

Professor Karen van Ingen's students developed an educational outreach program designed to improve financial literacy, alert investors to the warning signs of possible broker misconduct, and explain their remedies. Students made a presentation to Harlem-based Credit Where Credit Is Due, an organization whose financial education and City-wide counseling programs reach thousands annually.

Prosecutors Clinic Students Secure Guilty Plea in Bird Smuggling Case in Federal Court

In a case that captured a lot of media attention, a bird smuggler from Guyana pled guilty in U.S. Magistrate Court for smuggling finches through JFK Airport by stuffing the little birds, prized for their singing ability, into hair curlers. The case was handled by a BLS student prosecution team under the supervision of Professor Carolyn Pokorny, Chief, Narcotics/International Narcotics Strike Force at the U.S. Attorney's Office, Eastern District of New York. The students secured a guilty plea, following jury selection, for the offense of lying on a Customs form for failure to declare the birds.

Consumer Counseling and Bankruptcy Clinic Addresses Credit Card Debt

Under the instruction of Professor Mary Jo Eyster, students assisted clients with unmanageable credit card debt, often with interest rates above 20 percent. Numerous debtors facing this and other serious financial burdens, including lay-offs, medical crisis, and mental health issues, have been assisted by the clinic students, many of whom are part-time evening students. For those clients who have filed for bankruptcy relief, the clinic's success to date has been unblemished.

CLINICAL FACULTY

FULL-TIME CLINICAL FACULTY

Brooklyn Law School's full-time faculty members are experts and practitioners in a range of specialties, and their scholarship and practical skills fuel our award-winning clinical program. The accomplished faculty members who teach clinics at Brooklyn Law School serve as mentors to students, guiding them as they learn to exercise judgment as lawyers, generate ideas and strategies, and serve their communities.

JONATHAN ASKIN, who teaches the BLIP Clinic, is a former telecommunications attorney with more than a decade of experience in the communications industry in both the public and private sectors. A former senior attorney at the Federal Communications Commission, he also served as a strategist on President Barack Obama's Technology Advisory Board during the 2008 campaign.

DEBRA BECHTEL, one of New York's foremost experts in low-income or limited equity co-ops, has directed the Corporate and Real Estate Clinic since 1997. She has over 20 years of experience in the areas of real estate law and community development.

URSULA BENTELE is a nationally recognized expert on death penalty issues. The recipient of the New York City Bar's Thurgood Marshall Award, she has argued numerous death penalty appeals and is the author of *Capital Case Sentencing: How to Protect Your Client*. She directs the Capital Defender and Federal Habeas Clinic.



Members of the full-time faculty and clinical staff.

STACY CAPLOW is the director of the Clinical Education Program and co-director of the Safe Harbor Project. A leader in the field of clinical legal education, she has received a Fulbright Fellowship and has worked internationally to establish legal clinics and assist refugee centers.

MARY JO EYSTER teaches the civil practice and judicial clerkship externships, as well as the Consumer Counseling and Bankruptcy, and Mediation Clinics. She has been active in mediating disputes in the New York State Civil Court and the Safe Horizon Community Mediation Center, and in schools. She is also a mentor for mediators in training.

MINNA KOTKIN has extensive litigation experience handling a range of civil rights law reform and class action suits. She served as Litigation Director for New York Lawyers for the Public Interest for many years and has taught several different clinics at the Law School over the past 20 years. She currently teaches the Employment Law Clinic.

KAREN PORTER is the executive director of Brooklyn Law School's Center for Health, Science, and Public Policy, and she teaches the Health Law Clinic. She has taught courses at Washington University Law School on law and medicine, and AIDS and the law, and is the author of numerous publications related to AIDS policy.

DAVID REISS directs Brooklyn Law School's Community Development Clinic and teaches real estate finance and property law as well. His prior experience includes practicing law in several firms' real estate and land use departments, and he serves on several local community boards.

LISA SMITH teaches the Prosecutors Clinic and is an expert in the area of domestic violence. She served for many years as the Executive Assistant District Attorney for Domestic Violence, Sex Crimes and Child Abuse in the Kings County District Attorney's Office.

► To learn more about our faculty, please visit www.brooklaw.edu/clinics/faculty.



DAN SMULIAN co-teaches the Safe Harbor Clinic and has a strong background in public interest lawyering. A former director of training and legal services at the New York Immigration Coalition, he managed a statewide program that provides seminars and educational events on immigration law and immigrants' rights issues for immigrant communities.

KAREN VAN INGEN teaches the Investor Rights Clinic. She has two decades of experience as a litigator, arbitrator, and mediator, with a focus in institutional and retail securities transactions and class actions, commercial contracts, partnerships, and joint ventures, and employment disputes. She is also a special master in the Appellate Division of the New York Supreme Court.

ADJUNCT FACULTY

Brooklyn Law School's adjunct faculty members bring important real-world experience and practical skills to the clinical program. Diverse and accomplished, they come from the ranks of top firms, companies, and non-profits. Others serve the public sector as district attorneys, judges, and public defenders.

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CLINICS

Capital Defender and Federal Habeas Clinic
Community Development Clinic
Consumer Counseling & Bankruptcy Clinic
Corporate & Real Estate Clinic
Criminal Appeals: Manhattan District Attorney
Criminal Appeals: Center for Appellate Litigation
Employment Law Clinic
Federal Litigation Clinic: NYC Law Department
NEW ► Federal Litigation Clinic: Immigration Unit,
U.S. Attorney, EDNY
Investor Rights Clinic
Brooklyn Law Incubator & Policy (BLIP) Clinic
Mediation Clinic
NEW ► Municipal Litigation: NYC Law Department
Prosecutors Clinic: Brooklyn District Attorney
Prosecutors Clinic: U.S. Attorney, EDNY
Safe Harbor Project
Volunteer Lawyers for the Arts Transactional Law Clinic

EXTERNSHIPS

NEW ► Advanced Condominium and Cooperative Externship
Civil Practice Externship
Criminal Practice Externship
Health Law Practice and Policy Externship
Judicial Externship
NEW ► Transactional Law/Community Development Externship

*“To a remarkable degree,
Brooklyn Law School’s clinical programs
make it unique. It has taken advantage of
its unusual physical proximity to
almost every type of court and adjudicative
agency to produce what amounts to a
law ‘campus’ which it shares with the
Supreme Court, the Appellate Division,
Family Court, Surrogate’s Court,
Civil Court, Criminal Court, Social Security
Disability and Administrative Law Judges,
United States District Courts,
the Bankruptcy Court, and others.
All these legal agencies are located
no further apart than the buildings
on any large university campus.”*

HONORABLE JACK B. WEINSTEIN
*Senior Judge, United States District Court
for the Eastern District of New York*



For more information about Brooklyn Law School’s
Clinical Education Program, visit us on the Web at
www.brooklaw.edu/academics/clinics.