

## Justice for Children Amicus Project



### IN THIS ISSUE

Justice for Children Clinic Alumni	2
Faculty Profile: Terri Enns	3
Updates from Clinics	6
Reflections from Alumni	9

### UPCOMING EVENT

#### Join us for the next Clinic Alumni Event

Thursday, February 1st, from 5:30-7:30 PM  
at the new Barrister's Club, across the street  
from the law school.

Drinks and appetizers will be served.

### WEBSITE NEWS

#### New Moritz Clinic video is now online!

Visit <http://moritzlaw.osu.edu/clinic/tour.php>  
for a ten-minute virtual tour of the clinic.

Tour the new Woodside Courtroom and meet  
all of the clinical faculty, as well as many of the  
current and recent clinical students as  
they talk about their clinical experience.

Please contact us at (614) 292-6821 or [travalio.1@osu.edu](mailto:travalio.1@osu.edu)  
with any questions or comments.

# MoritzLaw

MORITZ COLLEGE OF LAW • THE OHIO STATE UNIVERSITY

## Increases Activity in Ohio Supreme Court

*Professor Katherine Hunt Federle and Amicus project staff attorney, Jason Macke, discussing upcoming cases in the clinic offices.*

The Justice for Children Project, in accordance with its mission of individual representation and law reform, continues to expand its Amicus Project, participating in appellate cases in which a child or children's legal interests are insufficiently represented. Most recently, the Amicus Project filed briefs and presented argument in three cases before the Ohio Supreme Court addressing the parameters of a court's ability to sever permanently the parent-child relationship. On May 9, 2006, Professor Katherine Hunt Federle presented oral argument to the Ohio Supreme Court in *In Re: A.B. et al.*, arguing in support of the appellee's contention that a juvenile court has the statutory authority to order, sua sponte, a child be placed in a planned permanent living arrangement when the court determines that a grant of permanent custody to the state is not in the child's

best interests. On September 9, 2006, the Ohio Supreme Court issued its judgment in the case, *In Re: A.B. et al.*, 110 Ohio St.3d 230, 852 N.E.2d 1187, 2006-Ohio-4359, and rejected the Project's position. The Court held that juvenile courts may only place children in planned permanent living arrangements upon the request of the state agency holding temporary custody of the child. The Project thus remains concerned that *In Re: A.B.* creates a serious impediment to children who desire to exercise their constitutional right to familial relationships, as the case seems to foreclose their ability to apply for a planned permanent living arrangement in the alternative to a permanent court commitment.

On September 20, 2006, Professor Federle presented argument to the Ohio Supreme Court in *In Re Adkins*, 2006-0514, arguing that a parent's mental

*Continued on page 5*

<http://moritzlaw.osu.edu/clinic>

## Justice for Children Clinic Alumni Provide Critical Pro Bono Services Through Fellowships



**Sarah Biehl, '03**  
In 2004, Sarah Biehl became the first Moritz alumni awarded a Skadden Fellowship. Sarah received the

fellowship for creating and operating a legal clinic for high school students and families in one of Chicago's poorest neighborhoods. Sarah's clinic provides both civil legal services and legal education for the students of North Lawndale College Preparatory High School. Sarah utilizes legal issues that arise in the legal services clinic to create coursework for students, giving students, and through them - their families and surrounding community - a better understanding of the basic aspects of law and how it directly affects them.

Sarah said she first developed the idea for her project during her third year at Moritz Law while taking the Justice for Children Practicum. "The Justice for Children Practicum is the reason I decided to develop a project based on representing children. The skills (and confidence) I gained were absolutely crucial to my decision to pursue a fellowship and to focus my fellowship project on representing children. Moreover, the approach of the clinic - to focus on representing children's interests

and providing them with a voice in the legal system - was the primary philosophical motivation for my project."

Sarah's project has been so successful that its funding has been extended and she was recently honored with the 2006 Kimball R. and Karen Gatsis Anderson Public Interest Law Fellowship by the Chicago Bar Foundation. The annual Gatsis Anderson award assists one law graduate working in a public interest field with law school debt repayment.

Sarah's success was the beginning of a trend in Justice for Children alumni winning fellowships to undertake public service.



**Dianna Parker, '05**  
In 2005 Dianna Parker, another Justice for Children alumnus, was awarded an Equal Justice Works

Fellowship to work with homeless children and youth throughout Ohio. Her fellowship is funded through the Ohio Legal Assistance Foundation and she works at the Equal Justice Foundation. Dianna aids homeless students in obtaining adequate educational services under the McKinney-Vento Homeless Assistance

Act, reauthorized by Congress in 2004. She works with school district liaisons to improve school policies to ensure that school districts are meeting the requirements of the Act. She also conducts widespread outreach to homeless communities to raise awareness of benefits available to students in transition.

**Rachel Shapiro, Lori Turner, and Tracy Simmons '06**

Rachel Shapiro, Lori Turner, and Tracy Simmons, 2006 graduates of the Justice for Children Practicum, were each awarded Equal Justice Works Fellowships to work with underserved children in addressing those children's educational needs.



**Rachel Shapiro, '06**  
Rachel's project focuses on increasing access to special educational services for children with disabilities involved in

the juvenile court system. Through her sponsoring agency, Equip for Equality, she provides direct representation, legal trainings, and written materials for children in Cook County, Illinois, who have unmet or inappropriately met special educational needs.

*Continued on page 5*

### Moritz College of Law Clinical Program Faculty

The Moritz College of Law Clinical Program is comprised of seven different clinics and practica.

#### Civil Law Practicum

Professor David A. Goldberger, Isadore and Ida Topper Professor of Law

Professor Gregory M. Travaglio, Lawrence D. Stanley Professor of Law and Director of the Clinical Program

Associate Clinical Professor Elizabeth Cooke

#### Prosecution Practicum

Assistant Professor Ric Simmons  
Clinical Professor Robert Krivoshey

#### Criminal Defense Practicum

Professor Barbara Rook Snyder, Joanne Wharton Murphy/Classes of 1969 and 1973 Professor of Law and Executive Vice President and Provost of the university

Clinical Professor Robert Krivoshey

#### Justice for Children Practicum

Professor Katherine Hunt Federle, Director of the Justice for Children Project

Assistant Clinical Professor Angela Lloyd

Staff Attorney Jason Macke

#### Mediation Clinic

Professor Sarah Cole

Professor Joseph P. Stulberg, Associate Dean for Professional Relations

Assistant Clinical Professor Carole Hinchcliff

#### Legislation Clinic

Professor Doug Berman

Associate Professor Steven Huefner

Professor James J. Brudney, Newton D. Baker-Baker & Hostetler Chair in Law

Associate Clinical Professor Terri L. Enns

## Faculty Profile: Terri Enns

*Terri Enns is the Associate Clinical Professor for the Legislation Practicum and a Senior Fellow at the Ohio State Moritz College of Law Election Law @ Moritz Program. She came to Moritz six years ago after three years as the Legal Counsel for the Ohio Senate Democratic Caucus. Before that she held many different jobs, including being a Housing Advocate, and acting as the Youth Booking Manager for Players Theatre in Columbus. Professor Enns shared her experiences and philosophies about working in politics and the clinical teaching experience.*

**Q:** You began teaching in the Legislation Clinic six years ago. How has the experience changed for you during that time?

*TE: I have a clue now about what I am doing! I hope that I have developed some skills during that time and am better able to guide students. Information gleaned from other clinical professors both here and at clinical conferences each year have sparked changes in how the course is structured and how I approach the job. I have had the privilege of teaching with Steve Huefner over this entire time, and have learned enormous amounts from him about writing, about patience, about how to approach legal problems and "people problems." Additionally, during three of the thirteen semesters of the Clinic's existence I have taught with Jim Brudney or Doug Berman, who each add their own unique value to the course.*

*Initially I worried that as I was away from the Statehouse I would lose my contacts. However, term limits have forced change among the members, so at any given time there are a lot of new people around. Staff has had less turnover, so I still have good contacts downtown.*

**Q:** Can you list the different offices where students are working this semester?

*TE: Students are working with the Majority Caucus in the House, the Minority Caucuses in the House and Senate, the Joint Committee on Agency Rule Review, the Legislative Affairs office of the Department of Insurance, the Legislative Service Commission, and with Senator Jacobson, Senator Stivers, Senator Prentiss, Senator Roberts, and Representative DeGeeter.*

*Many students work for a Republican or*



*Democratic office or organization. Do they request working with a certain party because of their own affiliation?*

*We spend quite a bit of time talking with students about what they hope to get from the clinic before we determine their placements. Some students are interested in partisan offices, and some are not. We want both the supervisors and the students to be comfortable so if students feel aligned with one party, we try to place them in an office of that party.*

**Q:** How do you as a teacher deal with the inevitable partisan differences that arise in the classroom?

*TE: I relish the partisan differences! I think it is important for students to be able to talk about different approaches to issues, and to be able to defend their own*

*positions. As we all have a tendency to hang out with people who think the way we do, having to acknowledge that a person of another party can have beliefs that are just as well developed and sincerely held as your own is an important lesson.*

**Q:** Before you came to Moritz, you were legal counsel for the Ohio Senate Democratic Caucus. Does your own background with a particular party create challenges in the classroom or in supervising the students?

*TE: One of my overall policies for life is to try to avoid burning bridges. Thus, while working at the Statehouse, my goal was to behave professionally and treat everyone with respect, regardless of their party affiliation. I always emphasized that any "battles" with staff working on other side of issues were based on policy differences and were a part of us each doing our jobs, rather than personal animosity.*

*This professionalism turned out to benefit me when my current job became available. Before offering me my current job, the law school administration spoke with leaders on both sides of the aisle at the General Assembly about my ability to supervise students placed in offices of both parties. The law school needed to know that I would treat all students fairly regardless of their political affiliation. Just as important, everyone understood that I would be privy to highly sensitive information, and the individuals at the Statehouse needed to trust that I would maintain confidences and not use any information or contacts for some kind of personal or partisan advantage. Apparently I achieved my goal of keeping disputes professional instead of personal was successful, since I was offered the job.*

*Continued on page 4*



Terry Enns (center) monitors election results as a senior fellow of Election Law@Moritz. Also pictured (left to right), Associate Professor Steve Huefer, Assistant Professor Dan Tokaji, and Professor Ned Foley.

*Terri Enns continued from page 3*

Q: You co-teach the class with another faculty member. How do you divide up the responsibilities of teaching the class and supervising the students?

TE: Professor Steven Huefner and I share much of the work, although he does more of the classroom work and I do more of the administrative work. However, we both look at each student document, both communicate with supervisors, and both have input into the grading process.

Q: Before going to law school, you earned a master's in divinity and worked as a housing advocate representing low-income tenants. How do those experiences affect what you do now?

TE: Some people find a Masters of Divinity and a Juris Doctor to be an odd combination, but I see them as

**I relish the partisan differences! I think it is important for students to be able to talk about different approaches to issues, and to be able to defend their own positions.**

both approaching the topic of how a community of people organize themselves to live together. Religious systems and legal systems are both about

letting people know how they can or must relate with others in their community. I periodically find that topics I studied for the MDiv relate to how students approach the world, or how the General Assembly is trying to solve a problem. The housing advocacy job was my first involvement with the legal system,

as well as with politics. After years of working with individual landlords and tenants, it became clear to the organization for whom I worked that we needed to organize the tenants, and those tenants decided that they needed to get involved with city administration. So the MDiv probably informs how I work with students, while the housing work whetted my appetite for policy work.

Q: What made you decide to go to law school after being in the workforce for a number of years?

TE: I needed a career! After years of housing advocacy supplemented with assisting a chef at a French restaurant, followed by sales work for a theater, I decided that I needed a career. I looked into doing a doctorate in history with an eye to teaching, but at the end of three and a half years of course work and a dissertation, I would have had very few teaching positions to which I could apply, and I'd be competing for those few spots with all the others with similar interests. Law school involved three years of course work followed by the bar exam, and then I would have a range of options. It was kind of a cost-benefit analysis.

Q: What made you decide to leave your work as legal counsel and begin teaching?

TE: I was thoroughly enjoying my work at the Statehouse when I learned that Moritz was developing the Legislation Clinic. I saw the Clinic as a way to combine my love of the political environment with a long-standing desire to teach. I knew that if I passed up the chance to apply

for the Clinic job, I would probably never have a chance at it again, so even though I was very happy doing what I was doing, I decided to apply for the position.

Q: What kind of work do you do with the Election Law@Moritz program? How has that experience affected your clinical work?

TE: For EL@M I try to stay abreast of pending legal issues that impact election administration, and I mostly focus on Ohio, although we all cover developments across the U.S. The Election Law@Moritz program allows me to have an area of law in which I have a little more depth. Both as Legal Counsel to the Senate Minority Caucus and in my supervisory role with the Clinic, I am required to be a generalist. Pick any topic, and the General Assembly will probably want to study it for possible legislation, or already have a bill pending.

Working with the Election Law program supplements my clinic work in a couple of ways. The General Assembly makes changes to election law with some regularity, so the program keeps me abreast of what is going on. I am forced to do more original research and writing, and thus have more empathy with students struggling to put words to paper. The EL@M program works very much as a team, so my involvement reinforces my commitment to working with others when tackling a legal problem.

Q: What kind of lessons do you hope students learn from taking your clinical course?

TE: I hope that students come away with an appreciation for the legislative process. I hope that students learn that state-level decisions impact their daily lives. I hope that students learn that a significant part of good lawyering is the ability to understand the interplay between statutes as well as the process that goes into creating those statutes. I hope that students learn about their own political leanings. I hope that students recognize the importance of professionalism in all contexts. And finally, I hope that students recognize that there are lots of different kinds of lawyering and lots of different skills that can be used as a lawyer. \*

Amicus Project continued from page 1

retardation cannot provide the sole basis for termination of the parent-child relationship under the United States and Ohio Constitutions, addressing that question from the perspective of a child who opposes termination of that relationship. On October 4, 2006, Professor Federle presented an oral argument in *In Re Foster*, 2006-0503, addressing two legal questions: first, whether a juvenile court must find that a county children services agency has made reasonable efforts to reunify children with their parents prior to terminating parental rights; and second, whether a trial court abuses its discretion by refusing to conduct an in camera interview of the

**“...a parent’s mental retardation cannot provide the sole basis for termination of the parent-child relationship...”**

subject children where their placement wishes are not demonstrated in the record and no reason is provided for refusing to interview them.

Professor Federle argued that both reasonable efforts and an in camera interview were required, based on the child’s constitutional right to due process.

Decisions in both Adkins and Foster are

expected in the coming months. Briefs had previously been filed in all three cases by Professor Federle and the amicus project staff attorney, Jason Macke. Professor Federle and Mr. Macke are presently working on two new amicus briefs to be filed in the Ohio Supreme Court, as well as an amicus petition for certiorari to be filed in the United States Supreme Court. \*

Alumni continued from page 2



**Lori Turner, '06**

Lori Turner, also working in Cooke County, has joined that Children’s Initiative of the ACLU of Illinois with an Equal Justice Works Fellowship, sponsored by McDermott Will & Emery. Lori’s work with the ACLU focuses on identifying unmet educational needs of children in state foster care. Lori’s project is designed to implement strategies to assure that these children have adequate, stable education and mental health care services.



**Tracy Simmons, '06**

Finally, Tracy Simmons is working with the Children’s Health and Education Law Project at the Legal Aid Society of Columbus to prevent low-income children from having to enter state care in order to receive mental health services. Tracy’s Equal Justice Works Fellowship is sponsored by the Ohio Legal Assistance Foundation and provides: 1) direct

representation of children in low-income families seeking mental health care services who have been wrongly denied Medicaid or Individuals with Disabilities Education Act (IDEIA) services and who are in jeopardy of being or have been relinquished to state care; 2) educational seminars for families regarding current and potential options for mental health care funding; and, 3) collaboration with various community groups and service providers to develop a referral system and community outreach to address families’ questions related to mental health care services and to refer potential legal cases. She also plans to work with community groups to bring about policy changes at a state-wide level.

Each student credits the Justice for Children Practicum with aiding them in formulating and refining their fellowship project. Each student also credits the practicum with giving them a hands on clinical experience which enabled them to hit the ground running in their fellowship. Thanks to this head start, each of these distinguished alumni has been able to provide critical pro bono services to underserved communities of children. \*

**“Being involved with the Clinic has confirmed my instinct that this innovative program is something I wish I had had access to when I was in law school.”**

— *Professor Berman*

## **Putting Practice into Theory: Mediating Students Impact Mediation Policy**

Unlike many of the other clinics at the Moritz College of Law, the mediation practicum is often taught in a seminar/practicum format. In other words, students learn how to mediate cases while, at the same time, exploring in depth legal and policy issues in mediation. This exploration then enables the students to write a seminar paper about a mediation topic of their choice. Although the professor often suggests paper topics, inevitably, most students pick a topic that personally interests them. Students write on a range of issues – the impact of cultural, ethnic and gender differences on success in mediation, online mediation, confidentiality in mediation, and the value of mediation to resolve particular kinds of disputes (such as sexual harassment, first amendment, disability, family etc.) to name but a few. In the past several years, a number of the papers written for the mediation practica have won national competitions. One of these impressive works, written by Stephen Anway ('02), focused on the use of mediation to resolve copyright disputes. Stephen's paper won the 2002 Nathan Burkan Memorial Copyright Competition as well as the annual James Boskey competition, administered by the American Bar Association, for the best paper written on a dispute resolution topic in a law school. Kristen Blankley ('04) wrote an outstanding paper on the requirement that parties negotiate in good faith during mediation. This paper also won the ABA's Boskey competition for best paper written in a law school.

Both of these papers were ultimately published as articles in the Ohio State Journal of Dispute Resolution. Another practicum student, Matthew Daiker ('04), wrote a terrific paper on the critical role non-lawyer mediators play in the mediation process. Matt turned his paper into an article and published it in the Review of Litigation in 2005.

During this past year, Michelle Robinson ('06) wrote a paper on mediator certification. In October of this year, Michelle's paper was awarded honorable mention in the annual Boskey competition. Michelle's outstanding paper presented a thorough cost/benefit analysis of whether mediators should be regulated through certification. She then assessed the various approaches to defining and evaluating “good mediators.” Robinson concluded that a well-designed certification program, not funded by application fees, would improve the quality of mediation. This question is relevant to all mediators because, if certification programs were implemented, all mediators, including Moritz law students who mediate at Franklin County Municipal Court, would be expected to satisfy the appropriate standards. If you are interested in reading Michelle's paper, you can find it at: <http://moritzlaw.osu.edu/jdr/mayhew-hite/vol4iss3/index.html>.

Samuel Lee ('07) wrote another outstanding paper, focusing on the need for foreign language interpreters in mediation. Sam was inspired to select this topic after observing that many parties who file in Franklin County Municipal Court are not native English speakers. Sam advocated for the use of competent court interpreters in mediation and considered the viability of permitting the mediator to act both as mediator and interpreter. Sam

emphasized that the use of interpreters should not jeopardize the core values of mediation, such as self-determination and confidentiality. For example, Sam stated that untrained family members should not be allowed to act as an interpreter because they are not impartial and might make significant mistakes in translation. Although cognizant of the costs of mandating interpreters in mediation, Sam concluded that foreign language interpreters would be invaluable both in small claims court and in other court-mandated mediations.

In the mediation practica, students provide a valuable service to Franklin county courts by mediating (and often resolving) disputes. But these same students also contribute to the scholarly debate about mediation, writing papers that have real impact on important issues of mediation law and policy. The mediation clinic is extraordinarily proud of our students' accomplishments and look forward to more outstanding papers in the coming academic year.

## **Prosecution Practicum**

This semester the students in the prosecution practicum worked on a variety of different cases, highlighting the diversity of fact patterns involved in criminal law. In addition to the traditional assault, shoplifting, and public indecency cases, the student prosecutors were faced with more unusual charges such as child endangerment, vehicular vandalism, and inducing panic. Each of these crimes forced the student practitioner to try to determine the “just” outcome for the case.

At the beginning of the semester, two students were assigned a case in which a couple decided to head out

to the swimming pool in the apartment complex for a nighttime swim, leaving their two children, aged three and one, alone in the apartment. A few minutes later, the three-year old was found wandering the apartment parking lot alone and confused. Police officers were called to the scene and brought the child back to his apartment, where they waited almost an hour for the parents to return home. The parents were charged with child endangerment, a first-degree misdemeanor, which carries a potential penalty of six months in jail. The students in charge of the case had to decide (1) whether the couple's conduct was criminal or simply extremely bad parenting; (2) if criminal, whether it deserved a charge of child endangerment or some lesser charge; and (3) if criminal, what would be the appropriate punishment?

Related questions faced the student who handled the case of "vehicular vandalism"—in which the defendant threw a water bottle at the driver of another car while the car was moving. No damage was done, but the potential for an accident from such reckless conduct was severe. Once again, the students had to decide if the action was simply juvenile and ill-advised—or illegal conduct which deserved a criminal charge and a criminal sanction. Similarly, the case of "inducing panic" involved a college prank that went awry: a student slid a bag containing white powder underneath the door of another student's dorm room. The white substance was in fact harmless protein powder, but the victim of the prank believed it might have been something far more hazardous, and ultimately college security, city police,

and the fire department responded to deal with what might have been a dangerous chemical or biological substance. Once again, the defendant's actions were foolish—and expensive in terms of the response that they elicited—but were they criminal? And if so, what should be charged and what should the penalty be?

Students in the Practicum debated all three of these cases, as well as dozens of others, attempting to reach a consensus as to what a "just" outcome would be in each case, or even whether the criminal justice system should be involved at all. But they also discussed a more fundamental question for prosecutors: who determines what is "justice" in any given case? Of course, the Ohio state legislature makes the initial determination of what is criminal by passing a penal code, but the overwhelming breadth of conduct covered by the criminal laws and the wide range of possible sanctions for any specific violation leave the prosecutor with little guidance as to what the ultimate charge and sentence should be in each case. Many prosecutor's offices have turned to a method known as "community prosecution," in which the prosecutors reach out to different community groups—neighborhood associations, business associations, even church groups—for input as to where to focus the prosecutors' resources. Community prosecution is a much more democratic method of decision-making; instead of the chief prosecutor making charging decisions and setting plea-bargaining policy for the county (and then submitting their record to the public for approval once every two years at election time), the office regularly

seeks the opinions of ordinary citizens for advice as to which crimes to take seriously and which crimes deserve leniency.

This semester the students in the class were split on the appropriateness of community prosecution models—although the community outreach and feedback from citizens appealed to many of the students, some were unconvinced. Skeptics of community prosecution were concerned about the members of the community that might be overlooked by prosecutors who believe the "community" can be represented by certain groups. As always, the Practicum provides students with a real-life microcosm of the dispute, as every student must struggle to determine the just charge and outcome for each case they are assigned.

## Legislation Clinic

The Legislation Clinic has a new face this fall semester: Professor Douglas A. Berman is co-teaching the course with Clinical Professor Terri Enns, while Professor Steven F. Huefner, Director of the Legislation Clinic, is involved in a funded research project. Professor Berman's expertise in sentencing law makes him a natural fit in a course heavily focused on the processes, policies, and personalities that go into the crafting of statutes. Professor Berman states, "Being involved with the Clinic has confirmed my instinct that this innovative program is something I wish I had had access to when I was in law school."

During the first half of the semester, the General Assembly was in its extended fall recess to allow members of the House and Senate to campaign, so students

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### New Moritz Clinic video is now online!

Visit <http://moritzlaw.osu.edu/clinic/tour.php> for a ten-minute virtual tour of the clinic.

Tour the new Woodside Courtroom and meet all of the clinical faculty, as well as many of the current and recent clinical students as they talk about their clinical experience.

mostly worked on long-term projects that provided background research for the upcoming lame duck session and next January's new General Assembly. After the election, however, the legislature kicked into high gear and focused on passing policy priorities, and the calm environment gave way to a frenzy of committee hearings and floor sessions in November.

The students this semester are working in a number of caucus offices, individual member offices, an administrative department's legislative affairs office, and at several legislative support institutions. As in every semester, students have enjoyed a number of guest speakers who have provided an insider's perspective on issues ranging from the budgeting process to media coverage of the General Assembly.

## Civil Law

### *Not My Debt*

When Ms. M, a part-time employee of the University, received a collection demand letter from a collection company, she assumed that there had been a simple mistake—the collection demand letter stated that she owed money on a debt from Bank One, but she had never had an account or a credit card with Bank One. Ms. M. called and wrote back to the collection company, explaining that the alleged delinquent account was not hers and requesting to see all documentation that she had in fact incurred the debt. Instead of responding, the collection company sued Ms. M. on the unpaid debt. When she was served with the Complaint, Ms. M wrote the collection

company again telling it, "This is not my debt," and mailed the Complaint back to collection company's counsel but, unfortunately, not to the court. Shortly after her Answer date passed, the collection company filed a motion for a default judgment. Again, Ms. M responded directly to the lawyer, writing that there was some mistake, and she also contacted the credit reporting companies and requested documentation of the alleged debt directly from Bank One. The court entered a default judgment against Ms. M and the collection company filed to garnish Ms. M's wages.

Less than four months after the court issued the default judgment, clinic student Chris Belcher prepared a motion to set aside the default judgment. Clinic student Chris Yeager represented Ms. M in February when the court held a full hearing on the motion. The court found that the motion was timely, and held that Ms. M established that she had a meritorious defense to the original claim. Additionally, the court determined that Ms. M's failure to file an answer to the Complaint was excusable neglect because she lacked familiarity with the legal system had made conscientious attempts to contact counsel and straighten out his client's error. It then allowed Mrs. M to defend her case on the merits.

As often happens in such cases, the collection company could not produce any evidence that Ms. M was responsible for the alleged debt and the case was dismissed.

### *Corporate Kindness*

Last semester, senior citizen Ms. J

received more than free legal services from the civil clinic, she received a full refund of the amount she paid for her original roof and a whole new roof to boot. Ms. J paid over \$2,200 to a home repair contracting company to install a roof on a small 1 room addition to her aging home. However, when it rained, water poured in through the new roof and did extensive damage to the addition. The contractor claimed he sent someone to inspect the work at Ms. J's request, and then he insisted that the leak was due to the fact that Ms. J needed a brand new roof on the rest of her house and that the new roof over the addition he installed was not to blame.

Clinic students Bill Sperlazza and Betsy Shively examined the house and disagreed with the contractor's assessment. We invited the contractor to meet with us at the house to examine the roof, but he refused to meet with us unless Ms. J paid a for a service call. Instead, we climbed up on the roof with a roofing expert from Approved Roofing. The expert pointed out multiple defects in the roof installation and even was critical of the choice of roofing materials. Armed with this information, we were able to write a detailed demand letter explaining what we believed to be the strength of our potential claims under the Consumer Sales Practices Act based on our expert's evaluation. The contractor called us immediately upon receipt of our letter and agreed to refund the entire amount of the original contract price.

The good news for Ms. J did not end there. Mr. Sark, president of Approved Roofing, was so distraught by what he

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## Catch up with Clinic News

Visit : <http://moritzlaw.osu.edu/clinic/newsletter.php> to read Moritz Law back issues online

If you would like to receive the newsletter, please email Sela Varland at [osulawclinic@osu.edu](mailto:osulawclinic@osu.edu) or call (614) 292-6821.

saw on Ms. J's roof, he offered to donate the materials and labor to re-roof her addition. The students, Ms. J, and all of us in the civil clinic were delighted with the outcome on this case. This was an outstanding example of corporate kindness.

### **Prison Case Update**

In May 2005, the United States Supreme Court ruled in the Civil Clinic case *Cutter v. Wilkinson* that a federal statute protecting the rights of prison inmates to practice their religions was constitutional. The statute, known as the Religious Land Use and Institutionalized Persons Act, requires all departments

of corrections receiving federal funds to accommodate the religious exercise of inmates unless there is a compelling government interest not to accommodate. Prisoners had invoked the statute claiming that the Ohio Department of Rehabilitation and Correction was not permitting religious activities of a number of non-mainstream religions.

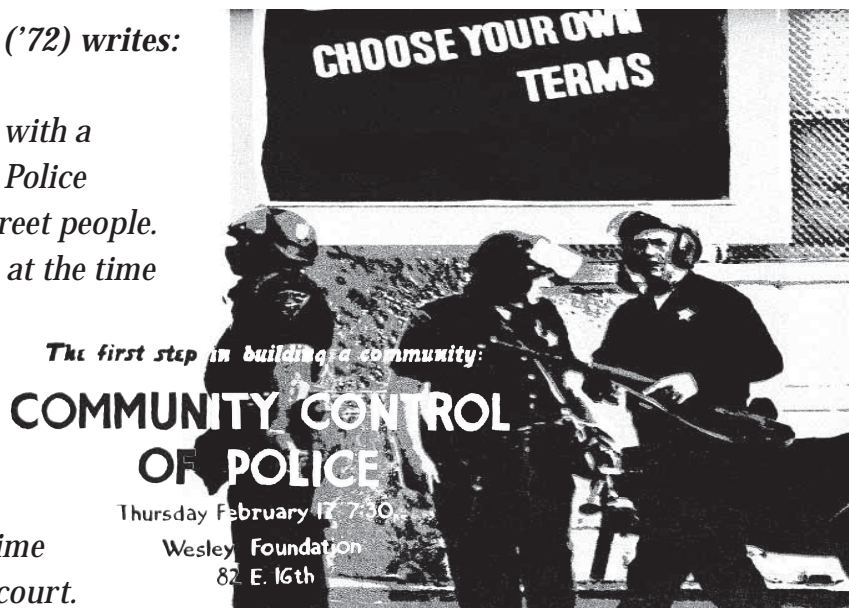
Following the Supreme Court ruling, *Cutter* was sent back to the district court where it was assigned to Magistrate Judge Terrence Kemp. At a recent meeting with counsel for the parties, Judge Kemp strongly urged the counsel for all parties to negotiate to see if they can achieve agreement over which religious practices

should be accommodated under the statute. A team of clinic students then reviewed all available religious practices policies from departments of corrections across the country to formulate a proposal for possible settlement. Based on this review, the clinic students outlined a settlement position that is consistent with corrections policies in several other states, and it is hoped that this position will serve as the foundation for settlement of the entire case. All issues that are not settled will ultimately be tried. \*

## Reflections from Alumni

*Clinic Alumnus William L. Kovacs ('72) writes:*

*Around 1970 or 1971 I was involved with a clinic law suit against the Columbus Police Department for their treatment of street people. I believe Mr. Jacobs was the director at the time and Professor Laughlin was very involved in the lawsuit. These posters were produced and were placed all along High Street in prominent places. Police conduct was a very contentious issue at the time and the law suit was filed in federal court.*



### **We want to hear from you!**

If you are an alumnus of the Clinical Program at Moritz Law and would like to share a memorable experience you had in a clinic, comment on the program, or just let us know what you are doing now, please contact us!

You can write or e-mail to:

*Greg Travalio, Director of the Clinical Program  
Moritz College of Law, 55 W. 12th Avenue, Columbus, OH 43210*

*Or send an e-mail to: [Travalio.1@osu.edu](mailto:Travalio.1@osu.edu)*



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 The Ohio State University  
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 55 West 12th Avenue  
 Columbus, OH 43210-1391

(614) 292-6821  
 www.moritzlaw.osu.edu

# ClinicNews

For Questions and Comments, or to Submit Alumni News

Greg Travallo

*Director of the Clinical Program*

Travallo.1@osu.edu

Visit our website at <http://moritzlaw.osu.edu/clinic> for direct access to the Moritz College of Law Clinical Office, our current projects and student practice organizations.

## How to Reach Us:

Office of Clinical Programs  
 Moritz College of Law  
 The Ohio State University  
 Drinko Hall  
 55 West 12th Avenue  
 Columbus, OH 43210-1391

Telephone: (614) 292-6821  
 Facsimile: (614) 292-5511