

ClinicNews

Newsletter for the Clinic Alumni of The Ohio State University Moritz College of Law



Professor Angela Lloyd assists a Moritz clinic student in court.

Choosing Cases for Students Mixes Experience, Luck

Clinic Professors Find Opportunities for Various Lessons

By Rob Phillips

SOME WOULD SAY IT'S AN ART, others may chalk it up to luck. But the faculty of The Ohio State University Moritz College of Law Clinical Programs have made selecting cases for their students a science.

Each semester, professors weigh different types of cases, the lessons that could possibly be learned from them, and the interests of the students enrolled that semester. Choosing cases with a varying degree of complexity and potential educational value has become second nature for the clinic faculty.

"The professors who choose these cases are careful to find ones that provide great teaching opportunities for our

students," said Professor Steve Huefner, the director of the Moritz clinics.

"They each are expert in their ability to continually foresee which charges, lawsuits, and disputes will give our students valuable lessons for the future."

And none have more variety in the cases they choose than the College's Civil Clinic. Professor Elizabeth Ilgen Cooke continually receives phone calls from attorneys and judges from around the state with potential cases. Unsolicited phone calls and drop-ins to the Clinic wing of Drinko Hall are also a regular occurrence.

"People are always asking for legal help, but the difficult part is ensuring that we have the right mix of cases," Cooke said. "We are always trying to keep a combination of subject matters within the

cases that we are working."

That right mixture includes some cases that are predicted to be resolved within the semester. That way, students who start working on the case will likely be able to

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Clinic Case Argued Before Ohio Supreme Court

Two Students Provided Valuable Research to Aid Arguments

By Amber Phelps
Contributing Writer

IN APRIL, months of preparation by students enrolled in the Moritz Civil Clinic culminated when oral arguments in an adoption case were heard before the Ohio Supreme Court—a first for the clinic.

“We’ve had other cases in which we had written amicus briefs, but we have not had one go to oral argument,” said Professor Elizabeth Ilgen Cooke, who oversees the College’s Civil Clinic and made the oral arguments on behalf of the clinic.

The case dealt with a conflict between the Ohio 2nd and 9th District Courts involving the application of a statute to a pending adoption. The Court asked the Civil Law Clinic to represent the biological mother.

3L Steven Maurice White was initially slated to argue the case before the Court, but the Court denied the motion to have a student make oral arguments. Nonetheless, White and Civil Law Clinic student Jon Franz were involved in nearly every aspect of the case.

“We’re here at Moritz learning about law, but we are also learning to be a professional,” White said. “You get practical experience about how to implement all that you’ve learned in class. The clinics are a distinctive way to get that practical experience.”

Cooke said that the clinic was not asked to take the case because of its adoption expertise, but rather for Ohio State’s excellent reputation for file handling and appellate work. Cooke agreed to take the case in November 2009 because she knew the caliber and dedication of the clinic students.

“The students have been involved with the case since it came through our door,” Cooke said. “We extended the briefing deadline until January so that the students could work on it. It was an intense research



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Steven Maurice White 3L

and writing project for the students.”

The Civil Law Clinic students worked on drafting the briefs and worked with Cooke to develop a strategy for the oral argument.

“The students did the general research in the area of the law,” she said. “They wrote summaries of the lower court’s decision, and we had brain storming sessions on how to best approach and argue the case. The students worked on every part of it.”

Leading up to the oral argument in April, Cooke instructed the students to review the preceding cases and draft the first 100 words that she would speak during her oral argument.

“Since there is a time limit and the judges can interrupt you with questions at anytime, it’s critical to have a clear outline of points to make and to be prepared to

handle questions concisely,” she said. “I asked the students to develop our roadmap or outline of points to make and themes to get across.”

To prepare for the potential questions that would be asked by the justices, White, along with his fellow classmates, held moot court practice rounds in which the students portrayed the justices and Cooke argued her case.

“The students would ask me questions with the intention of throwing me off course, and then we would work out how I would answer that question concisely,” Cooke said. “We brought in local lawyers who specialize in adoption law to throw questions at me.”

Even though the Civil Law Clinic students prepared Cooke for the uncertain

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“The case provided a terrific opportunity for the students in the clinic to do appellate work at the Ohio Supreme Court level. This means that the work that we did will help to shape the law”

Professor Cooke

Professor Stulberg Joins Civil Clinic in 2009-10

Professor Brings ADR Expertise to Another Moritz Course

By Amber Phelps
Contributing Writer

WITH A DISTANT EXPERIENCE as a legal advocate and a strong interest in gaining a sharper appreciation for litigator strategies and dynamics, Professor Joseph Stulberg pegged himself to be the newest addition to co-teach the Civil Law Clinic last school year.

Stulberg, who also teaches the Mediation Clinic, is in his 12th year of teaching at Ohio State. But this is the first time Stulberg has been called to the Civil Clinic.

“Overall it has been an energizing, stimulating, and fun experience,” he said. “I’ve taught the mediation practicum for years so while the prospect of teaching the litigation clinic was daunting, the notion of teaching an applied performance skill-based - course was something with which I was quite comfortable.”

Stulberg received his bachelor’s degree from Kalamazoo College, his law degree from New York University, and his doctorate in philosophy from The University of Rochester. The unique combination of degrees is what Stulberg believes enhances his approach to teaching.

“From my vantage point, my respective professional and academic trainings systematically support one another,” he said. “There hasn’t been a day in my professional life where I haven’t drawn upon both trainings. They allow – and prompt - me to create a certain analytical pedagogy that differs from traditional law school teaching.”

In addition to his advanced degrees, Stulberg brings a wide range of experience to the Moritz clinics. Stulberg currently serves as a member of the Ohio Supreme Court Committee on Dispute Resolution and was the Reporter for the Joint Committee on the Model Standards of



“... on another level the clinics are servicing persons who might not otherwise have access to legal counsel so clinics provide a very important service to the public.”

Professor Joseph Stulberg

Conduct for Mediators that developed the revised Model Standards.

Although Stulberg’s professional background is in mediation, he has grown comfortable with the idea of teaching within the Civil Law Clinic. “I was interested in teaching the Civil Clinic for many reasons, including my own professional development,” he said. “I wanted to gain a better appreciation for litigator strategies, dynamics, and concerns. If one is mediating any type of civil law claim, I believe that the mediator who is most effective is that person who has a solid understanding of an attorney’s strategies and tactics and the dynamics of the lawyer’s interaction with clients.”

The Moritz College of Law’s clinical programs offer a distinctive model that combines practice and theory. Faculty teams advise students on both practical and theoretical aspects of their cases. Stulberg is teamed with Professor Elizabeth Cooke, who lends her civil practice experience to the Civil Law Clinic. Stulberg is grateful for the advice and help he received from his clinical team member.

“Elizabeth Cooke is a lawyer’s lawyer,” he said. “She is utterly outstanding. Her enthusiasm for lawyering is absolutely contagious. I was a student of hers right along with the students in the class.”

Stulberg was awarded the 2003 Faculty Award for Excellence in Community-Based Scholarship to recognize the innovative and extensive ways in which he has integrated student learning with community service.

“The clinics’ primary function, of course, is to strengthen the students’ training,” he said. “But on another level the clinics are servicing persons who might not otherwise have access to legal counsel so clinics provide a very important service to the public. If you’re working 15-20 cases per semester, that means approximately 80 to 100 people are being served annually.”

Stulberg says that his favorite aspect of the class was the final mock trial.

“After students would complete their trial, they would gather in a conference room to eat a light dinner and discuss what had happened. I loved watching their interaction: they reflected on their experience; they laughed, both at themselves and their opponents; and they shared their admiration for one another’s performance. They simply talked about – and were enjoying the rewards of – lawyering. It was exhilarating to observe. It’s quite different than watching students after a final exam,” he said. “This – lawyering - is what they are training to do for their professional lives.”

3L Tamarasan Gained Valuable Experience in Criminal Defense Clinic

2010 Grad Plans to Become Public Defender

By Dede Pan
Contributing Writer

WITH MORE THAN a year's worth of experience working for the Franklin County Public Defender's Office, Priya Tamarasan '10 is more than ready to pursue a career in public defense, especially thanks to her participation in the Criminal Defense Clinic at Moritz. Tamarasan hoped to gain a practical background in misdemeanor law — the one field in which she lacked experience — before she graduated, which is precisely what she got.

"There's a lot more reflection about what it is we're doing and why we're doing it in the clinic," said Tamarasan. "It teaches you a lot about the underlying issues that each case brings up."

Through her involvement with the clinic, she has dealt with theft and soliciting cases, negotiated with prosecutors, and arranged diversion programs for her clients as trial alternatives. She has also learned a number of important lessons that she plans to apply to her future career as a public defender.

"Always maintain your integrity," she said. "At the end of the day your professional reputation is worth more than a win."

Besides gaining practical experience, Tamarasan says she has benefited from the classroom discussions and the instruction of her clinic professors, particularly Professor Robert Krivoshey.

"Professor Krivoshey has been a great mentor to me over the years. I've taken every single class he's offered besides the prosecution clinic," she said. "His guidance is invaluable and so is his advice about being a criminal defense attorney."

Tamarasan has been pursuing her dream of becoming a public defender ever since she completed an internship at a public defender's office while she was an



"Professor Krivoshey has been a great mentor to me over the years. I've taken every single class he's offered besides the prosecution clinic."

Priya Tamarasan

undergraduate student at the University of Michigan.

"I've known since then that's what I wanted to do," she said. "I came to law school wanting to be a public defender and that's what I am going to do."

In August of her second year at law school, she began working for the Franklin County Public Defender's office in its common pleas division. During the following summer, she divided her time between the office's juvenile and common pleas divisions. Although she typically assumes many traditional law clerk duties, such as researching and filing motions, Tamarasan was recently given the opportunity to take on low-level felony cases under the supervision of an attorney. Her first common pleas case involved a low-level theft.

"In that case, the scariest part was understanding that my client was facing possible jail time were she to get convicted. This was a felony. Her entire career was on the line at this point if she were to be convicted," she said. "The pressure was on."

Her passion for helping others, particularly indigents, is rooted in her belief in "the capacity for people to change and the strength of humanity."

"That's why I want to help people who are in the criminal defense area," she said. "Because I feel like everyone deserves another chance — as many chances as it takes — because I think that everyone has potential to change."



Priya Tamarasan (left) with moot court teammate Andrew McAdams (right).

Jamie Galvin Takes on Two Moritz Clinics

Grad Will Take Clinic Experiences to NYC Firm

By Amber Phelps
Contributing Writer

Prior to beginning her academic career at Moritz, 3L Jamie Galvin embarked on a trip to India with her husband. The trip unearthed global injustices of which she was previously unaware.

“My husband and I spent some time wandering around India,” Galvin said. “Sex trafficking is such a huge problem in India. It’s such a terrible way for women to be enslaved and not have a way of getting out.”

As the 2009-10 chief managing editor of Moritz’s Pro Bono Research Group and involvement with Moritz’s Justice for Children Clinic and Prosecution Clinic, Galvin’s commitment to addressing injustices is clear.

Currently working alongside licensed attorneys in the Justice for Children Clinic, Galvin worked to adjust the immigration status for a blind, Haitian youth.

“We do a lot of immigration related things at the Justice for Children Clinic,” she said. “This particular story is heartbreaking. We’ve been working to get his green card. Missionaries brought him here when he was very young. We just won one of our appeals for him.”

Galvin said that while she and other students have worked on similar immigration cases within the clinic, other unrelated issues have arisen.

“There have been a lot of interesting things that have come up,” Galvin said. “We do have clients who are very young and don’t have parents. Sometimes we will have a client presented with an immigration issue and other issues will come up.”

Prior to working with the Justice for Children Clinic, Galvin worked for Moritz’s Prosecution Clinic. There she was responsible for interviewing witnesses and doing plea negotiations.



“The Prosecution Clinic was amazing. They basically give you a file and you prosecute it. We were able to do a lot of plea negotiations, and I even took a case to trial.”

Jamie Galvin

“The Prosecution Clinic was amazing,” she said. “They basically give you a file and you prosecute it. We were able to do a lot of plea negotiations, and I even took a case to trial.”

While working for the Prosecution Clinic, Galvin was motivated by the practical aspects of the cases.

“It’s much easier to spend so much time with these cases because it affects someone,” she said. “One of my cases dealt with domestic violence. We thought we had a great case but couldn’t get the victim to cooperate for obvious reasons. It didn’t matter that I had done all that work to have the case dismissed. It mattered that it was my job to prosecute the case and I couldn’t. Some things are out of your hands.”

Galvin will soon begin work as an associate at Cleary, Gottlieb, Steen & Hamilton in New York.

Moritz College of Law Clinical Program Faculty

The Moritz College of Law Clinical Program is composed of six different clinics.

Civil Law Clinic

Clinical Professor Elizabeth Cooke
Professor Joseph P. Stulberg

Prosecution Clinic

Associate Professor Ric Simmons
Clinical Professor Robert Krivoshey

Criminal Defense Clinic

Professor Deborah Jones Merritt
Clinical Professor Robert Krivoshey

Justice for Children Clinic

Professor Katherine Hunt Federle,
Director
Associate Clinical Professor
Angela Lloyd

Mediation Clinic

Professor Sarah Cole
Professor Joseph P. Stulberg

Legislation Clinic

Professor Steven Huefner, Director
Professor Douglas A. Berman
Professor James J. Brudney
Clinical Professor Terri L. Enns

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and stressful process of arguing in front of the Court, nothing could prepare her for the technological failure that occurred at the actual oral argument.

“The microphones at the podium and on the bench squealed with feedback” she said. “Each second that the microphones were out of commission ate into my allotted time. They didn’t stop the clock because of it, so I had to abbreviate my statements and only state the most important pieces of the argument. There were three main points to the argument and I had to skip the discussion of the second one because I was running out of time.”

Despite the technical difficulties, Cooke says that the experience was exciting and fulfilling. “The case provided a terrific opportunity for the students in the clinic to do appellate work at the Ohio Supreme Court level. This means that the work that we did will help to shape the law,” she said. “We also were excited to be making a difference for someone who without our help would have been unrepresented. Until we got involved, no one was arguing from the mother’s perspective. We were happy and honored to provide that perspective to the court on behalf of our client.”

Have you joined the Moritz Facebook Page?

It’s the best way to stay connected with law school news, updates on alumni events, and information about Moritz initiatives, including from the clinical programs!

Sign up by visiting facebook.com/osumoritzlaw.

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see it resolved.

“But they cannot all be like that or none of them would be overly complex,” Cooke said. “The more complex cases can be spread across several semesters and several students.”

The idea, Cooke said, is to give

“I like to try to give students a combination of cases: some that will likely be plea agreements and others that may go to trial.”

Professor Robert Krivoshey

students the opportunity to see cases at different stages. Some students may conduct initial research, others will handle depositions, and even others may take the case to trial.

At any one time, the Civil Clinic has 20-30 open cases that students are pursuing. Normally two students are assigned to each case.

In the beginning of the semester, students preference areas of law in which they are and are not interested. “I never promise that I can give students a case that aligns with their first preference,” Cooke said. “But I usually can guarantee that they will not be working on a case in an area of

law that they specifically said they are not interested.”

The faculty working in the Justice for Children, Defense, and Prosecution clinics don’t have cases coming in from as many different avenues as the Civil Clinic. For instance, Professor Robert Krivoshey travels to the Delaware County Prosecutor’s Office, where prosecutors typically leave a stack of cases from which he can choose.

“Most of the time, I’ll take what I can get,” Krivoshey said with a laugh. But after 22 years in the clinics, Krivoshey has a knack to snag the cases that ensure the 50-60 cases the clinic takes on each semester give each student the opportunity to learn valuable legal lessons.

“I like to try to give students a combination of cases: some that will likely be plea agreements and others that may go to trial,” he said. Each student handles about two to three cases a semester in the Prosecution Clinic.

Angela Lloyd, who oversees the College’s Justice for Children Clinic, said that she has learned over the years what students will likely encounter when handling various types of juvenile cases. Many of the Justice for Children Clinic cases include theft, domestic violence, and truancy and immigration. In the Defense Clinic, it once again falls to Krivoshey to review potential cases, this



Professor Angela Lloyd teaches a Children’s Clinic class



Students in Children's Clinic class

time from among those turned over to the Franklin County Public Defender's Office. "I've gotten fairly good at reading criminal complaints and having an idea where the case may go," he said.

The Defense Clinic has, over the past several years, accepted a growing number of identity theft and solicitation cases. "In the identity theft cases, students have the opportunity to really investigate," he said. "And students oftentimes think of prostitution cases as victimless crimes, but soon realize the power of addiction and that many of these people are terribly exploited and abused."

But, what truly makes the clinics interesting is that inevitably there are always several unknowns. Faculty have some idea what students will encounter, but there are always shocking surprises uncovered each semester.

"That's what keeps us on our toes," Krivoshey said. "The curveballs that can be thrown are probably the greatest lesson of all."

Trying to catch up with Moritz alumni?

Read the most up-to-date news regarding Moritz graduates online at moritzlaw.osu.edu/alumni/notes.

While you're there, fill out a quick form and let us know what's new with you. Did you change jobs? Have a baby? Get married? We'd like to hear from you!

Also, feel free to e-mail updates to Rob Phillips at phillips.854@osu.edu or (614) 247-6520.

DID YOU PARTICIPATE IN A CLINIC AT OHIO STATE?

If so, we have a Reunion Weekend event especially for you.

Clinic Alumni Reunion

Pre-tailgate Cocktail Reception

September 11, 2010

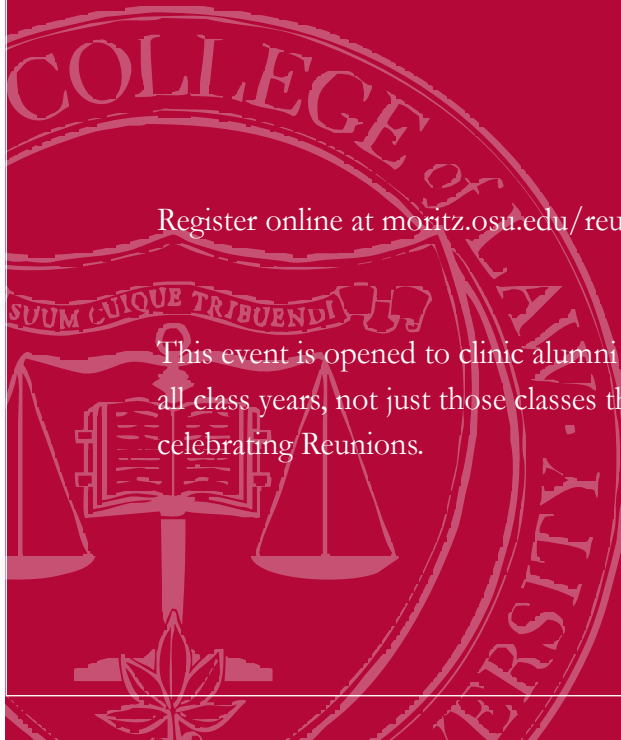
Noon

Barrister Club

Gather with fellow clinic alumni and the College's clinic faculty and staff one hour before the Reunion Tailgate.

Register online at moritz.osu.edu/reunions.

This event is opened to clinic alumni from all class years, not just those classes that are celebrating Reunions.



Updates from the Clinics

Civil Law Clinic

Variety of Cases Challenge Students

Students in the College's Civil Clinic stole a line from the Mediation Clinic's book as they used plenty of skills last school year to help resolve a number of cases.

One such success story was a mediation that students conducted on behalf of a client being sued in a wrongful death case. Students represented the case during both the spring and fall 2009 semesters.

Elizabeth Cooke, the professor who oversees the Civil Clinic, said that the powerful jury-verdict research conducted by the clinic students allowed them to negotiate a resolution that was favorable for their client.

"These were very intense, emotionally charged negotiations," Cooke said. "Students did a great job of preparing for and participating in the discussions, which were held at a Columbus area law firm."

Civil Clinic students also had the opportunity to represent a U.S. veteran who was denied insurance claims by the Dept. of Veterans Affairs for surgery he underwent. Students filed an appeal on behalf of the man that said the injuries that required surgery were sustained while he was on active duty.

"We're still waiting to hear the outcome of this case," Cooke said.

Other cases of note included a small claims fight over a shared cell phone plan as well as representing a woman who sued a local used car dealer for a violation of the Consumer Sales Practice Act.

Criminal Defense Clinic

Students Impress with Representation

Students in the Criminal Defense Clinic, as always, had the chance to represent a variety of clients charged with criminal misdemeanors. Here are a few of the clinic's memorable cases from the past year:

One of the Criminal Defense Clinic clients pleaded guilty to a minor misdemeanor and the judge sentenced him to \$750. The 3L representing the client, Leon Sinoff, noted that the crime carried a maximum sentence of \$500. "Are you sure?" the judge asked. "Are you working from the latest copy of the statute?" Leon showed the judge the current fine schedule, confirming that the maximum fine for a minor misdemeanor is \$500. The judge lowered the fine to that amount. As Leon exited the courtroom, two people asked for his card; they were impressed by his representation and wanted to hire him!

The clinic devoted considerable time to a case in which the client was charged with sexual imposition. The charge arose out of some bawdy exchanges in the workplace. The complainant filed criminal charges only after the employer fired her for other reasons. Students didn't think their client was guilty, and he risked being listed as a sex offender if convicted. The clinic students, Amanda Rose and Jimmie Marra, delved into the records in the case, obtained personnel records for both their client and the complainant, and transcribed a video of the police interrogation. Their hard work paid off: they were able to persuade the prosecutor to reduce the charges considerably.

Students also had an interesting experience with Franklin County's new program for prostitutes with multiple convictions and addiction problems. Students represented a client who qualified for this new program, but the client was a transvestite male – not a woman like the other prostitutes in the program. Clinic student Kerry McNally did a terrific job persuading the program coordinators to accept her client on a trial basis. Unfortunately, the client didn't show up for the program and students have been unable to contact him.

Professor Bob Krivoshey, finally, had a recent experience that epitomizes what the clinic hopes to accomplish for the people it represents. Bob was walking on High Street in April when a man approached him. Bob didn't recognize the man immediately, but he was a client the clinic represented last year. A student

had worked to get that client, who had been charged with theft, into a special program for defendants with mental illnesses. The former client told Bob that he had participated in the program, that it had worked for him, and that he was faring quite well. It was a nice reminder for those working in the clinic – both faculty and students – of the effects that the clinic's representation can have on peoples' lives.

Justice for Children Clinic

One Client Epitomizes Clinic's Success

The Justice for Children Clinic practices holistic representation of its minor clients in order to achieve the best outcomes possible for its clients. "The days of Gideon and winning at trial are past for poor clients," affirms Associate Clinical Professor, Angie Lloyd.

One case, in particular, inspired clinic students last academic year. In the spring of 2009, the clinic won a dramatic appellate case in which the Tenth District Court of Appeals affirmed the dismissal of a clinic client's truancy charge based on the prosecutor's failure to charge the client's parents simultaneously, as required by the Ohio statute. Thus, in the fall of 2009, when a clinic student undertook representation of an alleged truant whose parent had not been charged, she immediately filed to have the charge dismissed. Because of the student's professional and successful handling of the truancy case, (the charge was dismissed) the client trusted and respected the clinic student. Just two months after the truancy charge was dismissed, the client reached out to his former "lawyer," the clinic student, and asked for assistance in defending himself in an upcoming expulsion hearing. The school threatened to expel the client because he had accidentally broken one of the school's office windows.

The school had not expected the client to appear with counsel at the expulsion hearing and was, as a result, amenable when the clinic student advocated having her client transfer

Legislation Clinic

Casino Amendment Brings Many Lessons

schools, within the district. In addition, the student (in anticipation of a possible delinquency filing for the broken window) advocated a voluntary drug and alcohol screening; reimbursing the school district for the broken window; and voluntary community service hours. The client transferred, completed a drug and alcohol assessment, paid for the window, and completed voluntary community service hours. As a result, when the school filed criminal damaging charges against the boy, the clinic student succeeded in having the charges dismissed and the client walked away with no juvenile record.

What was most exciting for the clinic students was the fact that their client, since moving to the new school, dramatically improved his performance at school, achieving passing grades in all of his subjects and transforming his attendance; he got and stayed out of trouble as a result of the different peer group; and, he even lost 40 pounds. "This is how it should work," Lloyd said. "This case was a great example of how hard work by our students can have a transformative effect on the lives of their juvenile clients."

Mediation Clinic

Mediators Bring Peace to Columbus

The Mediation Clinic enjoyed a successful year in 2009-10. Professors Nancy H. Rogers and Joseph B. Stulberg both returned to the classroom from administrative positions to lead the courses. Moritz law students mediated nearly 200 cases throughout the year for various court-based programs. In addition, several students won awards for their excellent scholarly writing. And a pilot truancy prevention program was started.

In each semester, Professor Rogers and Professor Stulberg, with the assistance of Clymer Bardsley, Moritz's Langdon Fellow in Dispute Resolution, together with many local ADR practitioners, trained mediation clinic students in the theory and practice of mediation. Once trained, these students mediated live cases in Franklin County Municipal Court

Each school year, students in the Moritz College of Law Legislation Clinic learn the differences between a state constitution and the federal constitution. Thanks to the statewide casino initiative that Ohio passed last fall, this year more than ever they also had the opportunity to experience those differences first-hand in their work at the Ohio General Assembly.

State constitutions like Ohio's tend to read more like "super statutes," according to Clinic Director Professor Steven Huefner, who regularly teaches the Legislation Clinic along with Professor Terri Enns.

Like most state constitutions, the Ohio Constitution is more easily amendable than the federal document. Because of this, language added to the state constitution often is much more technical and specific.

Students learn about these differences within the classroom portion of the Legislation Clinic, which celebrated its 10th anniversary during the 2009-10 school year. But the clinic's 12 students each semester also have the opportunity to experience how a state constitution functions as they work in the four leadership caucuses of the Ohio General Assembly or alongside individual members of the legislature.

This has never been truer than during the 2009-10 school year, when Ohio voters passed a constitutional amendment that allowed four casinos to be constructed throughout the state. The constitutional amendment not only approved the casinos, but also specifically indicated the four locations in Cincinnati, Cleveland, Columbus, and Toledo where the casinos would be built, in addition to establishing a number of other requirements and limitations. For instance, the constitutional amendment required that each casino pay \$250 million in on-site investments and \$50 million in local workforce development programs.

The Ohio legislature then was charged with enacting the implementing rules associated

with the new casinos and creating the casino commission that would oversee the operations. These and other casino-related issues facing the legislature gave Legislation Clinic students a variety of concrete opportunities to apply their skills in researching and writing about a real-world policy issue. "Moritz students provided analysis of various statutory and constitutional issues. They had both the unique opportunity to work on gaming-related issues as well as on issues that were related to broader implications of the constitutional amendment," Enns said.

At the same time they were working first-hand on various statutory matters associated with implementing the casino measure, the clinic students also had a front-row seat in watching the constitutional amendment process play out again as casino backers had to return to the voters this spring to seek a change to the location of the Columbus casino. "That's just the nature of legislating by constitutional amendment," Huefner said. "If you decide you don't like what you did before, you can only change it with another full-blown amendment process."

Updates from the Clinics

and for the Columbus city prosecutor. In Municipal Court, the students handled cases involving disputants who were sometimes expecting a trial, and worked with them to express their concerns and perspectives to one another and then try to find ways of resolving their cases in a more collaborative, empowering, and perhaps creative way, than the court could do for them. In so doing, the students were of great assistance to the magistrates as well, removing some of the court's caseload burden.

In the City Prosecutor's Office, the student mediators handled matters involving minor crimes like criminal damaging and petty theft, and cases that were more community-based, such as noise complaints and neighborhood disputes. Some students also had the opportunity to mediate cases involving evictions, a new program established in late 2009. In all cases, students utilized the skills they learned both in class and by experience, such as how to conduct a conversation from a neutral position in an organized and compassionate way in order to preserve party self-determination, mediator impartiality, and the opportunity for settlement.

Mediation clinic students produced outstanding scholarship over the course of this year as well. In March, the Nancy H. Rogers Prize for Scholarship in Dispute Resolution was awarded to Ryan Smith '11 for his paper on the issues related to bargaining in good faith. Joey Lipps '11 received an honorable mention for his paper on privileged communications in mediation. Adam Primm '10 won Marquette Law School's 2009 National Sports Law Student Writing Competition for his article on new trends in baseball salary arbitration. Another mediation clinic student, Michael Diamond, won the Ohio State Bar Association's Environmental Law Award for his paper on the use of mediation for siting wind farms.

The faculty members in the Program on Dispute Resolution remained as busy as ever this year. Professor Stulberg chaired the ACR Task Force on the Arbitration Fairness Act, which published its findings in December. Professor Sarah

Cole participated in a symposium for the Lewis and Clark School of Law on recent Supreme Court arbitration jurisprudence. Professor Rogers, together with her systems design students, is working with a state agency in order to help it change its dispute resolution culture. Professor Ellen Deason has written a chapter with the title 'Alternative' Dispute Resolution in the United States for a book on jurisprudence that will be published in Chinese by a university press in China. The translation was done by Xiaoyi "Amy" Sun, an LL.M. and dispute resolution certificate student from the class of 2008. Clymer Bardsley, with the help of Priya Tamilarasan '10, started a truancy mediation project in a local school district, in which trained law students helped bring parents and school officials together to brainstorm ways to improve attendance.

Prosecution Clinic

Assault Cases Act as Tutorials

Students in the Prosecution Clinic handle misdemeanor cases out of the Delaware City Prosecutor's Office. Many of the cases are typical misdemeanors: shoplifting, assaults in a bar, public indecency, and so on. But occasionally students will investigate a case and uncover new facts that lead them to believe that the crime was much more severe than the police first believed. The student must then make the decision as to whether or not to send the case to the county prosecutor to consider felony charges. This year, for example, two students were working on a domestic violence case in which a boyfriend threw his girlfriend against a bedpost and then choked her. The police wrote the case up as a first-degree misdemeanor, but when the students interviewed the victim, disturbing details arose. The motive for the attack was that the victim had rejected the defendant's sexual advances — and after the assault, the victim had "consented" to intercourse with the defendant. This sounded to our students very much like a rape case — but the law required them to prove a nexus between the assault and the intercourse. One problem was that the sexual contact occurred nearly half an hour

after the assault. Another was that the victim was inconsistent in stating whether she consented to the intercourse, and so it was far from certain that a jury would determine that the encounter was coerced.

A similar situation arose in another assault case in which the defendant punched the victim in the face after an argument at a fraternity party. Once again, the police wrote the case up as a misdemeanor assault, but it was quickly apparent that the injuries were far more severe than they would be for most misdemeanors. The victim's jaw was broken, and he spent over a week in the hospital with his jaw wired shut. Although the injury was clearly sufficient to meet the requirements for an aggravated felony, the students debated whether they could prove the necessary *mens rea* for the felony charge. The defendant did not use a weapon, but he had hit the victim as hard as he could in the face — was that sufficient to demonstrate that he intended to cause serious physical injury?

In both cases, the students were able to convince the defense attorney that felony charges were possible, if not likely, and the defendant agreed to plead guilty to the misdemeanor and receive four or five months in jail — nearly the maximum possible for a misdemeanor. Was justice done in these cases? Some of the students were satisfied with the result — a felony would have been hard to prove in either situation, and there was no guarantee that the county prosecutor would even have indicted the cases. Others felt that the defendants got off far too easily: it was clear to them that a felony had indeed occurred, and the defendants deserved to be incarcerated for years, not months. Still others felt that we had unfairly intimidated the defendants into taking the plea, since the chances of a felony conviction were relatively remote. But the students learned an important lesson for any litigator: there is frequently a gap between what you *believe* may have happened and what you can *prove* happened.

Clinic Alumni Event

Clinic Programs Gathering: October 2009

MORE THAN 50 ALUMNI of the Moritz Clinical Programs gathered along with their families and Moritz faculty at the Columbus Zoo on Saturday, Oct. 3. Dean Alan Michaels and Clinic Director Steve Huefner each welcomed guests to the event, which allowed graduates to reunite with one another and with their former professors.

Alumni and their children had the opportunity to get an up-close glimpse of several of the zoo's residents, including a large python, a dingo, and two impressive members of the cat family, a serval and a caracal.

"It was great to have so many clinical alumni and their families decide to come out," Huefner said. "I certainly enjoyed getting the chance to reconnect with former students, and I know others appreciated the chance to visit with each other as well."

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Prof. Steven Huefner





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For Questions and Comments, or to Submit Alumni News contact: