

EJ I I N K

ECONOMIC JUSTICE INSTITUTE

FALL 2015

A Fond Farewell

“No one who achieves success does so without acknowledging the help of others. The wise and confident acknowledge this help with gratitude.” — Unknown

Our warm congratulations and heartfelt gratitude go to Brenda Balch, who is retiring after a 35-year career working for the University of Wisconsin. Brenda began working at the Law School in 1985, and has kept the EJI lawyers and students functioning smoothly since 2001.

Successful organizations cannot be successful without strong support from their administrative professionals. The best administrative assistants keep the office running efficiently and are always looking for new ways to lend support or make improvements to benefit the organization. That description fits Brenda to a tee. She has made herself indispensable in countless ways and saying that she will be missed when she retires is a vast understatement.

Each of the five EJI clinical projects is a fully functioning law firm, collectively serving hundreds of clients each year. The clinical projects have multiple locations: the Law School, the Villager Mall on Madison's south side and the Dane County Courthouse. The legal associate (Brenda) is EJI's sole staff employee. She manages all aspects of the EJI program, from recruitment and orientation of new students to handling complex litigation, a variety of data for each of the clinics, and the day-to-day operations of a very busy office.

Brenda has been the welcoming face that new students and clients meet when they first walk into the EJI offices, and she ensures that those who may wander in to the EJI space without an appointment are handled with compassion and courtesy. She is the point person when the copier jams or when a special mailing must be sent out before the post office closes. She organizes our files, our offices, and all of us without ever losing her patience, her smile, or her helpful attitude.

Every day, new situations arise with our work that requires quick decisions and immediate action. Brenda has extended her capabilities beyond her job description to tackle the unexpected and has learned new

skills in order to carry out the ever-expanding duties of her position. She cares about the quality of service that the EJI clinics provides and does all she can to make sure that a positive image is projected throughout the Law School environment. She has made all of our work more enjoyable and we have greatly benefited from her helpful suggestions and institutional knowledge.

Brenda and her husband soon will become world travelers, spending this winter in Mexico and visiting their son in Austria in 2016. We wish her the very best as she enjoys some well-deserved rest!

Marsha, Mitch, Sarah, Stacy, & Perri

EJI Student Wins Award



Fiona Frimpong (3L), a student in the Family Court Clinic in 2014-2015 was recently honored with the 2015 Leonard Loeb Family Law Scholarship. Fiona was selected for her record of academic excellence and her commitment to the field of family law. Throughout her law school career Fiona has demonstrated an interest and passion for public interest law, particularly focusing on issues that impact families going through the trauma of divorce, domestic violence, and other crises that impact not only the parties going through the process, but also their children and their lives. The \$5,000 award honors the memory of Loeb, a 1952 Law School graduate recognized throughout his professional life as a leader in family law and community service.

After a Long Road, IJC Wins Case in Immigrant Court for Gambian Client

The stories of individuals seeking immigration help through IJC never cease to amaze us. As any law student can tell you, the law can often get dull and boring, but a client's story is what lifts the law off the page. It's what adds the color and dimension to an otherwise dull black and white text. Whether it's doing intakes at Dodge County jail, hearing a story on the phone, or talking to someone in person, the weight, complexity, and extent of the person's story often leads one to ask the question, "How has this person been through so much, yet stayed so strong?" This was the case with our unforgettable first IJC client.

We inherited our client from previous IJC students who had already done a significant work up of the case. Just a month into starting the summer session, before we could blink twice, we already had written a brief and were headed to Chicago to represent our client in Immigration Court. It was a quick turnaround. The road for our client, however, had been anything but quick.

Our client was a Gambian woman whose life had been unimaginably difficult. At age ten, her family members made her suffer female genital mutilation--an unfortunately common practice in the rural part of Gambia where she grew up. She endured the cutting without painkillers or anesthetics and was left unable to walk for over a month. At age thirteen, she was forced into marriage, and at age fourteen, she had already given birth to her first child. After six years of unhappy marriage, she was able to divorce her mentally unstable husband and soon after, she married her current husband.

Just when it seemed as if her fortunes were improving, political upheaval threatened our client and her family. The brutal, totalitarian regime targeted her husband and two brothers because they had actively supported the ousted

political party. Fearing retaliation, the brothers fled the country, one going to Europe and the other to the U.S. A year later, her husband also fled, leaving our client to support herself.

After struggling for five years, our client arrived in the U.S. on a visitor visa, eager to see her husband and brother. While in the U.S., she became pregnant with twin girls. She knew that she could never return to Gambia because her daughters would be forced to endure female genital mutilation, just as she had. She decided to stay in the United States so that she and her husband could raise their twin daughters together.

The client filed an asylum application so she could legally stay in the U.S. However, the deadline for an asylum application is one year after entrance to the U.S., and the client had been here for many years. Due to her late application, ICE was tipped off about her status and started removal proceedings. This is when the IJC got involved because the client had a very compelling case for Cancellation of Removal.

We ultimately proved that removal would cause "exceptional and extremely unusual hardship" to the U.S. citizen daughters. This burden of proof is very high and difficult to prove. However, the client had a strong case as it would be too dangerous return to Gambia with her daughters and impractical to leave them with their aging father (at the time of the court date, her husband was 70-years old, while the daughters were 16).

Soon after submitting the brief, we were on our way to immigration court. Upon arriving, we were surprised to find the court hidden away on an obscure floor of a Chicago office building. There was no sign indicating its presence, no pillars upholding the law, no lady justice to greet us. It was almost as if the government wanted to keep it hidden. When we got inside

we were even more disappointed. The "court" was a small room with low ceilings. It just didn't "feel" like justice could occur in this setting.

When the trial began the judge seemed rushed, and after hearing an opening statement and the client's testimony, he quickly decided that the client should be added to the Cancellation of Removal waitlist (only 4000 are given yearly). In fact, the judge was so compelled that he wanted to offer our client asylum immediately. Opposing counsel threatened to appeal so we decided to leave with what we came for: Cancellation of Removal, which eventually leads to a green card and a path to citizenship.

We really did not know what to expect but we left Immigration Court feeling pretty good. After years of uncertainty, the client can now rest easy because she can stay with her family. She can watch her girls complete high school. She can protect them from the horrors that she endured. In the short amount of time we worked with this family we really got to know them. They opened their lives to us. They walked us through their memories, let us into their daily lives, and shared with us their hopes and dreams.

It is so encouraging to be part of a clinic that works to keep families together and to meet so many strong clients who have faced incredible hardship, but who remain positive. It is encouraging to be part of a clinic that humanizes the law and that has brought life to the law. Just the other day the client called to say thank you again and tell us she missed us. Now we are part of her story.

Courtney Nussbaumer (2L) and Kai Hovden (2L)
Immigrant Justice Clinic

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Diversity Dialogue: Examining Our Multi- cultural Identity

In an endeavor that was the first of its kind on a campus-wide scale, the Middle Eastern Law Students Association (MELSA) hosted Diversity Dialogue on November 5, 2015 at the UW Law School. The student organized event was aimed at promoting facilitated discussions exploring the nuances of diversity and self-identity among all UW-Madison students, both inside and outside of the Law School. The project was carried out in cooperation with many student organizations.

Through utilizing a facilitated small group discussion format and fostering a positive environment, participants were given a safe space to share stories about their multi-faceted and multicultural identity. Organizers sought to identify and minimize stereotypes, promote mutual respect, heighten diversity awareness, and challenge perceptions among the participants.

Specifically, participants discussed their personal experiences related to race, sexual orientation, gender, religion, political affiliation, geographic location, and many other topics under the broad umbrella of diversity. The idea is, that by sharing and learning about students' cultural experiences, the Diversity Dialogue will help foster a more inclusive environment on campus. 105 people attended, including students and some faculty from a variety of schools. Over 60 students participated in the multicultural conversations.

Students from the Law School's EJI Mediation Clinic and the Restorative Justice Project facilitated the small group discussions. The facilitation process was designed to mirror the restorative justice 'circle model' for promoting dialogue. This approach emphasizes equality among participants and creates an atmosphere in which they can feel comfortable sharing their stories freely and openly. The dialogue process supports the premise that enhancing student interactions in the circles carries over to enhancing relationships and interactions on campus, which, in turn, can serve to help prevent or reduce discrimination.



Diversity Dialogue, November 5, 2015

Participants were invited to define their identities. Facilitators then encouraged them to talk, for example, about how their backgrounds and experiences affect their attitudes about diversity. Also, to think about feelings of inclusion and exclusion they have experienced and what potential actions, if any, could help enhance feelings of inclusion for them in the future.

For many, the experience was a first. Shy and uneasy laughter gradually mellowed into a sense of humanity, as participants lowered their guards and shared stories of identity and self-awareness. At one point, an older man thanked the younger crowd around him, and commented on how strongly he felt strands of his own life woven into the stories of each member in the circle. The others nodded their heads gently, appreciating the honest impact of his words. The mood softened further.

Afterward, some of the former strangers exchanged contact information. Several people risked brief hugs. Many of the circles ended in applause, a testament to the great distance the participants had journeyed together over the three hours.

Mediation Clinic students were trained in the circle process and also utilized skills gained through their mediation training, such as reflective listening, asking open questions to promote sharing, framing issues, and helping to create a positive dialogue. As facilitators, they had the role of promoting openness and rapport among participants while preventing potential conflicts when discussing sensitive issues.

This experience was especially valuable for Mediation Clinic students because of the unique opportunity to help facilitate group discussions about sensitive topics. The role they played in the Diversity Dialogue expanded their experience beyond the small claims court mediations that they conduct. Additionally, this experience aided in preparing students to help mediation parties better address potential diversity related issues among them in future mediations.

Jonathan Scharrer, Director of the Restorative Justice Project, Emeline Lee, and Sarah Zwach spearheaded the Diversity Dialogue. Mediation Clinic students who served as dialogue facilitators were: Shalah Turner, Kendrick Yandell, Monica Anderson, Jenna Konruff, Eric Martin, William Martin, and Paige Resch. Thanks to all who contributed to the success of this powerful event.

Shalah Turner, (2L); Kendrick Yandell, (2L); and Perri Mayes, Director, Mediation Clinic



EJL: Table Day - Picture on Right (left to right) - Kai Hovden, (2L); Joel Witt, (2L); Molly Malloy, (2L); Alex Phillips, (2L); Lauren Weber, (2L); Jesse Fruchter, (2L); Jakob Feltham, (2L), Kathryn Pfefferle, (2L) and Molly Cohen, (2L)

Disappearing Consumer Protections

A long time ago (Fall 2013), in a newsletter not so far, far away (EJI Ink), the Neighborhood Law Clinic wrote an article describing a trio of bills that changed Wisconsin's rental housing laws. In that trilogy the deregulatory side of Wisconsin's rental housing dismantled many statutory protections afforded to tenants. The good news is that further changes to Wisconsin statutes have not occurred since the third bill was passed into law. The bad news is that new changes to Wisconsin's administrative code are silencing the rights of renters in Wisconsin.

First, a review of the deregulation trilogy's key points. The first bill was Senate Bill 107 in December 2011, which prevented local governments from creating any new laws or enforcing any existing laws that place requirements or limitations on various landlord activities. The second bill was the highly-rushed Senate Bill 466 in March 2012, which removed statewide housing protections and allowed landlords to dispose of or sell for profit any property tenants leave behind, – anything left by tenants from computers to children's toys like action figures or lightsabers can now be disposed of or sold without further notice to tenants. The third bill furthered the deregulation with Senate Bill 179 in October 2013, which pushed the already-expedited eviction process into hyperspeed, requiring evictions go from filing to trial—even jury trials—in no more than 30 days.

The rise of this statutory deregulation forced renters in Wisconsin to take ref-

uge in the administrative code provisions. Specifically, the provisions in chapter 134 of the Agriculture, Trade, and Consumer Protection (ATCP) code, created in 1980, had long shielded renters from unfair trade practices.

For example, ATCP 134.06 governs the return of tenants' security deposits. Under ATCP 134.06, tenants who provided written notice to their landlord after vacating an apartment were entitled to receive their security deposit back from their landlord sooner than tenants who did not provide written notice. ATCP 134.04, required landlords to disclose serious building code violations to prospective tenants.

Recently the forces of deregulation struck back against these administrative code protections. Under pressure from the deregulatory side, the state Consumer Protection agency repealed the aforementioned protections. Effective November 1, 2015, these and other important parts of the consumer protection code will simply disappear. However, the protections did not go quietly into the night.

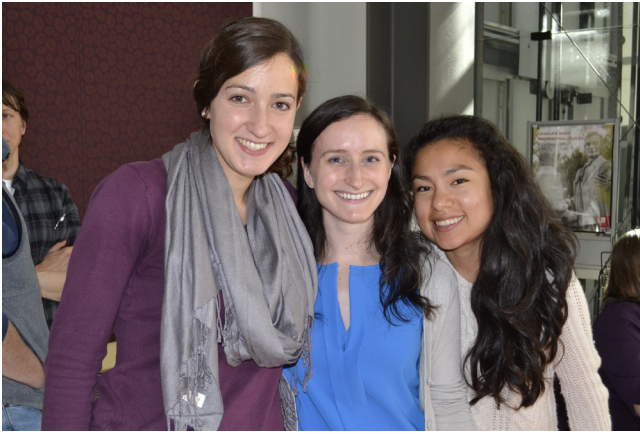
NLC students used their persuasive force to draft comments opposing the proposed changes to ATCP 134. NLC students argued that the Department of Ag, Trade and Consumer Protection, (DATCP) maintained the authority, under Wis. Stat. § 100.20, to make and enforce rules that give tenants additional protections beyond statutory protections, so long as the administrative code was not in direct conflict with the statutes.

The timeline for returning security deposits established in the (now-former)

ATCP 134.06 provided another, optional protection in addition to the recently created statute, Wis. Stat. § 704.28. The comments from the NLC demonstrated that the administrative code did not conflict with the language or legislative intent of the new statute. NLC students contended that rewriting parts of ATCP 134 so that it mirrors the language of the statutory deregulation bills undermined the DATCP's role as an expert and advocate for consumer protection. The changes unnecessarily restrict DATCP's authority and add to the power imbalance between landlords and tenants, contrary to the public interest and the basic purpose of the code: to protect consumers. The persuasive force of the NLC students was strong, but in the end the deregulatory side prevailed. The newly changed code provisions take effect on November 1, 2015.

Despite this defeat, there is still hope. Long ago, in the case of *Baierl v. McTaggart*, 2001 WI 107, the Wisconsin Supreme Court recognized that landlords have much greater bargaining power than tenants. And now with the recently reduced regulations, the odds of successful outcomes for tenants have further diminished. Nevertheless, and no matter the odds, the clinical students in the NLC have continued to learn and develop lawyering skills and strategies while defending the rights of renters. Every year the return of new clinical law students--to the community and to the courtroom—provides a new hope for tenants throughout Wisconsin.

Lara Carlson (3L) and Molly Stacy (3L) former Neighborhood Law Clinic students.



UW Law School Clinic Fair - Picture on Left: Left to Right - Courtney Nussbaumer, (2L); Courtney Wilson, (2L) and Vanessa Rodriguez, (2L)



EJI in the News

Both **Mitch** and **Marsha** will be presenting their research at the upcoming Advancing Equal Access to Justice conference hosted by UC-Hastings and Stanford Law Schools.

Marsha Mansfield teamed up with former FCC student and EJI Board Member, Matthew Gillhouse to present at the State Bar's Annual Convention in Lake Geneva, Wisconsin. The title of their presentation was "Immigration in the Family Law Arena."

The Office of the Provost is conducting a five-year review of Dean Margaret Raymond. **Sarah Orr** is one of four Law School appointees on the eight-person committee designated by the Provost. Committee members conduct confidential personal interviews with a wide range of individuals about their insights into different aspects of Dean Raymond's performance. The committee will summarize the responses into aggregate trends to inform the Provost about Dean Raymond's leadership, the state of the school and its future direction and strategic priorities.

Stacy Taeuber organized and presented on a panel titled "Clinical Education at the Intersection of Immigration Law and Criminal Law" in May, 2015 at the AALS Conference on Clinical Legal Education in Palm Springs, CA. Stacy's article, *Realizing the Promise of Padilla Through a Law School / Public Defender Collaboration*, was published in the May 2015

edition of the Wisconsin Law Review. IJC submitted an amicus brief to the Wisconsin Supreme Court in *State v. Shata*, an immigration-related postconviction case, and Stacy participated in oral argument before the Court in April, 2015. Stacy was appointed by the Dane County Board to support one of the three Dane County Workgroups studying alternatives to arrest and incarceration. She also has been appointed to a four-year term on the Wisconsin Advisory Committee to the United States Commission on Civil Rights.

Mediation Week Events Across the State

The American Bar Association (ABA) Mediation Week was October 11-17, 2015. The ABA Mediation Week initiative is a celebration of strides made in institutionalizing mediation as one of several appropriate dispute resolution processes. The theme for this year was "Mediation: Successes, Challenges, Trends and the Next Generation: Looking to the past, present and future."

In recognition of Mediation Week, the Dispute Resolution (DR) Section of the State Bar of Wisconsin and the Wisconsin Association of Mediators (WAM) combined efforts for their first ever set of Mediation

Week events. From Monday October 12th through Friday October 16th, mediators from these organizations traveled the state and coordinated with local mediators and court systems to promote mediation.

Each day, mediators worked in different counties, offering no-cost mediation for pending cases or disputes, generally small claims matters. The county courthouses visited were: Milwaukee, La Crosse, Marathon, Winnebago, and Dane. These events led to several mediations, especially in counties with less access to mediation services. They also helped raise awareness of mediation as a valuable alternative to litigation that offers parties a non-adversarial process to resolve their differences.

The events were led by WAM President and DR Section Chair, Michael D. Rust. On the last day of the week's events, Michael Rust, EJI Mediation Clinic Director Perri Mayes, and community mediator Lani Williams also met in the Dane County Courthouse with students of the EJI Mediation Clinic. Students were able to ask questions and solicit advice from the professionals to use in their future mediations and legal careers.

As the first Mediation Week collaboration between the DR Section, WAM, and the counties, the several events proved to be a success and foundation for next year.

Paige Resch (2L)



Laura C. Smythe
 Director, Pro Bono Program
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News from the Pro Bono Program

Our Pro Bono Program builds bridges between our law students and the community.

We do this by facilitating partnerships between our law students and attorneys who provide pro bono representation and by encouraging relationships between our law students and law firms, organizations and agencies that provide services to people in our community with limited financial means. We are also committed to spreading the word about the privilege that it is to serve those who are most in need of legal help but who do not have the financial means to pay for it.

We were able to support all of these efforts at our 6th Annual Pro Bono Reception held on October 21 at the Law School. We had a thought-provoking program including a debate between Honorable Judge Juan Colás and Attorney Jennifer Binkley whether or not Pro Bono work ought to be required of Wisconsin attorneys and law students. The debate was followed by an interesting presentation by State Bar Pro Bono Coordinator Jeff Brown who shared his perspective on the current Pro Bono climate in Wisconsin. Law students, law professors, attorneys and judges all gathered to both network with their colleagues and to learn more about our program.

We currently have 21 different Pro Bono projects to offer interested students including two new projects that we just launched this fall. We are

excited to announce that our projects now include a Pro Bono Bankruptcy Clinic (available for in-person and by-phone appointments on the first Friday of every month from 10 a.m. – Noon at the Legal Action of Wisconsin-Madison location), and a Housing Advice Clinic (available on the first and third Thursdays of every month from 9 a.m. – Noon at the Legal Action of Wisconsin-Madison location).

Students also have the opportunity, to create their own Pro Bono Project as long as it has appropriate attorney supervision. In addition, our staff are consistently exploring unmet needs within our community to develop additional projects that will be of help to people with limited financial means and that will offer our students exceptional learning opportunities. To that end, we are delighted to announce that our Pro Bono Program is in discussions with the William S. Middleton Memorial Veterans Hospital to create a third location for our Veterans Law Center Clinic. They, and we, are very excited about this opportunity and we hope to have more news to report soon! We are also exploring additional possibilities for environmental advocacy pro bono projects.

We are, as always, interested in your thoughts and ideas about ways in which our Pro Bono Program can more comprehensively address unmet legal needs for people in our community with limited financial means. Please let us know if you have any ideas. Thank you!

Mediation Clinic Welcomes Perri Mayes

Perri Mayes is the new Director and Clinical Instructor for the Mediation Clinic. She began in August after having taught the clinical course since last December. Perri has over 20 years of experience in dispute resolution. For many years she taught mediation in the U.W.-Milwaukee Graduate Certificate in Mediation and Negotiation program. Perri trains mediators, including serving as instructor for the divorce and family mediation course at UW-Madison Continuing Studies. Perri mediates business, workplace, family, juvenile, court, and community disputes. She consults on design of dispute resolution systems and has established or revitalized a number of mediation programs. As part of her work with the Mediation Clinic, Perri has collaborated with court system stakeholders to develop juvenile court child welfare mediation programs for which she also serves as a mediator. During this year, Perri has presented at state and national conferences on this area of practice. Perri also brings her expertise as a former mediation program administrator in juvenile and family courts and a community mediation center staff person. She served as President of both the Association for Conflict Resolution (ACR), an international professional association and the Wisconsin Association of Mediators (WAM), a statewide professional association. She was the recipient of the WAM 2012 Distinguished Service Award, honoring outstanding dedication and service to the mediation field. EJI extends a warm welcome to our new colleague.



EJI Brown Bag - Immigrant Justice Students (left to right) Molly Cohen; (2L), Kai Hoven, (2L); and Amanda Postel, (2L)

The Family Court Clinic and Cultural Competency at Work

The EJI's summer program exposes students to various themes common to all of their clinic work that we hope will inform and enrich their learning. One central theme involves the explicit and implicit bias and assumptions that we make about people and how our ability to identify and understand them can improve students' relationships with and the ability to effectively communicate with their clients. Their awareness of the larger forces at work in a client's life and in the legal system as a whole will also improve students' effectiveness as advocates.

Students in the Family Court Clinic have had multiple opportunities not only to think critically about how to constructively engage with differences but also to apply the principles they have learned to their client advocacy. One student is representing an immigrant from Togo in her divorce. She has a limited support system in the United States and the student has actively sought out additional resources that will allow the client to obtain her goals in the divorce and also to be able to establish

a life for herself in her new country. Other students have represented hearing impaired clients – learning how best to effectively communicate and minimize misunderstandings when a quick telephone call is not an option.

Students have worked with immigrants escaping from violence and persecution in their home countries who are seeking a better life for themselves and their children. These cases may involve obtaining an order in a family law or guardianship action that a child can use in immigration court to obtain legal residency. The cases require the students not only to display sensitivity and compassion, but also to understand how these experiences impact their clients' level of trust and ability to communicate openly about their situations.

Many people think of family law as more mundane and formulaic; people fighting about custody and property division or other monetary issues. But that is not what the FCC students see every day in their work. They deal with the raw emotion displayed by a client who is overwhelmed with all of the changes occurring in her life. They learn how structuring communication with a competent interpreter can make a tremendous

difference to the outcome of a meeting. They struggle with supporting a client whose spouse is verbally abusive even in the courtroom. These are the aspects of the practice that, throughout the year, bring into focus the theme of cultural competency we begin talking about at the beginning of the summer. Hopefully they will inform these students' experiences long after they leave our program.

- Marsha Mansfield, Director
Economic Justice Institute

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